



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: June 2, 2015

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department
Facilities Division, Public Works Department

SUBJECT: Contract For Construction Of 600 Block Laguna Street Lot Permeable Paver Project

RECOMMENDATION:

That Council reject the bid protest of Shaw Contracting, Inc., and award a contract to Whitaker Construction Group, Inc., in the amount of \$1,091,119 for construction of the 600 Block Laguna Street Lot Permeable Paver Project, Bid No. 3744; and authorize the Public Works Director to execute the contract and approve expenditures up to \$109,112 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment.

EXECUTIVE SUMMARY:

The City was awarded a Proposition 84 Storm Water Grant for construction of the 600 Block Laguna Street Lot Permeable Paver Project (Project). Three bids were received for the Project. The lowest bidder was Whitaker Construction Group, Inc. (Whitaker). Staff recommends that Council reject the bid protest of Shaw Contracting, Inc. (Shaw) and authorize the Public Works Director to enter into a contract for construction with Whitaker.

DISCUSSION:

Urban storm water runoff is the single largest source of surface water pollution in Santa Barbara. Under most existing conditions, storm water runoff from urban areas picks up pollutants as it flows across roofs, sidewalks, driveways, parking lots, and streets, and is conveyed by gutters, channels, and storm drains directly to local creeks and the ocean without any treatment. This runoff carries sediment, nutrients, bacteria, hydrocarbons, metals, pesticides, and trash.

The City has developed a Storm Water Management Program in order to reduce the discharge of pollutants into local creeks and the ocean. Installing permeable pavers is one of the methods developers may use to meet the City's guidelines. Permeable pavers allow water to pass through into a subsurface gravel layer that doubles as a storage/infiltration area and a structural base layer.

PROJECT DESCRIPTION

The Project will retrofit the City-owned parking lot located on the 600 block of Laguna Street that serves as employee and public parking, as well as maintenance fleet parking for several divisions of the Parks and Recreation Department and Public Works Department. This Project will replace over 42,000 square feet of existing asphalt and concrete with permeable pavers, allowing for storm water and urban runoff to infiltrate into the soil. The Project is designed to capture and treat the volume of storm water generated from a 1-inch, 24-hour storm event.

CONTRACT BIDS

A total of three bids were received for the subject work, ranging as follows:

	BIDDER	BID AMOUNT
1.	Whitaker Construction Group, Inc. Paso Robles, CA	\$1,348,505.00
2.	Shaw Contracting, Inc. Carpinteria, CA	\$1,388,421.50
3.	Red Hawk Services Perris, CA	\$1,467,245.00*

*corrected bid total

The low bid of \$1,348,505.00, submitted by Whitaker, is an acceptable bid that is responsive to and meets the requirements of the bid specifications. Staff recommends that Council waive a minor bid irregularity and award the contract to Whitaker. As discussed more fully in the Funding section below, the scope of the Project was scaled down after the bids were received, which adjusted Whitaker's bid price to \$1,091,119.

Staff recommends that Council award the contract to Whitaker in the adjusted bid amount of \$1,091,119 (see Funding section below). The change order funding recommendation of \$109,112, or ten percent, is typical for this type of work and size of project.

BID PROTEST

On April 23, 2015, three bids were received for the Project, and Whitaker was the apparent low bidder. On April 27, 2015, Shaw, the second apparent low bidder, filed a bid protest asserting that Whitaker did not identify any proposed equipment or material manufacturers and suppliers on the form provided by the City in their bid package and, therefore, Whitaker's bid should be rejected as non-responsive. In response to Shaw's protest, Whitaker argued in a letter dated April 29, 2015 that the failure to identify any proposed manufacturers or suppliers does not create a material advantage over other bidders. City staff concurs. On May 12, 2015, the City Attorney's Office responded to Shaw's protest notifying them that the failure to identify the proposed equipment and material manufacturer or supplier was a minor irregularity that did not create a material advantage, and that staff would be recommending that Council award the contract to Whitaker.

The City's bid form that Shaw was referring to in its protest requests is for informational purposes only and is not required under the Public Contract code. As noted on the form, the City is not required to accept any proposed manufacturers or suppliers after award of contract. Further, the Public Contract Code does not restrict a general contractor from shopping for a cheaper material or equipment supplier after award of contract.

