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City Manager's Report

January 23, 2024 City Council Meeting

Prepared By: Melissa McConnell, Interim City Engineer

Item#: 12.2

Subject: Consider approving budget appropriations, budget liquidations, rejecting a bid protest received from B&M Builders, Inc., approving the award of a construction contract to the lowest responsive bidder, Doug Veerkamp General Engineering, Inc. in the amount of \$4,926,039.80, and approving Change Order No. 1 in the amount of \$(914,414.86), for the Broadway Maintenance Project From Mosquito Road to Schnell School Road (CIP #42003), and finding that the project is exempt from CEQA pursuant to the CEQA Guidelines sections 15301 and 15303.

Recommendation: Adopt a Resolution:

1. Approving a \$1,300,000 budget appropriation from the Measure L Construction Reserve for the Broadway Maintenance Project From Mosquito Road to Schnell School Road (CIP #42003); and
2. Approving a \$200,000 budget appropriation from the Measure L fund unassigned fund balance for the said project; and
3. Approving a \$1,300,000 budget appropriation from the Measure H Fund Construction Reserve for the said project; and
4. Approving a \$141,370 budget liquidation from the ARPA Fund for the Fuel Reduction Treatment for City Property Project (CIP #42241); and
5. Approving a \$63,000 budget liquidation from the ARPA Fund for the Lions Park Large Shelter Project (CIP #42303); and
6. Approving a \$207,805 budget liquidation from the ARPA Fund for the contribution to El Dorado County for the Homeless Navigation Center; and
7. Approving a \$412,175 budget appropriation from the ARPA Fund for the Broadway Maintenance Project From Mosquito Road to Schnell School Road (CIP #42003); and
8. Rejecting the bid protest received from B&M Builders Inc.; and
9. Approving a Construction Contract with the lowest responsive bidder, Doug Veerkamp General Engineering, Inc., in an amount not to exceed \$4,926,039.80 for the said project, and authorizing the City Manager to execute the same; and
10. Approving Construction Contract Change Order No. 1 with Doug Veerkamp General Engineering Inc. in the combined credit amount of \$914,414.86 for the said project, and authorizing the City Manager to execute the same; and
11. Authorizing the City Manager to negotiate and execute any necessary Contract Change Orders with Doug Veerkamp General Engineering, Inc. up to \$25,000 per change for a not-to-exceed aggregate amount of \$150,000 for the said project. Said change orders shall be brought to the next available City Council meeting for either approval or ratification.

Purpose: A public bid opening was held on October 24, 2023 and following review of the bids received, staff is recommending the award of a construction contract to the lowest responsive bidder.

Strategic Plan Strategy: Strategy 4 - Update and Maintain City-Owned Infrastructure.

Background: The Broadway Maintenance Project improvements were identified as a critical need during the final design of the federally funded Broadway Sidewalks project, which is located within the same project limits, on Broadway from Mosquito Road/Main Street to Schnell School Road. The project will rehabilitate the roadway pavement through a variety of pavement repairs or replacement. The project will also include storm drain improvements to the existing infrastructure to better facilitate roadway drainage when the curb, gutter, and sidewalks are constructed as part of the Broadway Sidewalks project. The existing waterlines in Broadway have been evaluated and repairs are recommended as determined through investigation, field assessment, and discussions with the Public Works Department. The project also includes the construction of an 18-inch sewer main in Broadway between Mosquito Road and Carson Road to address future capacity deficiencies identified in the City's Sewer Master Plan. The portion of the Broadway Maintenance Project that improves the roadway, storm drain, sewer system and water system is locally funded with Measures H & L Funds.

The project will also be installing the underground infrastructure (conduit and vaults) to support the City's future broadband services. The broadband portion of the project is funded solely through the City's ARPA Fund.

Discussion:

Construction Contract: The Engineering Department began advertising and published the bid package for the Broadway Maintenance Project on September 19, 2023. A mandatory pre-bid meeting was held on-site on October 3, 2023, and eight contractors were in attendance. A public bid opening was then held on October 24, 2023 and three bids were received, as listed below in the order of their value:

1. Doug Veerkamp General Engineering, Inc. - \$4,926,039.80
2. B&M Builders, Inc. - \$5,615,434.00
3. Central Valley Engineering & Asphalt, Inc. - \$5,788,269.00

Following the bid opening, B&M Builders submitted a bid protest to the City on October 27, 2023. (See Attachment C). The bid protest stated that during the bid opening, only the bid from B&M was read aloud and reviewed, and not the other two bids. Staff provided the bid protest to the other two bidders, in accordance with typical bid protest procedures, and provided them with an opportunity to respond. On October 27, 2023, Matt Veerkamp, of Doug Veerkamp General Engineering (DVGE), responded via email stating that staff followed typical procedures and publicly read aloud all three bids.

The bid protest was independently reviewed by the City Attorney and a formal response was provided to B&M Builders on November 3, 2023. (See Attachment D). The City Attorney determined that the bid protest lacked merit and substantiated that all three bids were read aloud and reviewed by staff, which was consistently stated in the written testimonies of those in attendance at the bid opening.

