



Office of the City Manager

CONSENT CALENDAR  
April 12, 2022

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Liam Garland, Director, Department of Public Works  
Subject: Contract: Bay Cities Paving & Grading, Inc. for Street Rehabilitation FY 2022 Project

RECOMMENDATION

Adopt a Resolution: 1) approving plans and specifications for the Street Rehabilitation FY 2022 Project, Specification No. 22-11470-C; 2) approving the plans for the Intersection Reconfiguration at Dwight Way and California Street Project, Specification No. 22-11485-C; 3) rejecting the lowest bid from Azul Works, Inc. as non-responsive; 4) accepting the bid of the lowest responsive and responsible bidder, Bay Cities Paving & Grading, Inc.; and 5) authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project, in accordance with the approved plans and specifications in an amount not to exceed \$6,084,809.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available from the Street Capital Improvement Program budget, Transportation Capital Improvement Program budget and an allocation by City Council from the General Fund. No other funding is required, and no other projects will be delayed due to this expenditure.

Low bid by Bay Cities Paving & Grading, Inc.	
Including Allston Paver Alternate Bid Item	\$5,291,138
15% Contingency	\$793,671
<b>Total construction cost</b>	<b>\$6,084,809</b>

FY 2022 Street Capital Improvement Program Funds

State Transportation Tax (127-54-623-673-0000-000-431-665110).....	\$345,266
Measure F Vehicle Registration Fee (133-54-623-673-0000-000-431-665110) .....	\$155,000
Measure BB Sales Tax (134-54-623-673-0000-000-431-665110) .....	\$2,360,045
Capital Improvement Fund (501-54-623-673-0000-000-431-665110)...	\$1,013,596
Road Maintenance & Rehabilitation Account (SB1) (127-54-623-673-0000-000-431-665110) .....	\$1,700,000
Storm Water Fund (616-54-623-675-0000-000-473-665120)	\$100,000
	<b>\$5,673,907</b>

FY 2022 & FY 2023 Transportation Capital Improvement Program Funds

General Fund

(011-54-622-668-0000-000-431-665110-PWTRTC1902).....	\$111,072
Measure BB Sales Tax	
(134-54-622-668-0000-000-431-665110-PWTRTC1902).....	\$214,767
State Affordable Housing & Sustainable Communities Grant	
(306-54-622-668-0000-000-431-665110) .....	\$54,059
Measure BB Sales Tax (134-54-622-668-0000-000-431-665110)	\$31,004
	\$410,902
<b>Total construction cost</b>	<b>\$6,084,809</b>

CURRENT SITUATION AND ITS EFFECTS

The Street Rehabilitation FY 2022 Project (Specification No. 22-11470-C) was released for bids on November 30, 2021, and bids were opened on January 6, 2022. The scope of work associated with the Intersection Reconfiguration at Dwight Way and California Street Project, Specification No. 22-11485-C, were incorporated into the Street Rehabilitation FY 2022 Project (see Attachment 3, Abstract of Bids). Three non-local bids were received, from a low of \$4,705,793 to a high of \$6,422,710. The engineer’s estimate for the project was \$5.1 million.

On January 11, 2022, the City received a bid protest from the second-lowest bidder, Bay Cities Paving and Grading, Inc. The general basis for the protest was that the Azul Works, Inc. bid was non-responsive because the bid did not comply with the following requirements in the Specifications: 1) Failure to Provide Signature Authority, Section 201.5, Rejection of Proposals Containing Alterations or Irregularities, “When proposals are signed by an agent, other than officer or manager of a corporation or member of a partnership, a power of attorney or written authorization must be on file with the City prior to opening bids or shall be submitted with the proposal; otherwise the proposal will be rejected as irregular and unauthorized.”; and 2) Lack of Experience, Section 201.9, Competency of Bidders, “The Engineer may require the Bidder to present satisfactory evidence that he has sufficient experience and that he is fully prepared with the necessary capital, materials, and skilled workmen to carry out the contract.”

A copy of the bid protest was sent to Azul Works, Inc. to provide them an opportunity to respond to the protest issues. City staff and the City Attorney’s office carefully reviewed and investigated the bids, protest, and responses. Subsequently, City staff concluded that Azul Works, Inc.’s bid should be deemed non-responsive.

As a result, Bay Cities Paving & Grading, Inc. became the lowest responsive and responsible bidder. References for Bay Cities Paving & Grading, Inc. were provided and checked out satisfactorily. Staff recommends that a contract for this project be awarded to Bay Cities Paving & Grading, Inc.

The Street Rehabilitation FY 2022 Project is a Strategic Plan Priority Project, advancing our goal to provide state-of-the art, well-maintained infrastructure, amenities, and facilities.

## BACKGROUND

Streets throughout Berkeley are scheduled for rehabilitation as part of the City's Five-Year Street Rehabilitation Plan. Berkeley maintains a rolling 5-Year Street Rehabilitation Plan for resurfacing and repaving City streets. The plan was developed utilizing a sophisticated Pavement Management System in coordination with the Metropolitan Transportation Commission. The plan was most recently updated for Fiscal Years 2021 through 2023 by Resolution 69,712-N.S. adopted by Council on January 26, 2021.

