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**Title:** MAKE CERTAIN EMERGENCY PROCUREMENT FINDINGS AND CONSIDER AWARD OF CONTRACT TO DRILL SUB, INC. FOR NEWKIRK AVENUE STORM DRAIN LINE EMERGENCY REPAIR IN THE AMOUNT OF \$66,900.00 WITH A CONTINGENCY OF \$10,035.00 (CITY COUNCIL)

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**Attachments:** 1. Location Map- Exhibit No.1, 2. Drill Sub, Inc.Contract Services Agreement

Date	Ver.	Action By	Action	Result
9/1/2020	1	City Council		

**Report to Mayor and City Council**

Tuesday, September 01, 2020

Discussion

**SUBJECT:**

**MAKE CERTAIN EMERGENCY PROCUREMENT FINDINGS AND CONSIDER AWARD OF CONTRACT TO DRILL SUB, INC. FOR NEWKIRK AVENUE STORM DRAIN LINE EMERGENCY REPAIR IN THE AMOUNT OF \$66,900.00 WITH A CONTINGENCY OF \$10,035.00 (CITY COUNCIL)**

**I. SUMMARY**

Existing storm drain lines made of corrugated metal pipe traversing private properties between Newkirk Avenue and Garston Avenue have collapsed and need immediate repair (Exhibit No. 1). The storm drain lines do not function to their design capacity, which results in flooding during rainfall and may cause severe damage to property and create unsafe conditions in the surrounding neighborhood for residents and motorists.

On May 19, 2020, the City Council approved Item No. 9 awarding a contract to SPT Specialized Pipe Technologies (“SPT Pipeline”) for Newkirk Avenue storm drain Line Emergency Repair. SPT Pipeline declined or was unable to provide the required bonds and insurance, and subsequently withdrew from the project.

Staff recommends the rejection of SPT Pipeline’s proposal and requests that the City Council authorize use of emergency procurement procedures under the Public Contract

Code and consider an award of a construction contract to Drill Sub, Inc., the sub-contractor that SPT Pipeline had planned to use for the repairs, to perform the necessary repair work to the Newkirk Avenue storm drain lines. The repair, when completed, will permanently alleviate the flooding, avoid partial closure of Newkirk Avenue, and will protect existing private and public infrastructures.

## **II. RECOMMENDATION**

1. MAKE the following findings: (1) that the emergency described in this report will not permit a delay resulting from a competitive solicitation for bids and (2) that dispensing with competitive solicitation for bids is necessary to respond to such emergency.
2. REJECT the proposal received from Specialized Pipe Technologies.
3. AWARD a Construction Contract for the repair of Newkirk Storm Drain in the amount of \$66,900.00 to Drill Sub, Inc., contingent upon confirmation of drainage easements on four privately owned properties.
4. DECLARE the emergency action described in this report to be terminated upon award of the contract to Drill Sub, Inc.
5. AUTHORIZE the expenditure of a construction contingency in the amount of \$10,035.00 (15%) for any unforeseen construction work such as removal and remediation of contaminated soil, substructure conflict, and soil and material testing, if any, that may be required to complete project.
6. AUTHORIZE the Mayor to execute the Construction Contract following approval as to form by the City Attorney.

## **III. ALTERNATIVES**

1. DO NOT REJECT the proposal from SPT Pipeline.
2. DO NOT AWARD a Construction Contract for the repair of Newkirk Storm Drain Lines; however, failure to perform the necessary repair will result in flooding, partial closure of Newkirk Avenue, and may cause severe damage to existing private and public infrastructure.
3. TAKE another action the City Council deems appropriate consistent with the requirement of the law.