In this case, the City did not specify on the submittal form any material or equipment that it wanted the contractors to identify a manufacturer or supplier. The contractors therefore, had the discretion whether or not to list the equipment or material. Because the Public Contract Code does not require that a contractor list the manufacturer or supplier, and for this Project the City did not specify any equipment or materials, failure to identify a supplier or manufacturer does not create a material advantage over other bidders.

Pursuant to the City's bid specifications, the City may waive minor bid irregularities and deem the bid responsive to the City's specifications, so long as the irregularities do not provide the bidder with a material advantage over other bidders. Staff recommends that Council waive the minor irregularity and award the contract to Whitaker.

COMMUNITY OUTREACH

Public Works Engineering Division and Facilities Division staff will notify affected City Parks and Facilities staff adjacent to the two parking lots via email and in-person meetings. A minimum of 72 hours prior to construction, the contractor will be responsible for the final notice, given via door hangers. The Project will also be described in a press release and on the City's website. Temporary construction signs detailing the Project's design and benefits will be posted at the sites during construction. Upon project completion, a television segment will be prepared and aired on City TV.

FUNDING

The City was awarded Proposition 84 Storm Water Grant Program funding in the amount of \$1,151,630 for construction costs. There is a 20 percent local match required

as part of this grant. On November 4, 2014, City Council approved Ordinance No. 5674, approving and ratifying the Proposition 84 grant agreement. The City's contribution of \$312,114 exceeds the 20 percent grant fund match requirement. The total amount of funding available for the Project, including the grant and the City's match, is \$1,463,744.

The low bid received from Whitaker exceeded the City's estimate by nearly \$200,000, resulting in an overall funding shortfall for the Project. Because no additional grant or City funding is available, a portion of the Parks and Recreation Parking Lot work was removed from the original plans and specifications, and the Project cost was adjusted using the itemized bid prices provided by Whitaker. This adjustment is allowed per the Standard Specifications for Public Works Construction "The Greenbook" of the Southern California Chapter American Public Works Association. The overall scope and character of the contract remains the same, replacing the asphalt in the parking lots with permeable pavers, and the City will still be able to obtain the original storm water infiltration goal of capturing a 1-inch, 24-hour storm event. The Project construction contract including change order funds was reduced to \$1,200,231, bringing the total Project cost within the available funding amount.

The total amount of funding needed, including the grant and the City's match, is \$1,463,744. With the grant appropriation and the matching funds from the Facilities Division Capital Fund, there are sufficient appropriated funds to cover the adjusted Project costs.

The following summarizes the expenditures recommended in this report:

CONSTRUCTION CONTRACT FUNDING SUMMARY

	Basic Contract	Change Funds	Total
Whitaker Construction Group, Inc.	\$1,091,119	\$109,112	\$1,200,231
TOTAL RECOMMENDED AUTHORIZATION			\$1,200,231

The following summarizes all Project design costs, construction contract funding, and other Project costs:

ESTIMATED TOTAL PROJECT COST

**Cents have been rounded to the nearest dollar in this table.*

	PROP 84	CITY SHARE	TOTAL
City Design Costs	\$0	\$52,843	\$52,843
City Survey Costs	0	8,227	8,227
Other Design Costs (Soils Testing)	0	5,025	5,025

<i>Subtotal</i>	\$0	\$66,095	\$66,095
Construction Contract	\$1,091,119	\$0	\$1,091,119
Construction Change Order Allowance	60,511	48,601	109,112
<i>Subtotal</i>	\$1,151,630	\$48,601	\$1,200,231
Construction Management/Inspection (by City Staff)	\$0	\$150,000	\$150,000
Other City Staff Costs (Stormwater Monitoring, etc.)	0	17,125	17,125
Other Consultant Costs (Material Testing, Labor Compliance Monitoring, etc.)	0	30,293	30,293
<i>Subtotal</i>	\$0	\$197,418	\$197,418
TOTAL PROJECT COST	\$1,151,630	\$312,114	\$1,463,744

SUSTAINABILITY IMPACT:

Storm water and urban runoff from impervious surfaces is a major source of surface water quality degradation. Infiltrating polluted runoff provides passive treatment at the source, which enhances watersheds and beaches, reduces damaging peak storm water flows, recharges groundwater, and requires no power consumption for operation.