This contract is for rehabilitation and preventative maintenance of approximately 2.6 miles of City streets. The scope of work consists of rehabilitation and surface seal of selected streets as shown in Attachment 2: Location Map & List of Streets and an alternate bid item to perform maintenance for the permeable pavers on Allston Way between Martin Luther King Jr. Way and Milvia Street. In addition to street pavement, the project incorporates many other improvements to selected streets in compliance with the Berkeley Complete Streets Policy (Resolution No. 65,978-N.S.), the Americans with Disabilities Act, and stormwater best management practices. Among the Complete Streets improvements included are Bicycle Plan and Pedestrian Master Plan recommendations to install quick-build traffic circles at Browning/Channing and Heinz/9<sup>th</sup>, a traffic circle at Fulton/Parker, a traffic diverter at Fulton/Derby, a pedestrian island at Colusa/Vincente/Portland and to paint high visibility crosswalks at multiple locations. Additional infrastructure repairs, including curb ramps, curbs, drainage inlets and pipes, gutters and speed tables, are also included in this project. The non-repaving related costs represent approximately 24% of the construction costs. Also included is the construction of Phase 3 of the Intersection Reconfiguration at Dwight Way and California Street.

The project plans and specifications have gone through planning, coordination with outside utility companies, preliminary cost estimates, field investigations, surveys, and extensive design prior to being released for bid.

The plans and specifications are on file in the Public Works Department. In accordance with the California Environmental Quality Act (CEQA) requirements, this project has been determined to be categorically exempt because it consists of the maintenance of existing streets and does not expand their use beyond existing conditions.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, subject to state prevailing wage law, pursuant to City policy. Bay Cities Paving & Grading, Inc. has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated value exceeds \$500,000. As a result, the contractor and all subcontractors will be required to sign an agreement certifying compliance with the CWA.

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project includes rubberized hot mix asphalt treatments which will divert waste tires from local landfills.

RATIONALE FOR RECOMMENDATION

This street repair project is part of the City's ongoing annual program to rehabilitate deteriorated streets throughout the City. The work requires contracted services, as the City does not possess the in-house labor or equipment resources necessary to complete the project.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered for this pavement rehabilitation project. The City could choose not to proceed with this project. However, the street pavement would continue to deteriorate, drainage improvements would not be made, and complete street bicycle and pedestrian elements would not be installed, affecting use by the community and others.

CONTACT PERSON

Joe Enke, Manager of Engineering, Public Works (510) 981-6411

Attachments:

- 1: Resolution
- 2: Location Map & List of Streets for Project
- 3: Abstract of Bids

RESOLUTION NO. ##,###-N.S.

CONTRACT: BAY CITIES PAVING & GRADING, INC. FOR STREET  
REHABILITATION FY 2022 PROJECT

WHEREAS, the Street Rehabilitation FY 2022 Project is part of the City's ongoing Street Capital Improvement Program to rehabilitate deteriorated streets located throughout the City; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this Street Rehabilitation FY 2022 Project or Allston Way permeable paver maintenance; and

WHEREAS, an invitation for bids was duly advertised, bids were opened on January 6, 2021; and

WHEREAS, upon receipt of a bid protest, review of the submitted bids, and careful consideration, the bid from the apparent low bidder, Azul Works, Inc., was deemed non-responsive; and

WHEREAS, Bay Cities Paving & Grading, Inc. was determined to be the lowest responsive and responsible bidder; and

