

Contract #: PW 08-30395
Legistar # 08-1588

Partially Executed Contract Documents - Project #71380

CONTRACT ROUTING SHEET

PROCESSING DEPARTMENT:

Department: Transportation
Dept. Contact: Tim Prudhel
Phone: x5974
Department Head
Signature: *T. Prudhel* 12-18-08
Tim C. Prudhel
Contract Services Officer

CONTRACTOR:

Name: PBM Construction Inc.
Address: 3200 Mercedes Place
Roseville, CA 95747
Phone: 916-782-3305

EL DORADO TRAIL IMPROVEMENT PROJECT
20081218 10:11 AM

CONTRACTING DEPARTMENT: Transportation

Service Requested: El Dorado Trail Improvement Project- Forni Road to Missouri Flat Road
Contract Term: 120 Working Days Contract/Amendment Amount: \$1,348,348.00
Compliance with Human Resources Requirements? Yes: X No: _____
Compliance verified by: _____ NA - Public Works

COUNTY COUNSEL: (must approve all contracts and MOUs)

Approved: Disapproved: _____ Date: 12/24/08 By: D. Livingston DM
Approved: _____ Disapproved: _____ Date: _____ By: _____

*SEE ATTACHED E-MAIL.

Please forward to Risk Management upon approval.

Index Code: <u>305100</u>	User Code: <u>71380 E</u>
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RISK MANAGEMENT: (All contracts and MOUs except boilerplate grant funding agreements)

Approved: Disapproved: _____ Date: 12/29/08 By: *[Signature]*
Approved: _____ Disapproved: _____ Date: _____ By: _____

RECEIVED
HUMAN RESOURCES DEPT
DEC 29 AM 11:19

OTHER APPROVAL (Specify department(s) participating or directly affected by this contract).

Department(s): _____
Approved: _____ Disapproved: _____ Date: _____ By: _____
Approved: _____ Disapproved: _____ Date: _____ By: _____

RECEIVED
DOT

David A Livingston/PV/EDC
12/24/2008 12:38 PM

To Tim C Prudhel/PV/EDC
cc
bcc
Subject El Dorado Trail Improvement Project - Forni Road to Missouri
Flat Road

Tim,

We are approving the partially-executed contract documents for the above-referenced project as the bonds and insurance appear to meet the contract specifications. However, I have a number of significant concerns about this agreement and changes made to the agreement subsequent to review by this office.

First, in my September 2, 2008 e-mail discussing our conditional approval of the contract documents, I specifically stated that I wanted to review any revisions to the documents adding an "add alternate" provision. It appears that an "add alternate" provision was indeed added, but we were not given an opportunity to review. Though it doesn't appear to have caused a problem, the "add alternate" language inserted is a bit unclear as to how the bids would be evaluated for purposes of award (e.g., base bid only, or base bid plus alternate).

Second, certain required permits (Army Corps permit and 401 Water Quality Certification) were not obtained until after the bids were opened. Though those permits weren't available at the time of our initial review, the contract documents contemplated that they would be obtained prior to advertising (thus my request to review those permits as a condition of our approval). That did not happen. Addendum No. 1 made clear that those documents that were otherwise to have been included in supplemental project information were "not available." All permits should be secured prior to advertising or, at a minimum, prior to opening so that the permits can be incorporated via addenda. As is, it is doubtful that these permits (and their requirements, which include certain effluent and turbidity limitations) are part of the contract documents and binding on the contractor. I would suggest that you amend the contract documents or issue a CCO to expressly include these late-obtained permits as part of the "Contract Documents."

Third, please be aware that the Army Corps permit requires the payment of \$9,360 to the National Fish and Wildlife Foundation prior to proceeding with any authorized activity. I call this out because I recall that, in constructing the last segment of trail, General Services neglected to pay this mitigation fee in a timely manner, thus leading to a suspension of work and additional cost to the contractor.

Fourth, I noticed that this project requires state money, including Proposition 40, Transportation Enhancement, and State Bicycle Transportation Account. Please verify that these monies are not affected by the State's recent suspension of distributions from the Pooled Money Investment Account before you issue a Notice to Proceed. If those monies are affected, we will need to discuss the best manner to proceed with this project.

Please be sure to forward this to the project contact in General Services as many of the comments herein are relevant to that department and its future processing of bid documents.

Thanks,
Dave

David A. Livingston
Deputy County Counsel

El Dorado County ♦ 330 Fair Lane ♦ Placerville, California 95667 ♦ 530.621.5770

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