



COMMUNITY DEVELOPMENT AGENCY

TRANSPORTATION DIVISION

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May 5, 2017

Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Agenda Title: Ice House at Jones Fork Silver Creek Bridge Maintenance Project
Award of Bid, Legistar #17-0055

Meeting Date: May 9, 2017

Dear Members of the Board:

Community Development Agency, Transportation Division, recommending the Board take the following actions pertaining to the Ice House at Jones Fork Silver Creek Bridge Maintenance Project, Contract PW 16-31122, CIP 77131, P&C 027-C1799:

- 1) Reject the bid submitted by the lowest bidder TPA Construction, Inc. as being non-responsive for failing to meet the DBE goal or demonstrate a good faith effort;
- 2) Award the Construction Contract to Bridgeway Civil Constructors, Inc., who submitted the lowest responsive, responsible, bid of \$738,309.50;
- 3) Approve changes to the 2016 Capital Improvement Program to reflect an increase to the Project budget;
- 4) Approve and authorize the Chair to sign the Construction Contract, subject to final review and approval by County Counsel and Risk Management; and
- 5) Authorize the Department of Transportation Director 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.

Funding

Highway Bridge Program (88.5% - Federal) and Sacramento Municipal Utility District Upper American River Project Cooperative Agreement (11.5% - Local) (Federal Funds)

Ice House at Jones Fork Silver Creek Bridge Maintenance Project (Project) is budgeted in the 2016 Capital Improvement Program (CIP), adopted by the Board on December 6, 2016 (Item No. 46) with a Direct Construction Costs budget of \$727,000.00 and a Construction/Engineering and Admin budget of \$98,000 for a total construction budget of \$825,000.00.

The Estimate for the construction phase of the Project is \$922,886.88 which includes a bid of \$738,309.50; construction management, survey, materials testing and design support during construction totaling \$110,746.43; and contingency of \$73,830.95.

The need to increase the Project cost in the CIP is because all bids received were higher than the amounts listed in the CIP. Caltrans has agreed to fund 88.5% of the increased costs and Transportation is responsible for funding the additional 11.5%. Transportation is asking the Board to approve a CIP increase of \$87,888 with the following increases to the CIP:

- Increase Direct Construction by \$85,141 for a total amount of \$812,141
- Increase Construction Management – Staff by \$12,747 for a total amount of \$100,747

Department Recommendation

On April 5, 2017, the Community Development Agency (CDA), Transportation Division (Transportation) opened bids for the Project. Five bids were received ranging from \$730,510.00 to \$1,118,250.00.

TPA Construction, Inc. (TPA) submitted the lowest bid but failed to meet the DBE goal or demonstrate a good faith effort. Because of this, Transportation recommends rejecting the bid submitted by TPA, and awarding the contract to the second lowest bidder, Bridgeway Civil Constructors, Inc. (Bridgeway) who submitted the lowest responsive, responsible bid.

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

The Disadvantaged Business Enterprise (DBE) goal for the Project is 11%. TPA submitted a DBE Commitment form and Good Faith Efforts documentation with their bid. The DBE Commitment form showed that TPA committed to a DBE goal of 19%. Transportation reviewed TPA's DBE Commitment form and backup documentation and determined TPA was only allowed to claim 0.4% DBE credit once the equipment value was removed. Per 49 CFR 26.55 and Caltrans Standard Specifications 2-1.12B(1), TPA was not eligible to claim equipment purchases, only materials and supplies toward their DBE commitment. Transportation then reviewed TPA's good faith effort submittal based on the DBE regulations in 49 CFR 26 and found that TPA failed to also demonstrate an adequate good faith effort toward meeting the goal for the following reasons:

- 1) TPA failed to solicit an adequate number of potential DBE firms
- 2) TPA did not offer to assist DBE firms with bonding, lines of credit, obtaining necessary equipment, supplies, materials or related assistance or services
- 3) TPA did not publish advertisements and invitations to bid directed at DBE firms. In addition to these reasons, both the 2nd and 3rd low bidders committed to exceeding the DBE goal.

TPA was provided the opportunity to file for administrative reconsideration in accordance with 49 CFR 26.53, and did not exercise this option.

Bridgeway submitted their DBE Commitment form on April 14, 2017. The DBE Commitment form shows that Bridgeway has committed to a DBE goal of 12.57%. Transportation has reviewed Bridgeway's DBE Commitment submittal and finds that the firms listed are certified DBEs under the California Unified Certification Program and meet the criteria for a DBE; that Bridgeway provided sufficient written confirmation from each DBE firm that each is participating in the Contract; and, that Bridgeway has committed to exceeding the Contract DBE goal.

Transportation issued the All Bidders Letter on April 19, 2017, notifying bidders of the recommendation to the Board for award and initiating the five-day bid protest period. The bid protest period ended at 5:00 p.m. on Wednesday, April 26, 2017 with no protests filed.

Bridgeway submitted the lowest responsive, responsible bid in the amount of \$738,309.50. Transportation recommends award of the Construction Contract to Bridgeway who submitted the lowest responsive, responsible bid.

Authorize Department of Transportation Director to Sign Escrow Agreement:

Pursuant to Special Provisions Section 9-1.16F, "Retentions", of the Special Provisions, Transportation 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, Transportation requests that the Board authorize the CDA Director to execute the Escrow Agreement. Upon satisfactory completion of portions of the Contract and upon written notification from the Department of Transportation Director, 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. After this time, upon written notification from the Department of Transportation Director, these funds will be released to the Contractor.

Contract Change Orders (CCOs):

In any contract there is a need to be able to make changes and the CCO process facilitates the ability to make necessary changes when needed within a contract.

Contingency CCOs:

In construction contracts there is an expectation that unanticipated changes will be encountered once construction begins. To prepare for this, a 10% contingency budget is set aside. The budget for contingencies on this contract is \$73,830.95. PCC Section 20142 and Resolution 102-2012 authorize the Department of Transportation Director to execute individual CCOs, the maximum value of which is based on the original Contract amount with a not-to-exceed limit of \$49,415.48 for this Contract. This authority is also for a cumulative total of contingency CCOs not to exceed 10% of the original Contract value.

Discussion / Background

This Project consists of installation of approach slabs, repair and replacement of abutment joints, replacement of the bridge bearings, installation of Midwest Guardrail Systems and terminal systems, and miscellaneous striping.

Due to federal funding, both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance is required. A CEQA Notice of Exemption was filed on January 21, 2014. A California Department of Transportation NEPA Categorical Exclusion Determination was issued on January 15, 2014.

Due to the nature of the work, no environmental permits, right of way, or utility coordination are required for this Project.

Transportation received federal funding authorization, an E-76, for construction phase activities on February 10, 2017.

As a federally funded project, the Contract Documents have been federalized and incorporate the current Caltrans Disadvantaged Business Enterprise (DBE) requirements. The DBE goal is 11%.

Clerk of the Board Follow Up Actions

- 1) Upon approval by County Counsel and Risk Management, Transportation will forward the Construction Contract, together with the required bonds and insurance, and the approved Contract Routing Sheet to the Clerk for the Chair's signature.
- 2) The Clerk will forward the fully executed Construction Contract to Community Development Agency, Contracts and Procurement Unit, for further processing.

Sincerely,


Bard R. Lower
Transportation Division Director
Community Development Agency