

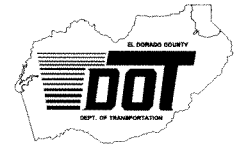


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March 5, 2012

Board of Supervisors
330 Fair Lane
Placerville, CA 95667

RECEIVED
BOARD OF SUPERVISORS
EL DORADO COUNTY
2:59 pm, Mar 05, 2012

Agenda Title: DOT 3/6/12 U.S. 50 HOV Lanes (Phase 2A) – Bass Lake Road Undercrossing to Cameron Park Drive Project Award of Bid, Legistar # 11-1446

Meeting Date: March 6, 2012

Dear Members of the Board:

Department of Transportation recommending the following pertaining to the U.S. 50 HOV Lanes (Phase 2A) - Bass Lake Road Undercrossing to Cameron Park Drive Project, Contract No. PW 09-30408, CIP No. 53113:

- 1) Award the Construction Contract to DeSilva Gates Construction, L.P. who submitted the lowest responsive, responsible bid of \$9,797,745;
- 2) Authorize the Chair to sign the Construction Contract, subject to review and approval of the final Contract Documents by County Counsel and Risk Management;
- 3) Authorize the Interim Director of Transportation to sign an Escrow Agreement, if requested by the Contractor and in accordance with Public Contract Code Section 22300, for the purpose of holding Contract retention funds;
- 4) Authorize the Interim Director of Transportation to execute Contract Change Orders with an individual value up to \$210,000, provided the cumulative total of all Contract Change Orders is within the funding limits for the Project;
- 5) Authorize the Chair to sign a Contract Change Order in the total amount of \$300,000 for the Water Pollution Control supplemental item of work (4/5 vote required per Public Contract Code 20137);
- 6) Authorize the Interim Director of Transportation to sign the Dispute Review Board Agreement with the Contractor, the County, and the Dispute Review Board Members for the purpose of assisting in the resolution of disputes and/or potential claims; and
- 7) Authorize the Chair to sign the attached Budget Transfer (4/5 vote required). (Est. Time: 5 Min.)

Funding

The estimate for the construction phase of the U.S. 50 HOV Lanes (Phase 2A) - Bass Lake Road Undercrossing to Cameron Park Drive Project (Project) is \$14,144,595, which includes a bid of \$9,797,745, supplemental items of work of \$562,600, State furnished materials and source inspections of \$240,000,

construction management, survey and materials testing of \$2,238,642, and a contingency of \$1,305,608.

Funding for the Project includes State Corridor Mobility Improvement Account Funds (CMIA), Federal Congestion Mitigation and Air Quality Improvement Program Funds (CMAQ). A Budget Transfer is requested to allow for the transfer of available funding from each of these revenue sources into the Road Fund (Capital Improvement Program).

Background:

This Project provides substantial improvements to commuter traffic, improves safety, and promotes and facilitates public transportation and ride sharing along the U.S. Highway 50 corridor. This Project will construct a significant portion of the High Occupancy Vehicle (HOV) connection from Sacramento to Shingle Springs, implements an important segment of the General Plan transportation element, and meets portions of other transportation obligations.

On January 10, 2012 the Board adopted and approved the Plans and Specifications and authorized advertisement for construction bids for the Project with the bid opening scheduled for February 15, 2012.

Reason for Recommendation:

Award and Sign Construction Contract with Lowest Responsive, Responsible Bidder:

On Wednesday, February 15, 2012 the Department of Transportation (Department) opened bids for the Project. Four bids were received ranging from \$9,797,745 to \$12,249,379.90. The Engineer's Estimate is \$12,816,000.

The Underutilized Disadvantaged Business Enterprise (UDBE) goal for the Project is 7.80%. Per the Contract Documents, if the top three bidders did not submit their UDBE information with their bid, they were required to submit this information by 4:00 pm the fourth business day after the bid opening, which for this Project was February 22, 2012. DeSilva Gates Construction L.P. (DSG) submitted a UDBE Commitment form which shows that DSG has committed to a UDBE goal of 7.82%. The Department has reviewed DSG's UDBE Commitment form submittal and finds that the firms listed are certified DBEs under the California Unified Certification Program and meet the criteria for a UDBE; that DSG provided sufficient written confirmation from each UDBE firm that each is participating in the Contract; and, that DSG has met the Contract goal of 7.8%. The Department's review of DSG's Good Faith Effort documentation indicates that it has also demonstrated that a Good Faith Effort was made.

Following the Department's review of the UDBE information, the Department issued the All Bidders Letter which initiated the bid protest period and included the Department's recommendation for award and the procedures for filing a bid

protest. The bid protest period ended at 5:00 pm, Thursday, March 1, 2012, with no protests filed.

DSG submitted the lowest bid in the amount of \$9,797,745. The Department recommends award of the Construction Contract to DSG who submitted the lowest responsive, responsible bid.

