CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: September 23, 2008

RE: **Resolution Authorizing Award Of A Contract To McGuire & Hester For The Construction Of A Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue (Project No. C79710) For The Amount Of Two Million Four Hundred Forty-Eight Thousand Nine Hundred Forty-Nine Dollars ($2,448,949.00)**

SUMMARY

A resolution has been prepared authorizing the City Administrator to award a construction contract in the amount of $2,448,949.00 to McGuire & Hester For The Construction Of A Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue (Project No. C79710). The work to be completed under this project is part of the City's annual Sanitary Sewer Rehabilitation program. The work is located in Council District 5, as shown in *Attachment A*.

FISCAL IMPACT

Approval of this resolution will authorize the City Administrator to award a construction contract to McGuire & Hester in the amount of $2,448,949.00. Funding for this project is available in

- Sewer Service Fund (3100); Capital project – Sanitary Sewer Design Organization (92244); sewers account (57417); Project C79710; $2,448,949.00.

These funds were specifically allocated for this project. This project will help reduce the amount of sanitary sewer maintenance requirement.

BACKGROUND

On June 12, 2008, the City Clerk received three bids for this project in the amounts of $2,448,949.00, $2,520,000.00, and $3,188,000.00 as shown in *Attachment B*. The lowest bidder, McGuire & Hester, is deemed responsive and responsible, and therefore is recommended for the award. The Engineer's estimate for the work is $2,213,710.00.

Under the proposed contract with McGuire & Hester, LBE/SLBE participation of $1,664,719.00 (70.67%) exceeds the City's 20% LBE/SLBE requirement. The contractor shows $200,000.00 (100%) for trucking exceeding the 20% Local Trucking requirement. The contractor received 2% credit for LBE/SLBE preference, or $38,666.68. The contractor is required to have 50% of the work hours performed by Oakland residents, and 50% of all new hires are to be Oakland residents. The LBE/SLBE information has been verified by the Contract Compliance Division of the Department of Contracting and Purchasing, and is shown in *Attachment C.*

KEY ISSUES AND IMPACTS

Construction is scheduled to begin in October 2008 and should be completed by August 2009. The contract specifies $1,000.00 in liquidated damages per calendar day if the contract is not completed within 195 working days. The project schedule is shown in *Attachment B.*

PROJECT DESCRIPTION

This project will rehabilitate and upsize the sanitary sewer pipes within the project area, add additional flow capacity, eliminate the infiltration of rain and groundwater into the sanitary sewer system and limit overflows and backups during wet weather.

In general, the proposed work consists of constructing approximately 3,970 lineal feet of new sanitary sewers ranging from 15-inch to 24-inch diameters by microtunneling and open trench methods; rehabilitating approximately 640 lineal feet of existing 12-inch and 15-inch diameter sanitary sewers; installing new manholes; rehabilitating sewer structures; and other ancillary works as indicated on the plans and specifications.

EVALUATION OF PAST PERFORMANCE

The Contractor Performance Evaluation for McGuire & Hester from a previously completed project is included as *Attachment D.*

SUSTAINABLE OPPORTUNITIES

Economic: The contractor is required to have 50% of the work hours performed by Oakland residents, and 50% of all new hires are to be Oakland residents.

Environmental: The replacement of the sanitary sewers will eliminate the possibility of sewer leakage and overflows and thus prevent potential harm to groundwater resources and the bay. The contractor will be required to make every effort to reuse clean fill materials and use recyclable concrete and asphalt products. Best Management Practices for the protection of storm water runoff during construction will be required.

Social Equity: This project is part of the citywide program to eliminate wastewater overflows thereby benefiting all Oakland residents.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no direct impact or benefit to seniors or people with disabilities. During construction, the Contractor will be required to monitor safe access through the construction area. Detours when needed will be clearly marked.

RECOMMENDATION AND RATIONALE

It is recommended that the construction contract be awarded to McGuire & Hester, the lowest responsive and responsible bidder, in the amount of $2,448,949.00 for the construction of a relief sewer along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue (Project No. C79710). McGuire & Hester has met the LBE/SLBE requirements, and there are sufficient funds in the project account.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,

Dan Lindheim, Director
Community and Economic Development Agency

Reviewed by:
Michael Neary, P.E., Deputy Director,
CEDA, Department of Engineering and Construction

Prepared by:
Allen Law, P.E., Acting Supervising Civil Engineer
Engineering Design & R.O.W. Management Division

APPROVED AND FORWARDED TO
THE PUBLIC WORKS COMMITTEE:

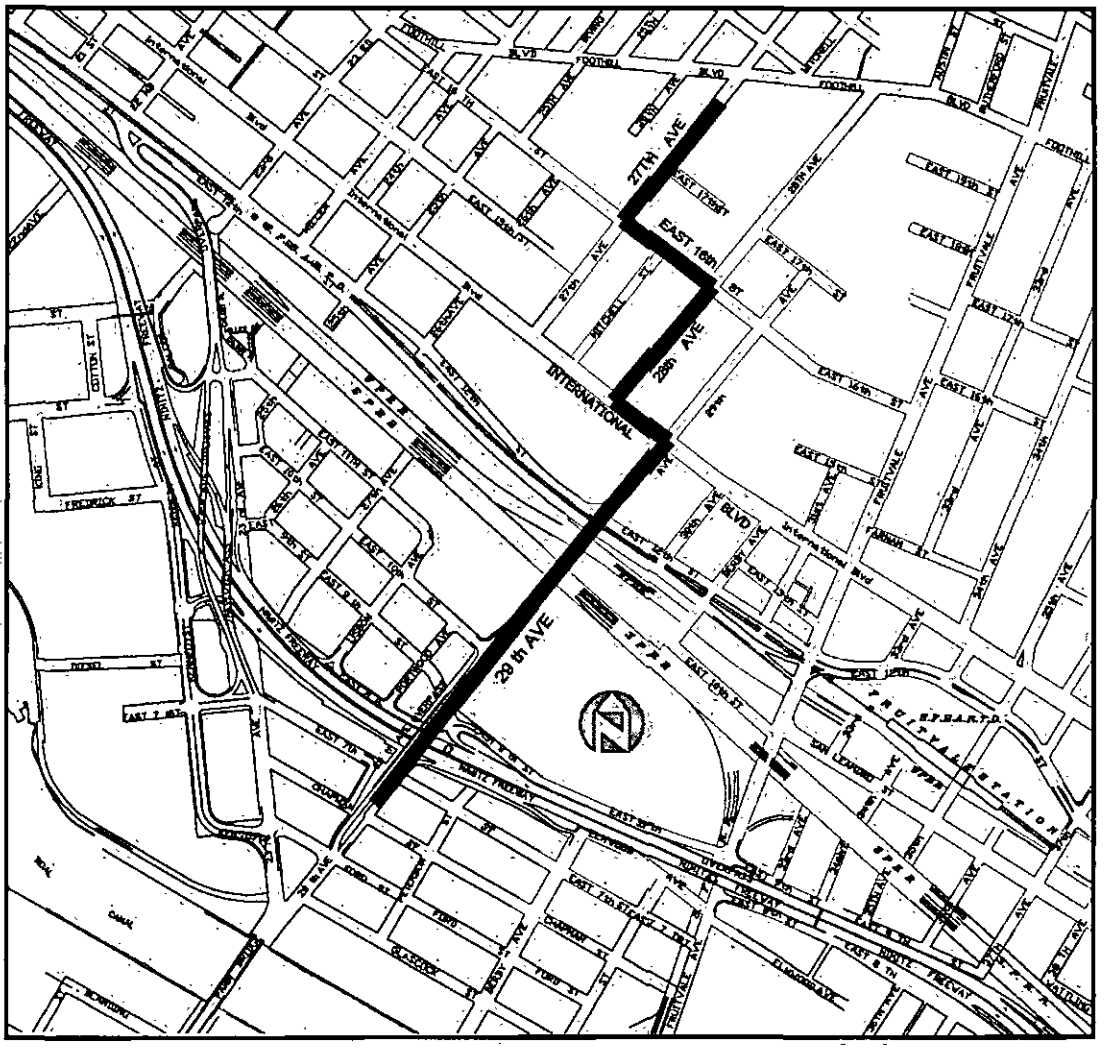
Office of the City Administrator

Item: _____
Public Works Committee
September 23, 2008

Attachment A

CONSTRUCTION OF A RELIEF SEWER ALONG 29TH AVENUE, INTERNATIONAL BOULEVARD, 28TH AVENUE, EAST 16TH STREET, AND 27TH AVENUE

SUB-BASIN 62-02
CITY PROJECT NO. C79710



LOCATION MAP

NOT TO SCALE

: LIMIT OF WORK

Attachment B

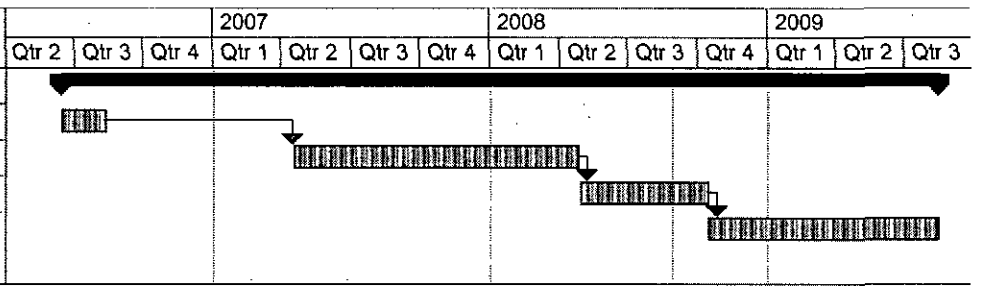
Construction of a Relief Sewer along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue (Project No. C79710)

List of Bidders

Company	Location	Bid Amount
McGuire & Hester	Oakland	$2,448,949.00
Andes Construction, Inc.	Oakland	$2,520,000.00
KJ Woods Construction, Inc.	San Francisco	$3,188,000.00

Project Schedule

ID	Task Name	Start	Finish
1	**Proj. No. C79710**	**Wed 6/14/06**	**Fri 8/14/09**
2	Pre-Design	Wed 6/14/06	Fri 8/11/06
3	Design	Mon 4/16/07	Fri 4/25/08
4	Bid/Award	Mon 4/28/08	Mon 10/13/08
5	Construction	Tue 10/14/08	Fri 8/14/09



