KRONICK

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TIEDEMANN
& GIRARD

MONA G. EBRAHIMI
mebrahimi@kmtg.com

November 3, 2023

VIA E-MAIL AND U.S. MAIL

Patrick Mullen
B&M Builders, Inc.
11330 Sunrise Park Drive, Ste. C
Rancho Cordova, CA 95742
E-Mail: pmullen@bm-builders.com

Re: Response to Protest of Bid- City of Placerville Broadway Maintenance Project (CIP #42003)

Dear Mr. Mullen:

I serve as the City Attorney for the City of Placerville. This letter responds to your bid protest, dated October 27, 2023, sent to the City's engineering department regarding the Broadway Maintenance Project ("Project"). In your letter, B&M Builders, Inc. ("B&M") submitted a bid protest on the grounds that only your bid was read aloud and checked through for compliance while the other two bids were not. Following review and analysis of the protest, I have determined that your protest lacks merit for the reasons stated below. Furthermore, while not raised in your bid protest, this letter explains why B&M's bid was non-responsive. Based on this information, and the analysis below, staff will recommend that the City of Placerville City Council reject B&M's bid protest and award the contract for the Project to Doug Veerkamp General Engineering as the lowest responsible, responsive bidder.

I. The Bid Protest.

A. Timeline of Pertinent Events.

- Bids were publicly opened on October 24, 2023. As-read bid results ranking were as follows:

  1. Doug Veerkamp General Engineering

  2. B&M Builders

  3. Central Valley Engineering and Asphalt

- October 25, 2023 – the City performed a thorough review of the bid packages and prepared a detailed bid tabulation.

- October 27, 2023 – the City received a Bid Protest from B&M Builders (see, Attachment 1).

- October 27, 2023 – Matt Veerkamp of Doug Veerkamp General Engineering responded to the bid protest. (See, Attachment 2).

B. The Bid Protest.

The Bid Protest asserts, in part, the following:

"After properly preparing and submitting a bid/proposal for this project we turned in our bid along with 2 other bidders; Doug Veerkamp General Engineering and Central Valley Engineering and Asphalt, Inc. During the opening of the three bids received only our bid was read aloud and checked through to make sure any and all addenda were noted and that we had properly executed bidders bond or of the other forms of bid security that were acceptable to City and General standards…..We believe that due the lack of transparency as required that this project should be put back up and rebid with all bidders' information being read aloud and checked through as public bid openings require."

II. Analysis of Bid Protest.

A. Findings of Fact Regarding Bid Protest.

The City's investigation of this matter, including discussion with Engineering Staff, has disclosed the following

City staff read aloud all bids and reviewed each one of them. The staff member who conducted this was Melissa McConnell, with the assistance of the Design Consultant, Jim Fisher. Three people attended the bid opening and we have substantiated that **all** bids were read aloud and reviewed. (See Attachment 2, email from Matt Veerkamp dated 10/27/23; Fisher email dated 11/3/23). B&M's estimating assistant arrived at the City's offices at 1:58 p.m. to submit the 2:00 p.m. bid, which may have contributed to her false recollection of the bid opening process. Nevertheless, the City accepted the submittal as timely. Thus, B&M's protest alleging that not all bids were read and reviewed is false.

In any event, B&M was not the low bidder.[1] However, for the reasons listed below, the submittal was inadequate, incomplete, and failed to meet the bid requirements.

[1] B&M's bid was also incomplete, inadequate and non-responsive because it omitted the following information. A copy of the contractor's license was not attached to the bid, even though required. Several components of the itemized bid price schedule were revised and illegible. See, for example, pages 21 and 23 of your bid proposal. Furthermore, the total computation does not correspond with the itemized bids. Several components of the itemized bid price schedule were revised and illegible. See, for example, pages 21 and 23 of your bid proposal. Furthermore, the total computation does not correspond with the itemized bids. Page 25 of the bid did not spell out the "total project bid amount", even though clearly required. The bid document stated on the same page "Total Project Bid Amount for Item No.'s 1 through 85 **shall be (spell out)."** (Emphasis added.) In addition, the location of business for subcontractor does not actually include the location of the business, just the city in which the business may be located.

III. Conclusion.

For the foregoing reasons, it is the City's position that the Bid Protest lacks merit and staff intends to recommend the award to Doug Veerkamp General Engineering as the lowest responsive bidder.

Very truly yours,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

MONA G. EBRAHIMI

MGE/las

Attachments as stated.

cc: Matt Veerkamp (via email)

ATTACHMENT 1

B&M Builders, Inc.
11330 Sunrise Park Drive, Ste. C
Rancho Cordova, CA 95742
Phone: (916) 638-8626
Fax: (916) 352-6944
Lic. No. 861848 A, B, C-54, C-31, C-8

10/27/23

Sent via email

City of Placerville
Engineering Department
3101 Center Street
Placerville, Ca 95667
Attn: Regina O'Connell, City Clerk

Re: Broadway Maintenance Project (CIP #42003)

Please consider this our official bid protest to the project referenced above that bid on October 17th, 2023. After properly preparing and submitting a bid/proposal for this project we turned in our bid along with 2 other bidders; Doug Veerkamp General Engineering and Central Valley Engineering and Asphalt, Inc. During the opening of the three bids received only our bid was read aloud and checked through to make sure any and all addenda were noted and that we had a properly executed bidders bond or one of the other forms of bid security that were acceptable to City and Federal standards. Our estimating assistant sat through the entire bid opening until after the other parties had exited. She asked why the City had only gone through B & M Builders' paperwork to make sure the necessary paperwork was accounted for and did not go through the other two bidders paperwork publicly, as required by law. She was brushed off and left the City's Engineering Department not understanding why. We believe that due to the lack of transparency as required that this project should be put back up and rebid with all bidders' information being read aloud and checked through as public bid openings require.

