



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 88327 - C.M.S.

RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO 1) GALLAGHER & BURK, THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, AND WAIVING ADVERTISING AND COMPETITIVE BIDDING AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND AWARD CONSTRUCTION CONTRACTS TO 2) MCGUIRE & HESTER 3) TEICHERT CONSTRUCTION AND 4) O.C. JONES & SONS, THE SECOND, THIRD, AND FOURTH LOWEST RESPONSIVE AND RESPONSIBLE BIDDERS, PROVIDED THAT ALL MEET THE CONTRACTOR'S BID SCHEDULE OF THE LOWEST BID OF GALLAGHER & BURK, FOR AS-NEEDED PAVEMENT REHABILITATION SERVICES IN ACCORD WITH THE PROJECT PLANS AND SPECIFICATIONS AND THE LOWEST BID IN AN AMOUNT NOT TO EXCEED TWELVE MILLION, SIX HUNDRED AND EIGHTY-SIX THOUSAND, TWO HUNDRED DOLLARS (\$12,686,200.00); EACH.

WHEREAS, on August 13, 2020, the City Clerk received four bids for the 2020 As-Needed Pavement Rehabilitation Services Project; and

WHEREAS, the bids for the project were as follows: \$12,686,200 from Gallagher & Burk; \$12,867,000 from McGuire & Hester; \$14,120,250 from Teichert Construction, and \$14,824,775 from O.C. Jones & Sons.

WHEREAS, Gallagher & Burk is deemed the lowest responsive and responsible bidder and is recommended for the award; and

WHEREAS, the City wishes to negotiate with McGuire & Hester, Teichert Construction, and O.C. Jones & Sons, the second, third, and fourth lowest responsive and responsible bidders, respectively, and to recommend for award with the stipulation that they meet the bid schedule of the lowest bid of Gallagher & Burk; and

WHEREAS, Oakland Municipal Code ("OMC") section 2.04.050 requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination required by the City in any one transaction which exceeds \$50,000, and the award to the lowest responsive, responsive bidder if award is made; and

WHEREAS, OMC Section 2.04.050.1.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interest of the City to do so; and

WHEREAS, having multiple contractors will ensure contractor availability to continue to implement the 2019 3-Year Paving Plan; and

WHEREAS, awarding these contracts will freeze unit prices at the 2020 competitively-bid contract amounts, representing a cost advantage for the City versus new unit prices on the open market; 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, funding for this project will be available in the following project account as part of the current and anticipated FY 2020-22 CIP Budget: in Fund 5332 Measure KK, Organization 92246 Engineer Design Streets and Structures, Account 57411 Street Construction, and Project No. 1005420.

WHEREAS, the City Council finds and determines based on the representations set forth in the City Administrator's report accompanying this Resolution that the construction contract approved hereunder is temporary in nature; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance and that this contract is of a professional, scientific or technical nature; and

WHEREAS, Gallagher & Burk, McGuire & Hester, Teichert Construction, O.C. Jones & Sons comply with all LBE/SLBE and trucking requirements; and

WHEREAS, the City Council finds and determines that the performance of these contracts shall not result in the loss of employment or salary by any person having permanent status in the competitive service now, therefore, be it

RESOLVED: That the City Administrator is authorized to award a construction contract to Gallagher & Burk in accordance with project plans and specifications for 2020 As-Need Pavement Rehabilitation Services and the contractor's bid schedule in the amount not to exceed twelve million, six hundred and eighty-six thousand, two hundred dollars (\$12,686,200.00) dated August 13, 2020; and be it

FURTHER RESOLVED: The City Council finds and determines that it is in the best interest of the City to waive further advertising and competitive bidding for the negotiation and award of contracts to the second, third, and fourth lowest bidders, McGuire & Hester, Teichert Construction, and O.C. Jones & Sons per OMC Section 2.04.050.1.5, to ensure contractor availability, additional work constructed at lowest bid unit prices, and the reasons set forth in the staff Report that accompanies this Resolution; and be it

FURTHER RESOLVED: That the City Administrator is authorized to negotiate and award construction contracts to McGuire & Hester, Teichert Construction, and O.C. Jones & in accordance with project plans and specifications for As-Needed Citywide Pavement Rehabilitation Services provided they meet the August 13, 2020 bid schedule of Gallagher & Burk, the lowest bidder on the project, in the amount not to exceed twelve million, six hundred and eighty-six thousand, two hundred dollars (\$12,686,200.00) each; and be it

FURTHER RESOLVED: That the amount of each bond for faithful performance, \$12,686,200.00, and the bonds to guarantee payment of all claims for labor and materials furnished and for the amount under the Unemployment Insurance Act, \$12,686,200.00 with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the City Administrator, or designee, is hereby authorized to enter into a contract with 1) Gallagher & Burk, 2) McGuire & Hester, 3) Teichert Construction, and 4) O.C. Jones & Sons, on behalf of the City of Oakland and to execute any amendments or modifications of the contracts within the limitations of the project specifications; and be it

FURTHER RESOLVED: That the plans and specifications prepared for this project, including any subsequent changes during construction, that will be reviewed and adopted by the Director of Transportation, or designee, are hereby approved; and be it

FURTHER RESOLVED: That the contracts 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,

OCT 20 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

Asha Reed
ASHA REED

Acting City Clerk and Clerk of the Council
of the City of Oakland, California