Staff is recommending that the City Council deny the bid protest.

Following the detailed bid analysis and comprehensive review of their bid proposal, Doug Veerkamp General Engineering, Inc. is deemed to be the lowest responsive bidder, and staff is recommending approval of a construction contract with DVGE.

The table below shows the cost breakdown associated with each City asset category to be improved or installed as a part of the project. The \$4,926,039.80 bid proposal from DVGE includes the following:

Asset	Cost	Percentage of Contract
Sewer System Improvements	\$ 1,112,680	23%
Water System Improvements	746,664	15%
Roadway and Storm Drain Improvement	2,702,286	55%
Broadband Installation	364,410	7%
Total	\$ 4,926,039.80	100%

The cost breakdown for each asset category was reviewed against the available project funding. Measure L funds are eligible to be used on maintenance and improvements to the storm drain system, water system, and the public roadway. Measure H funds are only eligible to be used on maintenance and improvements to the sewer system. The broadband improvements are not eligible for either Measure L or Measure H funding and will be funded by the ARPA Fund as was noted above. American Rescue Plan Act (ARPA) funds were provided by the federal government following the financial impacts of the COVID-19 virus. ARPA funds may be used for any municipal purpose, including but not limited to, investments in water, sewer, broadband and infrastructure. The City Council previously allocated the above mentioned ARPA funds for fuel reduction, Lions Park Shelter and the homeless navigation center. However, since that time, the City completed the scope of work related to the fuel reduction and maintained a balance of \$141,370 that can now be used for any purpose. The City no longer needs funding for the Lions Park Shelter or navigation center, so those funds may be reallocated for other uses. Staff recommends that the Council liquidate those funds and allocate them to this project.

Construction Contract Change Orders: Given the size and complexity of the project and understanding that unforeseen items can arise in the field, Staff is respectfully requesting to grant the City Manager authority and ability to implement expedient solutions during construction within approved change order amounts. This process makes for efficient use of the public funds to address any additional unforeseen items beyond the awarded contract scope of work and prevent a costly construction delay. It is recommended that the City Manager be able to negotiate and execute any necessary contract change orders (CCOs) with DVGE up to \$25,000 per change order requested (representing approximately 0.5% of the total contract value) for a not to exceed aggregate amount of \$150,000. The \$25,000 single approval amount is consistent with the City Manager's purchasing authority approved at the regularly scheduled Council Meeting on October 24, 2017.

The aggregate amount of \$150,000 represents an approximate contract contingency of 3% of the total contract value. The process of using this proposed authority will be upon evaluation in the field during construction, the Interim City Engineer will review time and material tracked options and make a recommendation to the City Manager to address any unforeseen work that will deliver a more complete project. All approved CCOs will be brought back to the Council for review and approval or ratification at the next available meeting. To further avoid potential delay in construction and

potential public inconvenience, the City Manager may request a special City Council meeting to approve any CCOs above the purchasing limit.

Construction Contract Change Order No. 1: Staff is also recommending approval of Contract Change Order No. 1 with DVGE in the combined credit amount of \$919,414.86 due to unforeseen circumstances. Upon review of the project budget, a shortfall in Measure L funding was identified after bid opening. As construction costs continued to rise over 2023, the bids came in much higher than anticipated due to increased costs. For example, the bid items related to lining the storm drain pipes to extend their service life came in at double the engineer's estimate. Staff and the consultant team evaluated potential cost savings measures and value engineering options to reduce the overall project cost, but ultimately it was decided that the improvements are too important to propose any measures that would degrade the quality of the project. Section 29.0 of the Contract Documents provide, in pertinent part, that "If a Contract is awarded, it will be to the lowest, responsive, responsible, qualified Bidder whose bid complies with the specified requirements, as it may best serve the interests of the Owner [City]." Here, it is in the best interest of the city to award the contract to DVGE for the bulk of the work but remove that portion for which there is not sufficient and immediately available funding. That section also states, "The selection of any or all alternates or bid schedules shall be at the sole discretion of the Owner."

As such, staff is recommending that some of the proposed improvements east of the Broadway/Wiltse Road intersection be delayed and constructed later as part of the Wiltse Road Storm Drain Project (CIP #42407). Staff originally developed CIP #42407 as part of the 2023/2024 CIP Budget after identifying the need for the storm drain repairs through the Broadway Maintenance Project utility condition assessment and investigation work.

Secondly, staff was recently notified that Caltrans was performing potholing to locate utilities in the intersection of Schnell School Road and Broadway. Upon further investigation, it was discovered that Caltrans is also planning to complete a storm drain improvement project within the US Highway 50/Schnell School Road interchange. Since the Caltrans interchange storm drain system directly ties into the City's 36-inch storm drain at the Broadway/Schnell School Road intersection, staff would like to find out more information about the Caltrans project before proceeding with the City's storm drain work in the same location.

