



Office of the City Manager

REVISED AGENDA MATERIAL

Meeting Date: April 27, 2021

Item Number: 15

Item Description: Contract: California Constructores for Sidewalk Repairs FY 2020 Project

Supplemental/Revision Submitted By: Liam Garland, Director, Department of Public Works

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

This revised language in **Recommendation, Current Situation and Its Effect, and Resolution** were updated to be consistent with City’s determination to reject a bid protest.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Office of the City Manager

CONSENT CALENDAR

April 27, 2021

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: California Constructores for Sidewalk Repairs FY 2020 Project

RECOMMENDATION

Adopt a Resolution approving plans and specifications for the Sidewalk Repairs FY 2020 Project, Specification No. 20-11409-C; [reject bid protest from R & S Construction Management Inc.](#); accepting the bid of California Constructores as the lowest responsive and responsible bidder; and 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 \$2,000,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2021 budget from the Sidewalk Capital Improvement Program budget.

Measure F Vehicle Registration Fee (Fund 133).....	\$220,200
Measure BB Sales Tax (Fund 134).....	\$1,279,800
Capital Improvement Fund (Fund 501).....	\$250,000
Private Party Sidewalks (Fund 149)	\$250,000
Total construction cost	\$2,000,000

No other funding is required, and no other projects will be delayed due to this expenditure.

Low bid by Contractor	\$1,690,250
18% Contingency	\$304,750
Total construction cost	\$2,000,000

CURRENT SITUATION AND ITS EFFECTS

The Sidewalk Repair FY 2020 Project (Specification No. 20-11409-C) was released for bids on February 23, 2021, and bids were opened on March 23, 2021 (see Attachment 3, Abstract of Bids). Seven non-local bids were received, from a low of \$1,690,250 to a high of \$2,753,740. The engineer’s estimate for the project was \$1,800,000.

On March 30, 2021, the City received a bid protest from R & S Construction Management Inc. alleging the following three issues with the lowest bid from California Constructores: 1) that the bid failed to identify a tree removal subcontractor pursuant to the Public Contract's Code; 2) their contractor's license appeared to be suspended; and 3) the low bidder did not have sufficient experience. The City forwarded the bid protest to California Constructores on March 31, 2021 for review and response. City staff, including staff from the City Attorney's office, carefully reviewed and investigated the bids, protest and responses. Upon review of the documents, and independent research, the City found that California Constructores was 1) in compliance Public Contract Code Sec. 4100 that states a subcontractor must be listed when the work was in excess of ½ of 1% (0.5%) of the total bid and here, the work did not reach this threshold; 2) their contractor's license is current and active, without qualifications; and 3) that they have successfully completed other similar projects for the City. Consequently, City staff concluded that California Constructores is the lowest responsive and responsible bidder and thus R & S Construction Management Inc.'s bid protest should be rejected.

California Constructores of San Pablo, California was the lowest responsive and responsible bidder, with a bid of \$1,690,250, and their references were found to be satisfactory. This project includes an 18% contingency, which brings the total contract amount up to the requested \$2,000,000. Staff recommends a contract for this project be awarded to California Constructores.

The Sidewalk Repair FY 2020 Project is a Strategic Plan Priority Project, advancing our goal to provide state-of-the art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

In October 2011, the City established a sidewalk repair and replacement program to improve the quality of Berkeley's sidewalks. There are approximately 300 total miles of concrete sidewalk within the city limits and approximately twenty miles (7%) of that total is sufficiently damaged to justify permanent replacement at estimated costs of \$7 million dollars. The City currently shares sidewalk replacement costs with property owners on a 50-50 basis, irrespective of the cause of the deterioration. Concrete sidewalk replacement, however, may only occur on a "funds-available" basis, which has resulted in a ten year backlog of customers awaiting replacement. As an alternative, the Department of Public Works has evaluated the concrete cutting or shaving process and determined it is a lasting and cost effective means of repairing displaced and/or uplifted sidewalks that pose urgent trip hazards to the public. While the shaving process has been highly successful and cost effective, uplifts of over 2 inches require removal and replacement.

This project will address over 900 addresses that were identified as requiring removal and replacement to repair from the backlog of approximately 3,500 sidewalk locations on the 50-50 program waiting list.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. California

Constructores has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated value of the project exceeds \$500,000. As a result, the contractor and all subcontractors will be required to sign an agreement to be bound by the terms of the Agreement.

ENVIRONMENTAL SUSTAINABILITY

The City's sidewalk repair program is a component of the City's climate action plan, as well maintained sidewalks help to facilitate safe walking, which is a healthy and clean form of transportation.

RATIONALE FOR RECOMMENDATION

This sidewalk repair project is part of the City's ongoing annual program to repair deteriorated sidewalks 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 sidewalk repair project. The City could choose not to proceed with this project. However, the sidewalk conditions would then continue to deteriorate, affecting use by the community and others.

CONTACT PERSON

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

Attachments:

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

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

CONTRACT: CALIFORNIA CONSTRUCTORES FOR SIDEWALK REPAIR FY 2020
PROJECT

WHEREAS, the Sidewalk Repair FY 2020 Project is part of the City's ongoing Sidewalk Capital Improvement Program to rehabilitate deteriorated sidewalks located throughout the City; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this Sidewalk Repair FY 2020 Project; and

WHEREAS, an invitation for bids was duly advertised and California Constructores was the lowest responsive and responsible bidder; and

WHEREAS, funding is available in the current year budget in the Measure F Vehicle Registration Fee (Fund 133), Measure BB Sales Tax (Fund 134), Private Party Sidewalk (Fund 149), and Capital Improvement Fund (Fund 501).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 21-11409-C for the Sidewalk Repair FY 2020 Project are approved.

[BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the bid protest by R & S Construction Management Inc. is rejected; and](#)

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 California Constructores for the Sidewalk Repair FY 2020 Project, in an amount not to exceed \$2,000,000, which includes an 18% 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.