## **IV. BACKGROUND**

The property owner at 22106 Newkirk Avenue has repeatedly reported to the City of Carson (“City”) that the storm drain line on Newkirk Avenue was not draining properly and the neighborhood in this area has been experiencing severe flooding during rainy season. The existing storm drain lines traversing the private properties between Newkirk Avenue and Garston Avenue are currently operated and maintained by the City. The City’s Public Works Maintenance crew temporarily pumps out the storm water during heavy rainfall to divert the water into catch basins near 220<sup>th</sup> Street. This situation has created a clear and imminent danger to the residents and motorists in the area, requiring immediate action to prevent or mitigate the loss or impairment of health, property, and essential public services, and has been causing City crews to spend significant amount of time to keep the area safe at all times.

The City retained a contractor to take video inside of the storm drain lines to determine the extent of damage. Video documentation showed that the corrugated metal pipes that made up the storm drain lines have collapsed at both ends, while the rest of the pipes have corroded.

The storm drain lines are located within private property with various permanent structures (i.e. masonry wall/fence, landscaping planters) located in close proximity: as such, the conventional method of excavating to remove and replace the existing lines could be very costly and is not recommended. Staff is recommending a repair that would have minimum impact on the existing improvements within private property.

The best non-intrusive method for this type of work to repair the two 14” diameter lines (230 linear feet each) is using the “slip line” method. When “dig and replace” is not an option or the budget is of concern for storm drain line rehabilitation, the slip lining process is an inexpensive and non-disruptive way of rehabilitating a storm drain line and highly recommended. Slip lining can be accomplished with very minimal excavation using specialized equipment to bore horizontally and slip the line in place. The main advantages of this method are the minimal excavation required and the little interference with the above-ground structures.

Staff solicited proposals from three different pipeline contractors, on an emergency basis, for the repair of Newkirk Avenue storm drain lines. While many pipeline contractors provide the slip line method, only a few pipeline contractors have the right type of equipment to do the slip line work beyond 230 linear feet of pipeline. Only two quotes were received due to the specialized work requested.

<b><u>BIDDER</u></b>	<b><u>PLACE OF BUSINESS</u></b>	<b><u>PROPOSAL AMOUNT</u></b>
1. GRBCon, Inc.	Baldwin Park, CA	\$96,444.00
2. SPT Specialized	Cerritos, CA	\$66,900.00
Pipe Technologies		

Historically, the City has required a minimum of three bids before recommending award of a contract to the lowest responsible bidder. Rebidding the project to solicit an additional bid in this highly specialized area during the current pandemic, when many contractors are not staffed at full capacity, is not advised. For that reason, this item was brought to the

Disaster Council during its May 11 meeting to request relief from the standard practice of receiving three bids due to the coronavirus emergency and staff was authorized to proceed with the work.

On May 19, 2020, the City Council approved Item No. 9 awarding a contract to SPT Pipeline for Newkirk Avenue storm drain line Emergency Repair. During the period of finalizing the contract for execution, SPT Pipeline refused to provide the insurance, performance bond and payment bond as required under the contract. Staff consulted the City Attorney regarding this concern who concluded that under Section 9550 of the Civil Code, a payment bond is required for every public works project over \$25,000 and a performance bond is also recommended. At the same time, staff concluded that the requirements for performance bond cannot be waived since this is the only leverage the City possesses in the event the contractor should fail to complete the project as required. On June 15, SPT Pipeline formally withdrew from the project as it was unwilling to comply with the City's requirements.

Upon learning that SPT Pipeline was no longer interested in pursuing the project, Drill Subs, Inc. ("Drill Subs"), the sub-contractor SPT Pipeline had planned to use for the project, expressed its interest in performing the work and informed staff that it will be able to perform the work for the same price previously proposed by SPT Pipeline.

Because starting a new process to hire a contractor to do the storm drain work would take significant amount of time, staff consulted again with the City Attorney's office regarding the proposal made by Drill Subs. After further review of the proposal, the City Attorney's office concluded that the City may consider an award of contract to Drill Subs provided Drill Subs complies with the requirements of the contract and the City adheres to the emergency procurement procedures under the Public Contract Code ("PCC") for public works projects. The requirements for insurance, performance bond, and payment bond were discussed with Drill Subs in detail by staff, and staff confirmed that Drill Subs will be able to comply with City's requirements and perform the repair work for \$66,900.00, the same cost previously proposed by SPT Pipeline (the next lowest and only other bid submitted was by GRB Con Inc. for \$96,444.00).