CITY OF OAKLAND

Memo

Department of Contracting and Purchasing

Social Equity Division

To: Ferdinand Ciceron - Project Manager
From: Sophany Hang - Acting Contract Compliance Officer
Through: Deborah Barnes - DC & P Director
Shelley Darensburg - Sr. Contract Compliance Officer S. Darensburg
CC: Gwen McCormick - Contract Administrator Supervisor
Date: **July 14, 2008**
Re: C79710 Construction of a Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue

The Department of Contracting and Purchasing (DC&P), Division of Social Equity, reviewed three (3) bids in response to the above referenced project. Below is the outcome of the compliance evaluation for the minimum 20% Local and Small Local Business Enterprise (L/SLBE) participation requirement, a preliminary review for compliance with the Equal Benefits Ordinance (EBO), and a brief overview of the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program on the bidder's most recently completed City of Oakland project.

The above referenced project contains Microtunnelling and Cured in Place Pipe (CIPP) specialty work. The Standard Specifications for Public Works Construction, "Greenbook", page 10 section 2-3.2 (Attachment A) describes how specialty work may be addressed. Based upon the Greenbook and per the specifications, the Mirotunnelling and CIPP specialty items have been excluded from the contractor's bid price for purposes of determining compliance with the minimum 20% L/SLBE requirement.

The spreadsheet below is a revised format specifically for this analysis. The spreadsheet shows: Column A - Original Bid Amount; Column B - Specialty Dollar Amount submitted by the contractor; Column C - Non-Specialty Bid Amount (difference between column A and B); Column D - Total Credited Participation; Column E - Earned Bid Discounts as a result of the total credited participation and Column F - Adjusted Bid Amount calculated by applying the earned bid discount to the non-specialty work (column C) and then subtracting that difference from the original bid amount (column A).

Responsive				Proposed Participation				Earned Credits and Discounts				
Company Name	Original Bid Amount	Specialty Dollar Amount	Non Specialty Dollar Amount	Total LBE/SLBE	LBE	SLBE	Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	Banked Credits Eligibility	EBO Compliant? Y/N
	A	*B*	*C*					*D*	*E*	*F*		
McGuire & Hester	$2,448,949	$515,615	$1,933,334	70.67%	57.89%	12.78%	100%	25.56%	2%	$2,410,282.32	0%	Y
Andes Construction, Inc.	$2,520,000	$741,800	$1,778,200	100%	0%	100%	100%	100%	5%	$2,431,090.00	2%	Y
K.J. Woods Construction, Inc.	$3,188,000	$948,200	$2,239,800	20.49%	10.13%	10.36%	100%	20.49%	2	$3,143,204.00	0%	Y

Comments: As noted above, McGuire & Hester, Andes Construction, Inc., and K.J. Woods Construction, Inc. met and/or exceeded the minimum 20% Local/Small Local Business Enterprise participation requirement. All firms are EBO compliant.

Non-Responsive				Proposed Participation				Earned Credits and Discounts				
Company Name	Original Bid Amount	Specialty Dollar Amount	Non Specialty Dollar Amount	Total LBE/SLBE	LBE	SLBE	Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	Banked Credits Eligibility	EBO Compliant? Y/N
	A	B	C					D	E	F		
NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

For Informational Purposes

Listed below is the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program for the lowest bidder's most recently completed City of Oakland project.

Contractor Name: McGuire and Hester
Project Name: Oakland Bay Trail: Mandela Parkway Project
Project No. G199010

50% Local Employment Program (LEP)

Was the 50% LEP Goal achieved?	Yes	If no, shortfall hours?	N/A
Were all shortfalls satisfied?	N/A	If no, penalty amount	N/A

15% Oakland Apprenticeship Program

Was the 15% Apprenticeship Goal achieved?	Yes	If no, shortfall hours?	N/A
Were shortfalls satisfied?	N/A	If no, penalty amount	N/A

The spreadsheet below provides details of the 50% LEP and 15% Apprenticeship Programs. Information provided includes the following data: A) total project hours, B) core workforce hours deducted, C) LEP project employment and work hour goal; D) LEP employment and work hours achieved; E)# resident new hires; F) shortfall hours; G) percent LEP compliance; H) total apprentice hours; I) apprenticeship goal and hours achieved; and J) Apprentice shortfall hours.

	50% Local Employment Program (LEP)							15% Apprenticeship Program				
Total Project Hours	Core Workforce Hours Deducted	LEP Project Employment and Work Hours Goal		LEP Employment and Work Hours Achieved		# Resident New Hires	Shortfall Hours	% LEP Compliance	Total Apprenticeship Hours	Apprenticeship Goal and Hours		Apprentice Shortfall Hours	
A	B	C		D		E	F	G	H	I		J	
		Goal	Hours	Goal	Hours					Goal	Hours		
1,889	0	50%	1,058	100%	1,058	0	0	100%	283.31	15%	283.31	0	

Comments: McGuire & Hester **exceeded** the Local Employment Program's 50% resident hiring goal with **100%** resident employment, and met the 15% Apprenticeship Program goal with 223.00 hours on the project and 60.31 hours on a non-City project.

