



## Legislation Details (With Text)

**File #:** 20-1091      **Version:** 1

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**File created:** 8/12/2020      **In control:** Board of Supervisors

**On agenda:** 9/1/2020      **Final action:** 9/1/2020

**Title:** Department of Transportation recommending the Board take the following actions pertaining to the Guardrail Upgrades - Tahoe Project, CIP 72198, Contract 4576:  
 1) Award the Construction Contract to Dirt and Aggregate Interchange Inc., the lowest responsive, responsible bidder.;  
 2) Approve and authorize the Chair to sign the Construction Contract, subject to review and approval by County Counsel and Risk Management; and  
 3) Authorize the 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.

FUNDING: Highway Safety Improvement Program (100% - Federal).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - 4576 Addendum No1, 2. B - Bid Summary, 3. Executed Contract 4576 - CIP No. 72198

| Date     | Ver. | Action By            | Action   | Result |
|----------|------|----------------------|----------|--------|
| 9/1/2020 | 1    | Board of Supervisors | Approved | Pass   |

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### **DEPARTMENT RECOMMENDATION**

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

On Wednesday August 19, 2020 at 2:00 p.m., the Department of Transportation (Transportation), opened bids for the Guardrail Upgrade - Tahoe Project (Project). Two bids were received ranging from \$409,414.00 to \$485,444.35.

Transportation issued the All Bidders Letter on Wednesday, August 19, 2020, notifying the bidders of the recommendation to the Board for award of the contract to lowest responsive, responsible bidder, Dirt and Aggregate Interchange, Inc. and initiating the bid protest period. No bid protests were received.

Authorize the Director of Transportation (Director) to Sign Escrow Agreement:

Pursuant to Special Provisions Section 9-1.16F, "Retentions", 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 held 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 Director to execute the Escrow Agreement. Upon satisfactory completion of portions of the Contract and upon written notification from the Director, the Contractor will receive incremental releases from the Escrow Agent 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, upon written notification, 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

With 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. PCC Section 20142 and County Resolution 102-2012 authorize the Director to execute individual CCOs, the maximum value of \$32,970.70, which is based on the original contract amount with a not-to-exceed limit. This authority is also for a cumulative total of Contingency CCOs not to exceed 10% of the original Contract value.

**DISCUSSION / BACKGROUND**

The El Dorado County Department of Transportation (Transportation) received funding through the Highway Safety Improvement Program for the Guardrail Upgrades - Tahoe Project (Project). The Project is being implemented to upgrade existing metal beam guardrail systems in El Dorado County (County) areas of South Lake Tahoe. The County has close to 5,000 linear feet of existing metal beam guardrail installed at more than seven locations in the Tahoe Basin. The locations Transportation identified that warrant upgrade of guardrail in order to meet current codes and standards include Lake Tahoe Blvd (near Sawmill Rd.), Lake Tahoe Blvd. (at Angora Creek), View Circle (at Angora Creek), Pioneer Trail (near Jicarilla Dr.), Pioneer Trail (at Trout Creek), Pioneer Trail (at Cold Creek), and Martin Ave (at Trout Creek).

The work associated with the Project consists of reconstruction / upgrades to the existing metal beam guardrail system in the County portion of the Tahoe Basin. Improvements include the removal and replacement with Midwest Guardrail Systems, installation of new Terminal Ends, and adjustments of existing Double Thrie Beam Barriers.

Due to federal funding, both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance are required. A CEQA Notice of Categorical Exemption was filed on January 15, 2020. A Caltrans NEPA Categorical Exclusion Determination was issued on

May 11, 2020. All work is to be completed within County maintained rights of way. There is no utility involvement and said work is compliant with all terms and conditions under MAP-21 including Buy America requirements.

Transportation has received authorization to proceed under advance construction procedures (AC). With an AC authorization, local funds are used to perform work eligible for future Federal reimbursement until construction funding becomes available. There is technically a risk that Federal reimbursement could never materialize, but neither Caltrans nor Transportation staff has ever heard of this actually occurring.

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 12%.

### **ALTERNATIVES**

- 1) The Board could choose to not award the contract and direct Transportation to re-advertise for construction bids.
- 2) The Board could choose to cancel the Project. Canceling the Project may include the consequence of reimbursing all federal funding received to date.

### **PRIOR BOARD ACTION**

See Discussion/Background section above.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel and Risk Management have reviewed and approved the Contract Documents

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

### **FINANCIAL IMPACT**

The Project was authorized by the Board for advertisement on July 28, 2020 (Item 14). The total estimated cost for Project's construction phase is \$511,768, which includes the low bid of \$409,414, construction management, environmental monitoring, inspection, and materials testing of \$61,412, and contingency of \$40,942. The costs associated with the proposed Board actions will be funded entirely by external sources, and there is no change to Net County Cost associated with this item.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Upon approval by County Counsel and Risk Management, Transportation will forward two (2) originals of 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 one (1) fully executed Construction Contract to Transportation, attention of Brian Franklin, Office Engineer, for further processing.

### **STRATEGIC PLAN COMPONENT**

Infrastructure

### **CONTACT**

Rafael Martinez, Director  
Department of Transportation