It should be noted that the storm drain lines traverse across four private properties that would be impacted by the drain line repair. The approved final/recorded maps show that easements were granted over the four parcels to the County of Los Angeles in 1956, prior to the City's incorporation. The easement rights include "all rights incident" to the easement which presumably includes the right to make repairs to the storm drain lines. However, due to the absence of any readily available documentation revealing the easements currently exist in favor of the City, the City Attorney recommended staff order Preliminary Title Reports to confirm that the easements still exist and the City possesses the legal right to make the repairs. Staff plans to also provide the property owners with written notice of the City's intent to make repairs within their properties.

Based on the foregoing, staff recommends the award of contract to Drill Subs to perform the work required, contingent upon confirmation of drainage easements on the four privately owned properties.

The timeline for this project is as follows:

Award of Contract to Drill Subs, Inc.	Sept. 1, 2020
Contract Execution	Sept. 15, 2020
Start of Work	October 1, 2020
Completion of Work	October 30, 2020

Emergency Contracting for Public Projects

The PCC permits the City to procure a public project without having to engage in the normal competitive bidding process in the event of an emergency. Section 1102 of the PCC defines “emergency” as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. The inability of the storm drain lines to drain properly causing severe flooding in the area during the rainy season necessitating that City crews spend significant amounts of time to keep the area safe at all times, has created a clear and imminent danger to the residents and motorists in the area, requiring immediate action to prevent or mitigate the loss or impairment of health, property, and essential public services. The ill-functioning storm drain lines warrant a streamlined procurement process for the purpose of mitigating the loss or impairment of health, property and essential public services. Any time saved by not undergoing the competitive bidding process, which could delay the project by an estimated 60 days, would directly result in expedited repairs thereby addressing the immediate issues.

Under Section 22035 of the PCC, in case of an emergency, the City Council is authorized to procure the project without soliciting competitive bids; however, if the City elects to procure the project without soliciting competitive bids, the City must comply with Section 22050 of the PCC, which requires the City to follow certain procedures, some of which are as follows:

- A 4/5 vote is needed before any action may be taken based on the emergency.
- Council must make a finding that the emergency will not permit a delay resulting from a competitive solicitation for bids and that the action is necessary to respond to the emergency.
- By a 4/5 vote, Council may delegate, by resolution or ordinance, the authority to order appropriate action (e.g. City Manager).
- If a person with delegated authority orders any action based on the emergency, that person shall report to the Council, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.
- If the Council orders any action based on the emergency, the Council shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is

terminated, to determine, by a 4/5 vote, that there is a need to continue the action. If the Council meets weekly, it may review the emergency action in accordance with this paragraph every 14 days.

In accordance with PCC Section 22050, the Council is being asked to make the following findings:

- That the emergency described above will not permit a delay resulting from a competitive solicitation for bids; and
- That the action is necessary to respond to the emergency.

Under the PCC emergency procedures, the City Council is required to review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. However, once the construction contract with Drill Subs is awarded, the need for emergency procurement procedures will cease. Accordingly, if the Council awards the contract to Drill Subs Inc., the Council will be able to terminate the emergency action concurrent with the award and will not need to review it during any subsequent Council meeting.

## **V. FISCAL IMPACT**

Rejecting Specialized Pipeline Technologies proposal and awarding a construction contract to Drill Subs has no impact on the general fund, as all associated cost have already been budgeted.

## **VI. EXHIBITS**

1. Project Location Map (pg. 7).
2. Contract Services Agreement (Draft) (pgs. 8-39).

1.

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