Should you have any questions, you may contact Sophany Hang at (510) 238-3723.

DEPARTMENT OF CONTRACTING AND PURCHASING

Social Equity Division

PROJECT EVALUATION FORM

PROJECT NO.: C79710

PROJECT NAME: Construction of a Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue

CONTRACTOR: McGuire & Hester

Engineer's Estimate:	Contractors' Original Bid Amount	Specialty Dollar Amount	Over/Under Engineer's Estimate
$2,213,707	$2,448,949	$515,615	-$235,242

Discounted Bid Amount:	Amount of Bid Discount	Non-Specialty Bid Amt.	Discount Points:
2,410,282.32	38,666.68	1,933,334.00	2%

1. Did the 20% requirements apply? **YES**

2. Did the contractor meet the 20% requirement? **YES**

   b) % of LBE participation **57.89%**

   c) % of SLBE participation **12.78%**

3. Did the contractor meet the Trucking requirement? **YES**

   a) Total SLBE/LBE trucking participation **100%**

4. Did the contractor receive bid discounts? **YES**

   (If yes, list the percentage received) **2%**

5. Additional Comments.

For this project, bid item(s) 10,17 and 18 Microtunneling and Cured In Place Pipe (CIPP) specialty work was excluded from the total bid price for the purposes of determining compliance with the 20% L/SLBE requirement.

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

7/11/2008
Date

Reviewing Officer: Sylvia Hong **Date:** 7/11/08

Approved By: Shelley Darensburg **Date:** 7/11/08

DEPARTMENT OF CONTRACTING AND PURCHASING

Social Equity Division

PROJECT EVALUATION FORM

PROJECT NO.: C79710

PROJECT NAME: Construction of a Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue

CONTRACTOR: Andes Construction, Inc.

Engineer's Estimate:	Contractors' Original Bid Amount	Specialty Dollar Amount	Over/Under Engineer's Estimate
$2,213,707	$2,520,000	$741,800	-$306,293

Discounted Bid Amount:	Amount of Bid Discount	Non-Specialty Bid Amt.	Discount Points:
$2,431,090	$88,910	$1,778,200	5%

1. Did the 20% requirements apply? **YES**

2. Did the contractor meet the 20% requirement? **YES**

   b) % of LBE participation **0%**

   c) % of SLBE participation **100%**

3. Did the contractor meet the Trucking requirement? **YES**

   a) Total SLBE/LBE trucking participation **100%**

4. Did the contractor receive bid discounts? **YES**

   (If yes, list the percentage received) **5%**

5. Additional Comments.

For this project, bid item(s) 10,17 and 18 Microtunneling and Cured In Place Pipe (CIPP) specialty work was excluded from the total bid price for the purposes of determining compliance with the 20% L/SLBE requirement.

7/11/2008
Date

Reviewing Officer: Sophia Hom **Date:** 7/11/08

Approved By: Shelley Darensbourg **Date:** 7/11/08

LBE/SLBE PARTICIPATION

BIDDER 1

Project Name: Construction of a Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue

Project No.:	C79710	Engineers Est:		2,213,707		Under/Over Engineers Estimate:				-235,242			
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	*Non-Specialty Bid Amount Dollars	TOTAL Original Bid Amount Dollars	For Tracking Only Ethn.	MBE	WBE
PRIME	McGuire & Hester	Oakland	CB	1,417,719		1,417,719			1,417,719	1,843,349	C		
CIPP	Pacific Liner	Vacaville	UB							49,800	NL		
Trucking	Williams Trucking	Oakalnd	CB		125,000	125,000	125,000	125,000	125,000	125,000	AA	125,000	
Trucking	Sudden Sam's	Oakalnd	CB		75,000	75,000	75,000	75,000	75,000	75,000	AA	75,000	
Misc. construction	AJW Construction	Oakland	CB		25,000	25,000			25,000	25,000	H	25,000	
Saw Cutting	Bay Line Saw Cutting	Oakland	CB		22,000	22,000			22,000	22,000	H	22,000	
Micro Tunnel.	Nada Pacific Corps.	Carvauthers	UB							308,800	NL		
Project Totals				$1,417,719	$247,000	$1,664,719	$200,000	$200,000	$1,933,334	$2,448,949		$247,000	$0
				57.89%	12.78%	70.67%	100%	100%	100%	100%		10.09%	0%

Requirements:
The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.

LBE 10%	SLBE 10%	TOTAL LBE/SLBE	20% LBE/SLBE TRUCKING

Ethnicity
AA = African American
AI = Asian Indian
AP = Asian Pacific
C = Caucasian
H = Hispanic
NA = Native American
O = Other
NL = Not Listed
MO = Multiple Ownership

Legend

LBE = Local Business Enterprise
SLBE = Small Local Business Enterprise
Total LBE/SLBE = All Certified Local and Small Local Businesses
NPLBE = NonProfit Local Business Enterprise
NPSLBE = NonProfit Small Local Business Enterprise
UB = Uncertified Business
CB = Certified Business
MBE = Minority Business Enterprise
WBE = Women Business Enterprise

* The sanitary sewer project noted above contains specialty work. The Non-Specialty Work Bid Dollars were used for the purposes of determining compliance with mininum 20% L/SLBE participation requirement.