Section 3-1.04, "Escrow Bid Documents" (EBDs), of the Contract Documents requires that at the time the successful bidder submits the signed Contract, bonds and insurance, the successful bidder shall also submit a lockable container with all documentation used to prepare its bid. Department staff and a representative of the successful bidder who is familiar with the preparation of the bid will examine the EBDs to ensure that all of the requested items are included. Failure of the successful bidder to furnish the EBDs in accordance with this special provision constitutes a failure to execute and return the Contract as required. Upon such failure to submit the EBDs as required herein, the bidder's security will be forfeited to the County. The Department would return to the Board with a recommendation to award the Contract to the next lowest responsive, responsible bidder who complies with the EBDs provisions.

Once it is determined that the EBDs are genuine, legible and complete, they will be placed in the lockable container and stored at the Department's office. The Contractor will maintain the key. The EBDs will be examined by both County and the Contractor, at any time deemed necessary by either County or the Contractor, to assist in the negotiation of price adjustments and Contract Change Orders, or the settlement of disputes.

Authorize Interim Director to Sign Escrow Agreement:

Pursuant to Special Provisions Section 5-1.08, "Payment of Withheld Funds," of the Contract Documents, the Department will retain five percent (5%) of the value of work done from each Contractor payment (excluding mobilization payments) as security for the fulfillment of the Contract. Alternatively, Public Contract Code (PCC) Section 22300 provides that the Contractor may request that payment of retentions earned be made directly to an Escrow Agent. The Contractor will receive the interest earned on the investment.

In accordance with these provisions, the Contractor may request in writing that the County make payment of retention funds directly into an escrow account, which would necessitate an Escrow Agreement. To help expedite this process if requested by the Contractor, the Department requests that the Board authorize the Interim Director of Transportation to execute the Escrow Agreement. Upon satisfactory completion of portions of the Contract and upon written notification from the Interim Director of Transportation, the Contractor will receive incremental releases from the Escrow Agent of retention paid into the account and any interest earned thereon. A portion of the retention and interest will be retained in the escrow account until thirty-five (35) days after the recordation of

the Notice of Acceptance of the Contract at which time these funds will be released to the Contractor.

Request for Additional Contract Change Order (CCO) Authority:

PCC Section 20142 allows a Board of Supervisors to authorize the County Engineer or other County officer to order changes in the work of a public contract. This ability to delegate is capped at \$210,000. The Board, by Resolution No. 106-93, has utilized this provision and delegated to the Directors of Transportation and Environmental Management and the Chief Administrative Officer CCO authority not to exceed \$50,000.

Given the magnitude of the subject Contract and the exposure to the County should work be delayed due to a needed change, it is requested the CCO limit for this Contract be increased to \$210,000, which is consistent with the limits set in the PCC. This authority is requested provided the cumulative cost of all CCOs is maintained within the funding limits for the Project.

Approval of CCOs for Supplemental Items of Work (4/5 vote required):

The Project Contract has been prepared in conformance with County and Caltrans bid item payment procedures. In doing so, certain items of work necessary to complete the Project and which require a variable work effort to complete are identified in the Contract Documents as supplemental items of work to be performed and paid for on a time and material basis using standard Caltrans force account billing procedures. The work is authorized by issuance of a CCO, which also encumbers the funds anticipated to be needed for each of the planned supplemental items and is billed against as the work progresses. The amount of each CCO is based on an evaluation by Department staff of the Project components, area, and time frame.

Due to the magnitude of the Project, the value of the Water Pollution Control supplemental item of work will exceed the Department's authority for individual CCOs. Approval is therefore requested for the Water Pollution Control supplemental item of work CCO totaling \$300,000. The remaining supplemental items of work are anticipated to remain within the Department's authority for CCOs.

Authorize the Interim Director to sign the Dispute Review Board Agreement:

Pursuant to Section 5-1.45, "Dispute Review Board," of the Special Provisions, a Dispute Review Board (DRB) shall be established by the Engineer and the Contractor cooperatively upon Contract approval. The DRB will serve as an advisory body to assist in the resolution of disputes or potential claims when dispute or potential claim resolution at the Project level is unsuccessful. Although not binding to the parties in dispute, the DRB considers disputes and/or potential claims referred to it, and furnishes written reports with findings and recommendations to the parties to aid in the resolution of their differences.

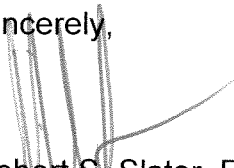
The DRB is comprised of three members: one member selected by the County and approved by the Contractor; one member selected by the Contractor and approved by the County; and one member selected by the other two members and approved by the County and the Contractor.

A copy of the DRB Agreement to be executed by the County, the Contractor, and the three DRB members is included in Section 5-1.45 of the Contract Documents. The DRB provisions state that the County authorizes the Engineer to execute and administer the terms of the Agreement. County Counsel has reviewed and approved these provisions as part of its Contract Document approval. To help expedite this process, the Department requests that the Board authorize the Interim Director of Transportation to execute the DRB Agreement.

Action to be taken following Board approval:

1. Upon approval by County Counsel and Risk Management, the Department will forward the Construction Contract, together with the required bonds and insurance, and the approved Contract Routing Sheet to the Clerk of the Board for the Chair's signature.
2. The Clerk of the Board will forward the fully executed Construction Contract to the Department for further processing.
3. The Clerk of the Board will forward the original Budget Transfer to the County Auditor for posting.

Sincerely,



Robert S. Slater, P.E.
Assistant Director of Transportation

Attachments