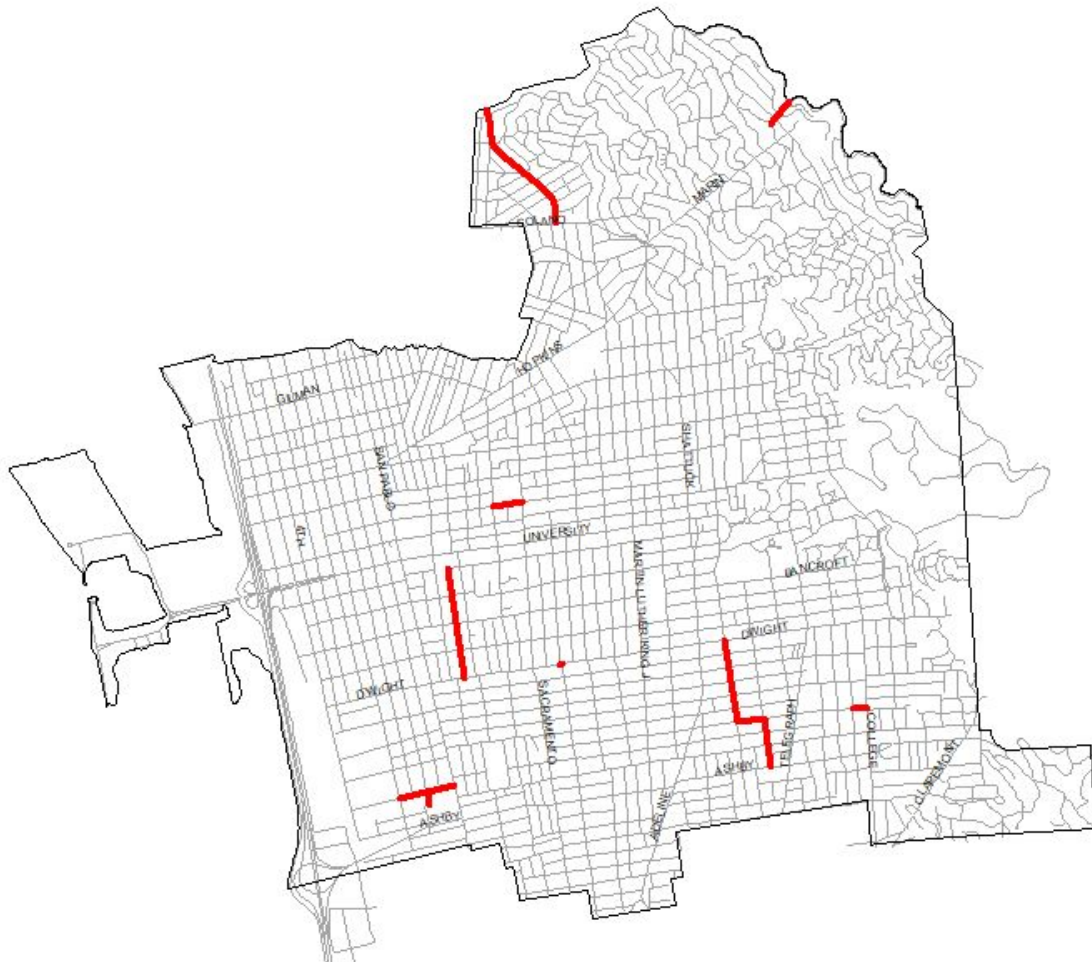
WHEREAS, funding is available in the current year budget in the Street Capital Improvement Program State Transportation Tax (Fund 127), Measure B Sales Tax (Fund 130), Measure F Vehicle Registration Fee (Fund 133), Measure BB Sales Tax (Fund 134), Capital Improvement Fund (Fund 501), Storm Water (Fund 616), and State Affordable Housing and Sustainable Communities Grant (306).

THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 22-11470-C for the Street Rehabilitation FY 2022 Project and the Plans (Specification No. 22-11485-C) for the Intersection Reconfiguration at Dwight Way and California Street are approved.

BE IT FURTHER RESOLVED that the bid from Azul Works, Inc. is deemed non-responsive and rejected; and that the construction contract is awarded to Bay Cities Paving & Grading, Inc. as the lowest responsive and responsible bidder.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions or change orders, until completion of the project in accordance with the approved plans and specifications with Bay Cities Paving & Grading, Inc. for the Street Rehabilitation FY 2022 Project, in an amount not to exceed \$6,084,809, which includes a 15% contingency for unforeseen circumstances. A record signature copy of said agreement and any amendments to be on file in the Office of the City Clerk.

Street Rehabilitation FY 2022



Street	From	To
Browning	Addison	Dwight
Colusa	North City Limit	Solano
Delaware	Acton	Sacramento
Ellsworth	Stuart	Ashby
Fulton	Dwight	Stuart
Heinz	7th	San Pablo
9 <sup>th</sup>	Heinz	End

Stuart	Fulton	Ellsworth	
Stuart	Benvenue	College	
Sunset	Grizzly Peak	Wildcat Canyon	
Dwight	California	Intersection	
Allston Pavers	MLK	Milvia	



City of Berkeley  
Abstract of Bid Worksheet

Finance Department  
General Services Division

FOR: Street Rehabilitation FY 2022

Spec. Number  
22-11470-C

Bid Date: 1/6/2022

required w/ bid

	Bidders	Base Bid (Package A)	Package B	Total	Bid Bond	Addendum (1)	Experience - Fin. Qual.	Taxpayer ID	Opp.States	Nuclear Free	EBO	Sanctuary City
1	Azul Works, Inc.	\$ 4,432,223.20	\$ 273,569.80	\$ 4,705,793.00	X	X	X	X	X	X	X	X
2	Gallagher & Burk, Inc.	\$ 5,806,821.00	\$ 340,889.00	\$ 6,147,710.00	X	X	X	X	X	X	X	X
3	Bay Cities Paving & Grading, Inc.	\$ 4,937,800.00	\$ 283,337.50	\$ 5,221,137.50	X	X	X	X	X	X	X	X
		BID Alternate - Allston Pavers		\$ Total + Bid Alternate -								
	Azul Works, Inc.	\$240,000.00		\$ 4,945,793.00 -								
	Gallagher & Burk, Inc.	\$275,000.00		\$ 6,422,710.00 -								
	Bay Cities Paving & Grading, Inc.	\$70,000.00		\$ 5,291,137.50 -								
				\$ -								
				\$ -								
				\$ -								

Bid Recorder: Josh Roben *JR*

Bid Opener: Darryl Sweet *DP SF*

Project Manager: Wendy Wong