LBE/SLBE PARTICIPATION
BIDDER 2

Project Name: Construction of a Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue

Project No.:	C79710	Engineers Est:		2,213,707		Under/Over Engineers Estimate:				-306,293			
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	*Non-Specialty Bid Amount Dollars	TOTAL Original Bid Amount Dollars	For Tracking Only Ethn.	MBE	WBE
PRIME	Andes Construction, Inc.	Oakland	CB		1,758,200	1,758,200			1,758,200	2,350,000	H	2,350,000	
Saw Cutting	Bay Line Concrete	Oakland	CB		10,000	10,000			10,000	10,000	H	10,000	
Microtunneling	All-State Boring	Bekersfield	UB							150,000	NL		
Trucking	Foston Trucking	Oakland	CB		10,000	10,000	10,000	10,000	10,000	10,000	H	10,000	
Project Totals				$0	$1,778,200	$1,778,200	$10,000	$10,000	$1,778,200	$2,520,000		$2,370,000	$0
				0%	100%	100%	100%	100%	100%	100%		94.05%	0%

Requirements:
The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.

LBE 10% | SLBE 10% | TOTAL LBE/SLBE | 20% LBE/SLBE TRUCKING

Legend

LBE = Local Business Enterprise
SLBE = Small Local Business Enterprise
Total LBE/SLBE = All Certified Local and Small Local Businesses
NPLBE = NonProfit Local Business Enterprise
NPSLBE = NonProfit Small Local Business Enterprise
UB = Uncertified Business
CB = Certified Business
MBE = Minority Business Enterprise
WBE = Women Business Enterprise

Ethnicity
AA = African American
AI = Asian Indian
AP = Asian Pacific
C = Caucasian
H = Hispanic
NA = Native American
O = Other
NL = Not Listed
MO = Multiple Ownership

* The sanitary sewer project noted above contains specialty work. The Non-Specialty Work Bid Dollars were used for the purposes of determining compliance with mininum 20% L/SLBE participation requirement.

DEPARTMENT OF CONTRACTING AND PURCHASING

Social Equity Division

PROJECT EVALUATION FORM

PROJECT NO.: C79710

PROJECT NAME: Construction of a Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue

CONTRACTOR: K.J. Woods Construction, Inc.

Engineer's Estimate:	Contractors' Original Bid Amount	Specialty Dollar Amount	Over/Under Engineer's Estimate
$2,213,707	$3,188,000	$948,200	-$974,293

Discounted Bid Amount:	Amount of Bid Discount	Non-Specialty Bid Amt.	Discount Points:
$3,143,204	$44,796	$2,239,800	2%

1. Did the 20% requirements apply? YES

2. Did the contractor meet the 20% requirement? YES

   b) % of LBE participation 10.13%

   c) % of SLBE participation 10.36%

3. Did the contractor meet the Trucking requirement? YES

   a) Total SLBE/LBE trucking participation 100%

4. Did the contractor receive bid discounts? YES

   (If yes, list the percentage received) 2%

5. Additional Comments.

For this project, bid item(s) 10,17 and 18 Microtunneling and Cured In Place Pipe (CIPP) specialty work was excluded from the total bid price for the purposes of determining compliance with the 20% L/SLBE requirement.

6. Date evaluation completed and returned to Contract Admin./Initiating Dept. 7/11/2008 Date

Reviewing Officer: _____ **Date:** 7/11/08

Approved By: Shelley Darensburg **Date:** 7/11/08

LBE/SLBE PARTICIPATION
BIDDER 3

Project Name: Construction of a Relief Sewer Along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue

Project No.:	C79710	Engineers Est:		2,213,707		Under/Over Engineers Estimate:				-974,293			
Discipline	*Prime & Subs*	*Location*	*Cert. Status*	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	*Non-Specialty Bid Amount Dollars	TOTAL Original Bid Amount Dollars	For Tracking Only Ethn.	MBE	WBE
PRIME	K.J. Woods Construction, Inc.	San Francisco	UB						1,780,800	1,881,000	C		
Trucking	S & S Trucking	Oakland	CB		220,000	220,000	220,000	220,000	220,000	220,000	H	220,000	
Pipe Supplier	Mission Clay	Oakland	CB	215,000		215,000			215,000	215,000	C		
Saw Cutting	Bay Line Concrete	Oakland	CB		12,000	12,000			12,000	12,000	H	12,000	
Microtunnel	NADA Pacific	Caruthers	UB							800,000	NL		
CIPP	Pacific Liners	Vacaville	UB							48,000	NL		
Landscapping	RMT Landscape	Oakland	CB	12,000.00		12,000			12,000	12,000	H	12,000	
Project Totals				$227,000	$232,000	$459,000	$220,000	$220,000	$2,239,800	$3,188,000		$232,000	$0
				10.13%	10.36%	20.49%	100%	100%	100%	100%		7.28%	0%

Requirements:
The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.

