



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/01/2023

ITEM NO: 9

DATE: July 27, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Authorize the Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505), Federal Project No. CML-5067(021), by taking the following actions:

- a. Reject the bid from AB Construction Company received on April 6, 2023 for Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project; and
- b. Authorize the Town Manager to Execute a Construction Agreement with Granite Construction in the Amount of \$6,529,395.78 with a 10% Construction Contingency in the Amount of \$652,939.58 for a Total Contract Amount Not to Exceed \$7,182,335.36 for Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project; and
- c. Authorize Staff to Execute Contract Change Orders Up To and Within the Not to Exceed 10% Construction Contingency of \$652,939.58; and
- d. Authorize the Town Manager to Execute the Second Amendment to the Agreement for Consultant Services with Mott MacDonald Group to Provide Design Consultant Construction Support Services in an Amount Not to Exceed \$206,371; and
- e. Authorize the Town Manager to Execute an Agreement for Consultant Services with Zoon Engineering for Construction Management, Inspection, and Materials Testing Services in an amount not to exceed \$1,220,822.07 and also to encumber a 2% contingency in the amount of \$29,177.93 for a total agreement amount not to exceed \$1,250,000; and
- f. Authorize Advances from the General Fund to the Town's Grant Fund not to Exceed the Approved Grant Funding of \$8,054,305 to Bridge Expenses and Reimbursement Timing.

PREPARED BY: Nicolle Burnham
Parks and Public Works Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

SUBJECT: Authorize the Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) and Associated Actions.

DATE: July 27, 2023

RECOMMENDATION:

Authorize the construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505), Federal Project No. CML-5067(021), by taking the following actions:

- a. Reject the bid from AB Construction Company received for Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project; and
- b. Authorize the Town Manager to execute a Construction Agreement with Granite Construction in the amount of \$6,529,395.78 with a 10% construction contingency in the amount of \$652,939.58 for a total contract amount not to exceed \$7,182,335.36 for construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project; and
- c. Authorize staff to execute contract change orders u to and within the not to exceed 10% construction contingency of \$652,939.58; and
- d. Authorize the Town Manager to execute the Second Amendment to the Agreement for Consultant Services with Mott MacDonald Group to provide design consultant construction support services in an amount not to exceed \$206,371; and
- e. Authorize the Town Manager to execute an Agreement for Consultant Services with Zoon Engineering for construction management, inspection, and materials testing services in an amount not to exceed \$1,220,822.07 and also to encumber a 2% contingency in the amount of \$29,177.93 for a total agreement amount not to exceed \$1,250,000; and
- f. Authorize advances from the General Fund to the Town's Grant Fund not to exceed the approved grant funding of \$8,054,305 to bridge expenses and reimbursement timing.

BACKGROUND:

The Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (Project) was identified as a priority in the 2017 Bicycle and Pedestrian Master Plan and the 2020 Update to the Plan. Design of the Project was started in 2018 and staff has been working on design, environmental clearance, and development of construction documents ever since.

On January 17, 2023, Town Council authorized staff to issue two bids for the Project: one for construction and a second for construction management, inspection, and material testing services. Construction bids were opened on April 6, 2023 and a total of five bids were received. The bids submitted by contractors for construction exceeded the Engineer's Estimate for the Project and the available construction budget. After a thorough review of the bids submitted, the project team determined that the bids received were representative of the current cost for the construction of the project.

On June 6, 2023, Town Council authorized a revised funding plan for the project which included the approval of additional General Fund Appropriated Reserve (GFAR) and grant funding. The grant funding occurs as reimbursements and the Fiscal Impact section of this report identifies additional fiscal actions needed to cover the upfront costs of this project.

SUBJECT: Authorize the Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) and Associated Actions.

DATE: July 27, 2023

BACKGROUND (continued):

Bids for construction management, inspection, and material testing were based on qualifications.

DISCUSSION:

Construction Contract

The five bids were received by the Town and opened on April 6, 2023. At the bid opening, the following bids were read aloud as follows:

- A&B Construction \$5,868,881.42*
- Granite Construction \$6,529,395.78
- Ghilotti Construction Company, Inc. \$6,635,782.95
- Gordon N. Ball, Inc. \$6,760,897.80
- Robert A. Bothman Construction \$6,869,055.70

*Subsequently, staff determined that the submitted bid total was incorrect.