Thank you,

Patrick Mullen
President
B & M Builders, Inc

CC: Bill Porter- Porter Law Group, bporter@porterlaw.com, Rebecca Neves, Rneves@cityofplacerville.org, Melissa McConnell, mmconnell@cityofplacerville.org

ATTACHMENT 2

City of Placerville

Melissa McConnell <mmcconnell@cityofplacerville.org>

RE: Bid Protest for Broadway Maintenance Project

1 message

Matt Veerkamp <matt.veerkamp@dougveerkamp.com> Fri, Oct 27, 2023 at 3:17 PM
To: Melissa McConnell <mmcconnell@cityofplacerville.org>, Eric Wunschel <eric.wunschel@dougveerkamp.com>
Cc: Rebecca Neves <rneves@cityofplacerville.org>

All,

I personally was there at the bid opening for the Broadway Maintenance Project and witnessed City Engineer Melissa Mcconnell read ALL bids aloud. At the Conclusion of reading all three bidders prices aloud she openly stated “at this time the apparent low bidder is Doug Veerkamp General Engineering”.

Matt Veerkamp

Vice President, Manager of Operations

3701 Trade Way, Cameron Park CA 95682

Office (530)-676-0825

Cell (530)-409-0857

please check us out at: www.dougveerkamp.com

Doug Veerkamp GENERAL ENGINEERING INC. www.dougveerkamp.com Since 1983 -LIC. 440233-

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From: Melissa McConnell <mmcconnell@cityofplacerville.org>
Sent: Friday, October 27, 2023 2:45 PM
To: Matt Veerkamp <matt.veerkamp@dougveerkamp.com>; Eric Wunschel <eric.wunschel@dougveerkamp.com>
Cc: Rebecca Neves <rneves@cityofplacerville.org>
Subject: Fwd: Bid Protest for Broadway Maintenance Project

Caution: [This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe]

Hi Matt and Eric,

Please see the attached bid protest received today from B&M Builders regarding the Broadway Maintenance project. You are welcome to respond to this protest.

Thanks!

Melissa McConnell, P.E.

Senior Civil Engineer

City of Placerville

3101 Center Street

Placerville, CA 95667

(530) 642-5250

mmcconnell@cityofplacerville.org

---------- Forwarded message ---------
From: **Patrick Mullen** <pmullen@bm-builders.com>
Date: Fri, Oct 27, 2023 at 2:32 PM
Subject: Bid Protest for Broadway Maintenance Project
To: <mmcconnell@cityofplacerville.org>, William L. Porter <bporter@porterlaw.com>, Rebecca Neves <rneves@cityofplacerville.org>

Please see the attached formal bid protest to the above mentioned project.

Thank you,

Patrick Mullen

B & M Builders, Inc.

CA Lic. 861848 | DIR 1000003277

11330 Sunrise Park Dr, Ste C. Rancho Cordova, CA 95742

O 916.638.8626 | **C** 916.862.0095 | **F** 916.352.6944

www.bm-builders.com

City of Placerville

Melissa McConnell <mmcconnell@cityofplacerville.org>

Broadway Maintenance Bid Opening

1 message

Jim Fisher <jfisher@reyengineers.com> Fri, Nov 3, 2023 at 2:17 PM
To: mmcconnell <mmcconnell@cityofplacerville.org>
Cc: "Rebecca Neves (rneves@cityofplacerville.org)" <rneves@cityofplacerville.org>

Good afternoon Melissa,

I was present at City Hall on October 24th at the 2:00 PM bid opening for the Broadway Maintenance Project. During the bid opening, I was the note taker and completed both the individual bidder checklists and summary of the bid results.

I can confirm that you, Melissa McConnell, read all three bids aloud and that I wrote down the bids you read aloud on the bid results form with all three contractors present. I also reviewed the bids and began filling out the individual bidder checklists to confirm responsiveness of each bidder with all three contractors present and completed my detailed review and first pass of the individual bidder checklists after the three contractors left. I then passed the forms to you to complete a second review.

Prior to the contractors leaving, the representative from Central Valley asked that I reread the bid results, and I obliged and read the bids aloud again with all three contractors present.

Please don't hesitate to reach out if I can provide any additional details regarding the bid opening.

Thank you,

Jim Fisher, PE, QSD/P

Principal | R.E.Y. Engineers, Inc.

Email: jfisher@reyengineers.com

O: (916) 366-3040 | D: (916) 850-8826 | M: (916) 612-7581

905 Sutter Street, Suite 200, Folsom, CA 95630

www.reyengineers.com