LBE 10% | SLBE 10% | TOTAL LBE/SLBE | 20% LBE/SLBE TRUCKING

Legend

LBE = Local Business Enterprise
SLBE = Small Local Business Enterprise
Total LBE/SLBE = All Certified Local and Small Local Businesses
NPLBE = NonProfit Local Business Enterprise
NPSLBE = NonProfit Small Local Business Enterprise
UB = Uncertified Business
CB = Certified Business
MBE = Minority Business Enterprise
WBE = Women Business Enterprise

Ethnicity
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AI = Asian Indian
AP = Asian Pacific
C = Caucasian
H = Hispanic
NA = Native American
O = Other
NL = Not Listed
MO = Multiple Ownership

* The sanitary sewer project noted above contains specialty work. The Non-Specialty Work Bid Dollars were used for the purposes of determining compliance with mininum 20% L/SLBE participation requirement.

City of Oakland
Public Works Agency
CONTRACTOR PERFORMANCE EVALUATION C243911

Project Title: Alameda Ave Oakland Waterfront Park
Work Order Number: TF2.1
Contractor: McGuire & Hester
Date of Notice to Proceed: June 14, 2007
Date of Notice of Completion: Nov 27, 2007
Date of Notice of Final Completion:
Contract Amount: Final contract amt: $520,125
Evaluator Name and Title: James McGee Architectural Assoc.

The City's Resident Engineer most familiar with the Contractor's performance must complete this evaluation and submit it to Manager, PWA Project Delivery Division, within 30 calendar days of the issuance of the Final Payment.

Whenever the Resident Engineer finds the Contractor is performing below Satisfactory for any category of the Evaluation, the Resident Engineer shall discuss the perceived performance shortfall at the periodic site meetings with the Contractor. An Interim Evaluation will be performed if at any time the Resident Engineer finds that the overall performance of a Contractor is Marginal or Unsatisfactory. An Interim Evaluation is required prior to issuance of a Final Evaluation Rating of Unsatisfactory. The Final Evaluation upon Final Completion of the project will supersede interim ratings.

The following list provides a basic set of evaluation criteria that will be applicable to all construction projects awarded by the City of Oakland that are greater than $50,000. Narrative responses are required to support any evaluation criteria that is rated as Marginal or Unsatisfactory, and must be attached to this evaluation. If a narrative response is required, indicate before each narrative the number of the question for which the response is being provided. Any available supporting documentation to justify any Marginal or Unsatisfactory ratings must also be attached.

If a criterion is rated Marginal or Unsatisfactory and the rating is caused by the performance of a subcontractor, the narrative will note this. The narrative will also note the General Contractor's effort to improve the subcontractor's performance.

Assessment Guidelines:

Outstanding (3 points)– Performance among the best level of achievement the City has experienced.

Satisfactory (2 points) – Performance met contractual requirements.

Marginal (1 point)– Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.

Unsatisfactory (0 points) – Performance did not meet contractual requirements. The contractual performance being assessed reflected serious problems for which corrective actions were ineffective.

OVERALL RATING:

Based on the weighting factors below, calculate the Contractor's overall score using the scores from the four categories above.

1. Enter Overall score from Question 7	2	X 0.25 =	.5
2. Enter Overall score from Question 13	2	X 0.25 =	.5
3. Enter Overall score from Question 18	2	X 0.20 =	.4
4. Enter Overall score from Question 22	2	X 0.15 =	.3
5. Enter Overall score from Question 28	2	X 0.15 =	.3

TOTAL SCORE (Sum of 1 through 5): 2

OVERALL RATING: 2

Outstanding: Greater than 2.5
Satisfactory Greater than 1.5 & less than or equal to 2.5
Marginal: Between 1.0 & 1.5
Unsatisfactory: Less than 1.0

PROCEDURE:

The Resident Engineer will prepare the Contractor Performance Evaluation and submit it to the Supervising Civil Engineer. The Supervising Civil Engineer will review the Contractor Performance Evaluation to ensure adequate documentation is included, the Resident Engineer has followed the process correctly, the Contractor Performance Evaluation has been prepared in a fair and unbiased manner, and the ratings assigned by the Resident Engineer are consistent with all other Resident Engineers using consistent performance expectations and similar rating scales.

The Resident Engineer will transmit a copy of the Contractor Performance Evaluation to the Contractor. Overall Ratings of Outstanding or Satisfactory are final and cannot be protested or appealed. If the Overall Rating is Marginal or Unsatisfactory, the Contractor will have 10 calendar days in which they may file a protest of the rating. The Public Works Agency Assistant Director, Design & Construction Services Department, will consider a Contractor's protest and render his/her determination of the validity of the Contractor's protest. If the Overall Rating is Marginal, the Assistant Director's determination will be final and not subject to further appeal. If the Overall Rating is Unsatisfactory and the protest is denied (in whole or in part) by the Assistant Director, the Contractor may appeal the Evaluation to the City Administrator, or his/her designee. The appeal must be filed within 14 calendar days of the Assistant Director's ruling on the protest. The City Administrator, or his/her designee, will hold a hearing with the Contractor within 21 calendar days of the filing of the appeal. The decision of the City Administrator regarding the appeal will be final.