The final bid summary is included in Attachment 1. The apparent low bidder, A&B Construction, omitted Bid Item No. 45 – Tree Removal from their bid, and also provided an incorrect bid total. Per statements in the call for bids, omitting a bid item renders the bid non-responsive and requires the bid from A&B Construction to be rejected. Additionally, Granite Construction Company has submitted a formal protest of the A&B Construction bid, requesting the bid be rejected for the reasons noted above. The next lowest bid was submitted by Granite Construction and was subsequently reviewed and determined to be the lowest responsive and responsible bid.

Staff is therefore recommending the Town Council reject the bid received from A&B Construction and authorize the Town Manager to execute the Construction Agreement with Granite Construction in the amount of \$6,529,395.78, including a 10% construction contingency in the amount of \$652,939.58 for a total contract amount not to exceed \$7,182,335.36. The proposed Construction Contract is contained in Attachment 2. Staff is also recommending the Town Council authorize staff to execute construction contract change orders up to the construction contingency amount of \$652,939.58 to allow for the efficient and expedient resolution of any unforeseen construction issues.

Construction Support Services - Mott MacDonald Group – Second Amendment

Mott MacDonald Group completed the original design documents for the project under an Agreement for Consultant Services with the Town. A First Amendment to this agreement provided additional services necessary to complete the project design. The proposed Second

PAGE 4 OF 7

SUBJECT: Authorize the Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) and Associated Actions.

DATE: July 27, 2023

DISCUSSION (continued):

Amendment to the Agreement for Consultant Services is being presented to allow for the design engineers to be available at specific key points during the project construction for review of documents and field procedures to ensure compliance with the design intent. This is recommended as the review of specific structural and architectural shop drawings by the original design team is the most effective and efficient process for review of these drawings and calculations. Although Mott MacDonald did propose on providing construction support services during the original consultant selection process, the project team did not include these services in the original contract since construction funding had not been secured at that time.

With construction funds secured, staff is now recommending the Town Council authorize the Town Manager to execute the Second Amendment to the Agreement for Consultant Services with Mott MacDonald Group in an amount not to exceed \$206,371 to provide the construction support services needed from the design engineering team, bringing the total contract amount for engineering services for this project to \$783,118 (approximately 12% of the base construction contract amount). The proposed Second Amendment is contained in Attachment 3.

Construction Management, Inspection, and Materials Testing Services – Zoon Engineering

A Request for Proposals (RFP) to provide construction management, inspection, and materials testing services for this project was released by the Town's Parks and Public Works Department on February 23, 2023. Four proposals were received and evaluated by a three-member selection committee comprised of Town staff. After a comprehensive review of the proposals submitted, the Zoon Engineering team was determined to be the most qualified firm to provide the Construction Management, Inspection and Materials Testing Services for the project.

Per federal consultant selection guidelines, cost negotiations with the selected consultant began only after the most qualified firm, Zoon Engineering, was determined. The selection committee has completed the final cost and scope of services negotiations with Zoon Engineering and staff has prepared the proposed Consultant Services Agreement (Attachment 4). Staff is recommending the Town Council authorize the Town Manager to execute the Consultant Services Agreement with Zoon Engineering in an amount not to exceed \$1,220,822.07 and also to encumber a 2% contingency in the amount of \$29,177.93 for a total contract amount not to exceed \$1,250,000.

CONCLUSION:

Should Council approve the recommended actions, the project is anticipated to move forward into construction beginning in September 2023. The project is anticipated to be completed within 14 months, with completion anticipated by the end of 2024. The project team will use

PAGE 5 OF 7

SUBJECT: Authorize the Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) and Associated Actions.

DATE: July 27, 2023

CONCLUSION (continued):

the project page on the Town's website to keep the community updated on the project progress.

ALTERNATIVES:

Alternatives to postpone construction are likely to result in additional project costs due to re-certifications that would be required for various project components including environmental clearances, Caltrans construction standards, and updates to the plans and permits issued for the project construction. Rebids of the construction and consultant services contracts would likely not result in savings to the project given the current bidding climate. Projects of similar nature have been experiencing higher than anticipated construction costs, and there is no indication that construction costs will decrease in the future. Should the Town wish to cancel the project, the OBAG grant funds received for design (\$343,000) would be required to be reimbursed, and the Town would not be moving forward to complete the project as identified in the Bicycle and Pedestrian Master Plan. For these reasons, staff is not recommending alternatives to the proposed actions.