The improvements to be deferred to a later date include: pipe lining of the 36" storm drain on Wiltse Road from Broadway to the pipe outlet at Hangtown Creek, removing and replacing two drainage inlets and storm drain pipe on Schnell School Road, reconstruction of the 36" storm drain main from the Schnell School Road intersection to the Wiltse Road intersection, grind and overlay of the pavement, and reconstruction of the curb, gutter, and sidewalk on the northwest corner of the Broadway/Schnell School Road intersection.

The comprehensive list of the bid items reduced by CCO No. 1 is provided in Attachment E. The total amount of the proposed CCO #1 is in the combined credit amount of \$914,414.86.

Staff is anticipating that the Wiltse Road Storm Drain Project (CIP #42407) can be bid in the Summer of 2024 when sufficient Measure L funding is available. Staff is also working on the Storm Drain Replacement at Upper Broadway and Point View Drive (CIP #42320), which will repair the storm drain system that failed and caused a sinkhole. The City will benefit from the economy of scales of bidding both of these projects together due to the similar scope of work and bid items.

Options:

1. Approve the contract and construction contract change order with DVGE, as recommended by staff.
2. Provide other direction to staff.

Environmental: The project was determined to be Categorically Exempt according to CEQA Guidelines Section 15301 and 15303 because the project involves the rehabilitation and replacement of existing facilities and negligible expansion of use of the public roadway and utilities. A Notice of Exemption was filed with the El Dorado County Recorder's Office on March 17, 2021.

Cost: The cost of the construction contract with Doug Veerkamp General Engineering, Inc. is in the amount of \$4,926,039.80, and the proposed CCO No. 1 is in the combined credit amount of \$914,414.86, for a net amount of \$4,011,624.94.

Budget Impact: The City Council adopted the Fiscal Year 2019/2020 Capital Improvement Program Budget which appropriated \$680,000 for the Broadway Maintenance Project – from Mosquito Road to Schnell School Road (CIP #42003). At its meeting held on December 10, 2019, the City Council liquidated \$525,000 from the Measure L Fund for the Broadway Maintenance Project – From Mosquito Road to Schnell School Road (CIP #42003), a \$425,000 budget appropriation from the Measure L Fund for the Upper Broadway Bike Lanes Project-Schnell School Road to Point View Drive project (CIP #41508), and a \$100,000 budget appropriation from the Measure L Fund for the Storm Drain Replacement at the Intersection of Broadway and Schnell School Road (CIP #42004) leaving a remaining project budget of \$155,000. At its meeting held on April 26, 2022, the City Council approved an additional \$700,000 budget appropriation for the Broadway Maintenance project-From Mosquito Road to Schnell School Road (CIP #42003) . On August 22, 2023, the City Council approved \$1,600,000 in additional budget appropriations for a total project budget of \$2,455,000.

Tonight, staff is recommending additional budget appropriations totaling \$3,212,175 for a total project budget of \$5,667,175, as shown in the table below:

Funding Source	Revised Project Budget	Proposed Project Budget	Increase/ (Decrease)
Measure H Fund	\$ 300,000	\$ 1,600,000	\$ 1,300,000
Measure L Fund	1,755,000	3,255,000	1,500,000
STBGP Funds	400,000	400,000	-
ARPA Fund	-	412,175	412,175
Total	\$ 2,455,000	\$ 5,667,175	\$ 3,212,175

To date, the project has encumbered the following costs:

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Doug Veerkamp General Engineering, Inc. (Proposed Contract)	\$4,926,040
Doug Veerkamp General Engineering, Inc. (Proposed Change Order No. 1)	(914,415)
R.E.Y. Engineers, Inc. (Original Agreement)	136,907
R.E.Y. Engineers, Inc. (Amendment No. 1)	179,660
R.E.Y. Engineers, Inc. (Amendment No. 2)	95,732
R.E.Y. Engineers, Inc. (Amendment No. 3)	149,972
Dewberry Engineers Inc. (Agreement)	254,107
B&B Locating, Inc.	900
El Dorado County	103
Kronick Moskovitz Tiedemann & Girard	1,962
Mountain Democrat	302
PG&E (Street Light Relocation)	19,836
Placer Title Company	400
360 Pipe Networks (CCTV Inspections - Storm Drain)	11,260
City Staff Time	74,228
Total	<u>\$ 4,936,994</u>

The proposed project budget assumes holding a 10% construction contingency for unforeseen expenditures for roadway items and the City's broadband conduit installation work, and a 15% construction contingency will be held for all underground utility improvements, for a total construction contingency estimate of approximately \$500,000.

As you can see, the \$4,936,994 in total project encumbrances, including the proposed \$4,926,039.80 Construction Contract with Doug Veerkamp General Engineering, Inc. and the proposed CCO No. 1 in the credit amount of \$914,414.86, is within the proposed \$5,667,175 project budget.



M. Cleve Morris, City Manager



Melissa McConnell, Interim City Engineer

Attachments:

- A. Resolution
- B. Project Exhibit
- C. Bid Protest
- D. City Attorney Response to Bid Protest
- E. Construction Contract Change Order #1