ATTACHMENT TO CONTRACTOR PERFORMANCE EVALUATION:
Use this sheet to provide any substantiating comments to support the ratings in the Performance Evaluation. Indicate before each narrative the number of the question for which the response is being provided. Attach additional sheets if necessary.

WORK PERFORMANCE

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
1	Did the Contractor perform all of the work with acceptable Quality and Workmanship?	☐	☐	☑	☐	☐
1a	If problems arose, did the Contractor provide solutions/coordinate with the designers and work proactively with the City to minimize impacts? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	☐	☐	☑	☐	☐
2	Was the work performed by the Contractor accurate and complete? If "Marginal or Unsatisfactory", explain on the attachment and provide documentation. Complete (2a) and (2b) below.	☐	☐	☑	☐	☐
2a	Were corrections requested? If "Yes", specify the date(s) and reason(s) for the correction(s). Provide documentation.			Yes ☐	No ☑	N/A ☐
2b	If corrections were requested, did the Contractor make the corrections requested? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	☐	☐	☑	☐	☐
3	Was the Contractor responsive to City staff's comments and concerns regarding the work performed or the work product delivered? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	☐	☐	☑	☐	☐
4	Were there other significant issues related to "Work Performance"? If Yes, explain on the attachment. Provide documentation.				Yes ☐	No ☑
5	Did the Contractor cooperate with on-site or adjacent tenants, business owners and residents and work in such a manner as to minimize disruptions to the public. If "Marginal or Unsatisfactory", explain on the attachment.	☐	☐	☑	☐	☐
6	Did the personnel assigned by the Contractor have the expertise and skills required to satisfactorily perform under the contract? If "Marginal or Unsatisfactory", explain on the attachment.	☐	☐	☑	☐	☐
7	**Overall, how did the Contractor rate on work performance? The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines. Check 0, 1, 2, or 3.**	0 ☐	1 ☐	2 ☑	3 ☐	

	TIMELINESS	Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
8	Did the Contractor complete the work within the time required by the contract (including time extensions or amendments)?	☐	☐	☑	☐	☐
	If "Marginal or Unsatisfactory", explain on the attachment why the work was not completed according to schedule. Provide documentation.	☐	☐	☐	☐	☐
9	Was the Contractor required to provide a service in accordance with an established schedule (such as for security, maintenance, custodial, etc.)? If "No", or "N/A", go to Question #8. If "Yes", complete (9a) below.			Yes ☐	No ☑	N/A ☐
9a	Were the services provided within the days and times scheduled? If "Marginal or Unsatisfactory", explain on the attachment and specify the dates the Contractor failed to comply with this requirement (such as tardiness, failure to report, etc.). Provide documentation.	☐	☐	☑	☐	☐
10	*Did the Contractor provide timely baseline schedules and revisions to its construction* schedule when changes occurred? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	☐	☐	☑	☐	☐
11	Did the Contractor furnish submittals in a timely manner to allow review by the City so as to not delay the work? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	☐	☐	☑	☐	☐
12	Were there other significant issues related to timeliness? If yes, explain on the attachment. Provide documentation.				Yes ☐	No ☑
13	**Overall, how did the Contractor rate on timeliness?** **The score for this category must be consistent with the responses to the questions given above regarding tmeliness and the assessment guidelines.** ***Check 0, 1, 2, or 3.***	0 ☐	1 ☐	2 ☑	3 ☐	

	FINANCIAL	Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
14	Were the Contractor's billings accurate and reflective of the contract payment terms? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected invoices).	☐	☐	☑	☐	☐
15	Were there any claims to increase the contract amount? If "Yes", list the claim amount. Were the Contractor's claims resolved in a manner reasonable to the City? Number of Claims: _____ Claim amounts: $_____ Settlement amount:$_____				Yes ☐	No ☑
16	Were the Contractor's price quotes for changed or additional work reasonable? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected price quotes).	☐	☐	☑	☐	☐
17	Were there any other significant issues related to financial issues? If Yes, explain on the attachment and provide documentation.				Yes ☐	No ☑
18	**Overall, how did the Contractor rate on financial issues?** **The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines.** Check 0, 1, 2, or 3.	0 ☐	1 ☐	2 ☑	3 ☐	

	COMMUNICATION	Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
19	Was the Contractor responsive to the City's questions, requests for proposal, etc.? If "Marginal or Unsatisfactory", explain on the attachment.	☐	☐	☑	☐	☐
20	Did the Contractor communicate with City staff clearly and in a timely manner regarding:					
20a	Notification of any significant issues that arose? If "Marginal or Unsatisfactory", explain on the attachment.	☐	☐	☑	☐	☐
20b	Staffing issues (changes, replacements, additions, etc.)? If "Marginal or Unsatisfactory", explain on the attachment.	☐	☐	☑	☐	☐
20c	Periodic progress reports as required by the contract (both verbal and written)? If "Marginal or Unsatisfactory", explain on the attachment.	☐	☐	☑	☐	☐
20d	Were there any billing disputes? If "Yes", explain on the attachment.				Yes ☐	No ☑
21	Were there any other significant issues related to communication issues? Explain on the attachment. Provide documentation.				Yes ☐	No ☑
22	**Overall, how did the Contractor rate on communication issues? The score for this category must be consistent with the responses to the questions given above regarding communication issues and the assessment guidelines. Check 0, 1, 2, or 3.**	0 ☐	1 ☐	2 ☑	3 ☐	