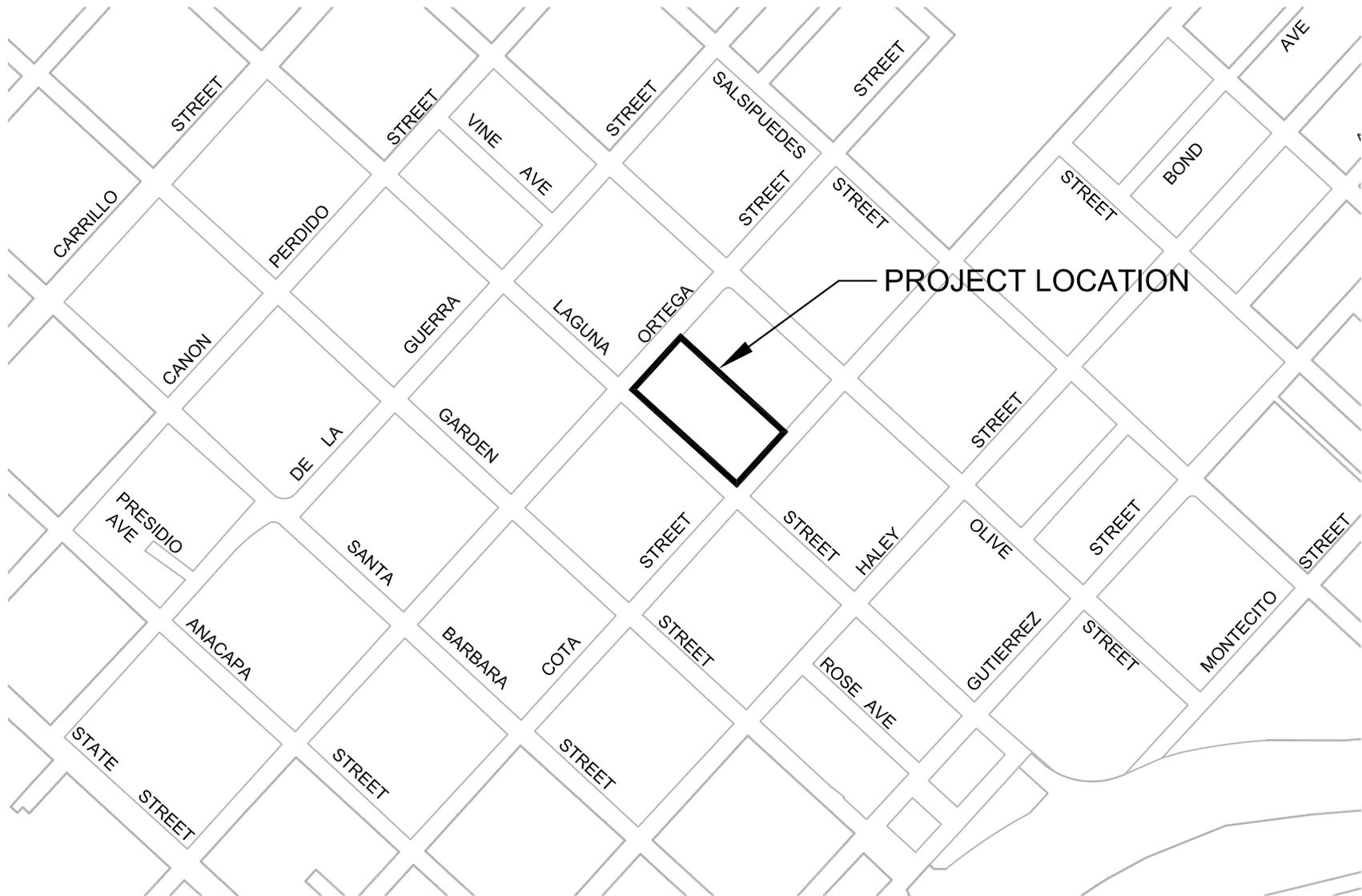
All correspondence and bid materials may be found in the Council reading file.

ATTACHMENT: Project Location Map

PREPARED BY: John Ewasiuk, Principal Civil Engineer/AG/kts
 Jim Dewey, Facilities Manager

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office



PROJECT LOCATION MAP

600 BLOCK LAGUNA ST. LOT PERMEABLE PAVER PROJECT