COORDINATION:

This memorandum was coordinated with the Town's Complete Streets and Transportation Commission, the Town Attorney's Office and Finance Department and Santa Clara County Transportation Authority (VTA).

SUBJECT: Authorize the Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) and Associated Actions.

DATE: July 27, 2023

FISCAL IMPACT:

Los Gatos Creek Trail to Highway 9 Trailhead Connector		
CIP No. 832-4505		
	Budget	Costs
SOURCE OF FUNDS*		
GFAR (<i>Available Now</i>)	\$ 1,428,127	
OBAG Cycle II Grant - CMAQ (<i>Previously Reimbursed for Design</i>)	\$ 343,000	
OBAG Cycle II Grant - CMAQ (<i>Funds Allocated for Construction - to be Reimbursed</i>)	\$ 3,351,000	
OBAG Cycle II Grant - CMAQ (<i>Funds Allocated for Construction - to be Reimbursed</i>)	\$ 2,842,000	
Measure B - 2016 Program Bicycle and Pedestrian Program (<i>Funds Allocated for Construction - to be Reimbursed</i>)	\$ 693,500	
TFCA Grant Funds (<i>Funds Allocated for Construction - to be Reimbursed</i>)	\$ 755,921	
TDA3 Grant Funds (<i>Funds Allocated for Construction - to be Reimbursed</i>)	\$ 68,884	
Total Source of Funds	\$ 9,482,432	
USE OF FUNDS		
Design Phase (<i>Completed - OBAG Cycle II CMAQ Reimbursement of \$343,000 Received</i>)		
Consultant Services (Mott MacDonald Group)		\$ 576,747
Part-Time Staff		\$ 99,297
Misc. Project Delivery Costs		\$ 490
Design Total (Completed)		\$ 676,534
Construction Phase		
Construction Contract (Granite Construction)		\$ 6,529,396
Construction Contingency (10%)		\$ 652,940
Construction Management, Inspection and Materials Testing (Zoon Eng.)		\$ 1,220,822
Consultant Contract Contingency		\$ 29,178
Town Project Management		\$ 127,000
Construction Support Services (Mott MacDonald Group)		\$ 206,371
Misc. Project Delivery Costs		\$ 40,192
Construction Totals		\$ 8,805,898
Total Project Expenditures		\$ 9,482,432
Remaining Budget		\$0

*GFAR - General Fund Appropriated Reserve

*OBAG - One Bay Area Grant *CMAQ - Congestion Mitigation and Air Quality

*TFCA - Transportation Fund for Clean Air

*TDA - Transportation and Development Act Article 3

PAGE 7 OF 7

SUBJECT: Authorize the Construction of the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505) and Associated Actions.

DATE: July 27, 2023

FISCAL IMPACT (continued):

The grant funds that support this project are reimbursement grants, meaning the Town must pay its contractors, consultants and staff and submit invoices to the granting agencies for reimbursement.

Staff requests that Town Council approve advances from the General Fund to the Town's Grant Fund not to exceed the approved grant funding of \$8,054,305. Based on the timing of the reimbursement, staff anticipates pulling cash from the Town's Local Agency Investment Fund (LAIF) as needed. The Town's interest income will decrease if LAIF balance is decreased. The cash advances from the General Fund can be recorded in the Town's general ledger and tracked on an ongoing basis with updates on the cash flows provided at mid-year and at fiscal year-end.

ENVIRONMENTAL ASSESSMENT:

Caltrans opted to be the lead agency for the CEQA and NEPA environmental clearances for the project and has provided the final CEQA Categorical Exemption and NEPA Categorical Exclusion environmental certifications.

This is a project as defined under CEQA but is Categorically Exempt Class 1 (CEQA Section 15301)(PRC 21084;14 CCR 15300 et seq).

The project has been determined to be Categorically Excluded under NEPA 23 CRF 771.117(c) activity (c)(3).

Attachments:

1. Bid Summary
2. Construction Agreement – Granite Construction, with Exhibits
3. Second Amendment – Consultant Services Agreement – Mott MacDonald Group, with Exhibits
4. Construction Management, Inspection, and Materials Testing Consultant Services Agreement – Zoon Engineering, with Exhibits