	SAFETY	Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
23	Did the Contractor's staff consistently wear personal protective equipment as appropriate? If "No", explain on the attachment.				Yes ☑	No ☐
24	Did the Contractor follow City and OSHA safety standards? If "Marginal or Unsatisfactory", explain on the attachment.	☐	☐	☐	☑	☐
25	Was the Contractor warned or cited by OSHA for violations? If Yes, explain on the attachment.				Yes ☐	No ☑
26	26. Was there an inordinate number or severity of injuries? Explain on the attachment. If Yes, explain on the attachment.				Yes ☐	No ☑
27	Was the Contractor officially warned or cited for breach of U.S. Transportation Security Administration's standards or regulations? If "Yes", explain on the attachment.				Yes ☐	No ☑
28	**Overall, how did the Contractor rate on safety issues?** ***The score for this category must be consistent with the responses to the questions given above regarding safety issues and the assessment guidelines.*** **Check 0, 1, 2, or 3.**	0 ☐	1 ☐	2 ☑	3 ☐	

Contractors who receive an Unsatisfactory Overall Rating (i.e., Total Score less than 1.0) will be allowed the option of voluntarily refraining from bidding on any City of Oakland projects within one year from the date of the Unsatisfactory Overall Rating, or of being categorized as non-responsible for any projects the Contractor bids on for a period of one year from the date of the Unsatisfactory Overall Rating. Two Unsatisfactory Overall Ratings within any five year period will result in the Contractor being categorized by the City Administrator as non-responsible for any bids they submit for future City of Oakland projects within three years of the date of the last Unsatisfactory overall rating.

Any Contractor that receives an Unsatisfactory Overall Rating is required to attend a meeting with the City Administrator, or his/her designee, prior to returning to bidding on City projects. The Contractor is required to demonstrate improvements made in areas deemed Unsatisfactory in prior City of Oakland contracts.

The Public Works Agency Contract Administration Section will retain the final evaluation and any response from the Contractor for a period of five years. The City shall treat the evaluation as confidential, to the extent permitted by law.

COMMUNICATING THE EVALUATION: *The Contractor's Performance Evaluation has been communicated to the Contractor. Signature does not signify consent or agreement.*

6/11/08

Contractor / Date

Resident Engineer / Date

Jim Murray 6/11/08

Supervising Civil Engineer / Date

Contractor: McGuire & Hester Project No. c24391 E19

Approved as to Form and Legality

City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 SEP 11 PM 5:19

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING AWARD OF A CONTRACT TO MCGUIRE & HESTER FOR THE CONSTRUCTION OF A RELIEF SEWER ALONG 29TH AVENUE, INTERNATIONAL BOULEVARD, 28TH AVENUE, EAST 16TH STREET, AND 27TH AVENUE (PROJECT NO. C79710) FOR THE AMOUNT OF TWO MILLION FOUR HUNDRED FORTY-EIGHT THOUSAND NINE HUNDRED FORTY-NINE DOLLARS ($2,448,949.00)

WHEREAS, on June 12, 2008, three bids were received by the Office of the City Clerk of the City of Oakland for the Construction of a Relief Sewer along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue (Project No. C79710); and

WHEREAS, McGuire & Hester, a certified SLBE bidding as a prime, is the lowest responsive and responsible bidder for the project; and

WHEREAS, there are sufficient funds in the project budget for the work. Funding for this project is available in the following project account:

- Sewer Service Fund (3100); Capital projects-sanitary sewer design organization (92244); sewers account (57417); Project No. C79710; $2,448,949.00; and these funds were specifically allocated for this project; this project will help reduce the amount of sanitary sewer maintenance requirement; and

WHEREAS, the engineer's estimate for the work is $2,213,710.00; and

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

WHEREAS, the City Council finds and determines that the performance of this contract is in the public interest because of economy or better performance; and

WHEREAS, McGuire & Hester complies with all LBE/SLBE and trucking requirements; and

WHEREAS, the City Council finds and determines 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; now, therefore be it

RESOLVED: That the contract for the Construction of a Relief Sewer along 29th Avenue, International Boulevard, 28th Avenue, East 16th Street, and 27th Avenue (Project No. C79710) is hereby awarded to McGuire & Hester in accordance with the terms of its bid therefore, dated June 12, 2008, for the amount of Two Million Four Hundred Forty-Eight Thousand Nine Hundred Forty-Nine Dollars ($2,448,949.00); and be it

FURTHER RESOLVED: That the plans and specifications prepared by the Deputy Director of the Community and Economic Development Agency for this project are hereby approved; and be it

FURTHER RESOLVED: That the amount of the bond for faithful performance, $2,448,949.00, and the amount for a bond to guarantee payment of all claims for labor and materials furnished and for the amount due under the Unemployment Insurance Act, $2,448,949.00, with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to enter into a contract with McGuire & Hester on behalf of the City of Oakland and to execute any amendments or modifications to said agreement 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 contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk; 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.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:_____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California