

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

Approved as to Form and Legality

  
City Attorney

2009 SEP -3 PM 1:10 RESOLUTION No. 82279 C.M.S.

**RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO GALLAGHER & BURK, INC., FOR VARIOUS STREETS AND ROADS RESURFACING (PROJECT NO. C376410) IN ACCORD WITH THE PROJECT PLANS AND SPECIFICATIONS AND CONTRACTOR'S BID IN THE AMOUNT NOT-TO-EXCEED THREE MILLION EIGHTY-FIVE THOUSAND NINE HUNDRED FIFTY-FIVE DOLLARS AND FIFTY CENTS (\$3,085,955.50)**

**WHEREAS**, the City of Oakland was awarded an American Recovery and Reinvestment Act (ARRA) Local Streets and Roads (LSR) grant and the Metropolitan Transportation Commission Program Grant (2163) funding for the ARRA LSR grant was approved and appropriated by City Council on March 31, 2009, Resolution No. 81892 and Resolution No. 81893; and

**WHEREAS**, this grant money will be moved to Fund 2606, a new fund established for appropriation and expenditures of ARRA grants, in accordance with published Fiscal Tracking and Reporting Requirements for ARRA funds; and

**WHEREAS**, there are sufficient funds in the project budget for the work and funding for this work is available in the following project accounts: Metro Transportation Commission (ARRA) (2606); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C376410; and

**WHEREAS**, this federal grant has a construction award deadline of September 30, 2009; and

**WHEREAS**, on July 9<sup>th</sup>, 2009, five bids were received by the Office of the City Clerk of the City of Oakland for Various Streets and Roads Resurfacing (Project No. C376410), and Gallagher & Burk, Inc., is the lowest responsible bidder for the project and has met the federal Underutilized Disadvantaged Business Enterprise (UDBE) requirements; and

**WHEREAS**, the Engineer's Estimate for the work is \$4,150,000.00; and

**WHEREAS**, the City lacks equipment and qualified personnel to perform the necessary repairs; and

**WHEREAS**, the City Administrator represents that this contract is technical and temporary in nature, that the performance of this contract is in the public interest because of the economy and that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

**WHEREAS**, the City of Oakland's streets infrastructure is considered a significant asset that impacts the quality of life for those who live and work in Oakland, and

**WHEREAS**, the City Council recently adopted a 5-Year Paving Plan for FY 07-12 representing the optimized distribution of paving funds as analyzed by the City's Pavement Management Program and the project locations associated with this project are selected from the City's 5-Year Paving Plan for FY 07-12 and are FAS eligible; and

**WHEREAS**, only Federal Aid System (FAS) eligible streets may be selected for this project and the Department of Transportation has determined the project documents and plans are eligible for federal funding; and

**WHEREAS**, the City of Oakland coordinates and screens all proposed streets for conflicts with sewer, storm drainage, gas, water, electrical, cable, and fiber optic replacement projects to insure that all underground rehabilitation work occurs prior to scheduled street rehabilitation projects; now, therefore be it

**RESOLVED:** That the contract for Various Streets and Roads Resurfacing (Project No. C376410) is hereby awarded to Gallagher and Burk, Inc., in accordance with the terms of the contractor's bid therefore, dated July 9, 2009 in the amount of three million, eighty-five thousand, nine hundred fifty-five dollars and fifty cents (\$3,085,955.50); and be it

**FURTHER RESOLVED:** That the amount of the bond for faithful performance, \$3,085,955.50, and the amount for a bond to guarantee payment of all claims for labor and materials furnished and for amount due under the Unemployment Insurance Act, \$3,085,955.50, with respect to work cover one hundred percent (100%) of the contract price and are hereby approved; and be it

**FURTHER RESOLVED:** That the plans and specifications prepared by the Deputy Director of CEDA for this project are hereby approved; and be it

**FURTHER RESOLVED:** That, based on City Administrator representations, the City Council finds and determines that this contract is technical and temporary in nature, performance of this contract is in the public interest because of the economy and performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

**FURTHER RESOLVED:** That the City Administrator is hereby authorized to execute the contract with Gallagher and Burk, Inc. as well as change orders, amendments, extensions or modifications of said contract, within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That all other bids are hereby rejected; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby directed to post conspicuously forthwith notice of the above award on the official bulletin board in the Office of the City Clerk and the contract shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 22 2009, 20    

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, ~~DE LA FUENTE~~, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 7


NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - De La Fuente - 1

ATTEST:

  
L. Tonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California