



## Legislation Text

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**File #: 22-1147, Version: 1**

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Department of Transportation recommending the Board take the following actions pertaining to the Oflyng Water Quality Project, Capital Improvement Program project number 95177/36107016, Contract 3692:

- 1) Approve and authorize the Director of Transportation to sign a Modification to the United States Department of Agriculture Forest Service Domestic Grant 20-PA-11051900-011, which will increase the current grant funding by the amount of \$500,000; from \$900,000 to \$1,400,000;
- 2) Authorize an increase in the estimated total project cost from \$1,197,000 to \$1,697,000;
- 3) Award the Construction Contract to North Star Construction, Inc., the lowest responsive, responsible bidder, subject to approval of the United States Forest Service Grant funding modification;
- 4) Approve and authorize the Chair to sign the Construction Contract, subject to review and approval by County Counsel and Risk Management; and
- 5) 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:** USFS (83% - Federal), State Water Resource Control Board (5% - State), and Tahoe Regional Planning Agency - Water Quality Mitigation (12% - Local).

### **DISCUSSION / BACKGROUND**

The Oflyng Water Quality Project (Project) site is within an existing residential development located in the unincorporated area of South Lake Tahoe, east of U.S. Highway 50/State Route 89, north of Pioneer Trail, west of Elks Club Drive, and south of Skyline Drive. The Project is part of an ongoing effort to retrofit County rights-of-way within the Lake Tahoe Basin with drainage improvements that will reduce the amount of sediment that reaches Lake Tahoe. The Project will help to meet goals identified in the El Dorado County Stormwater Resource Plan and the Lake Tahoe Environmental Improvement Program.

Transportation recommends the following:

#### Approve and authorize the additional grant funding

On June 9, 2020 (Legistar #20-0614, Item 35), the Board accepted \$900,000 in grant funds from the United States Department of Agriculture (USDA) Forest Service Lake Tahoe Basin Management Unit (LTBMU) under Domestic Grant 20-PA-11051900-011 (Grant Agreement).

The USDA Forest Service recently requested implementation proposals for additional funding under this Grant Agreement, and the Department of Transportation (Transportation) staff submitted proposals. Due to the funding shortfall for this project as a result of the recently received bids, Transportation was awarded additional funding for the Oflyng Water Quality Project (Project). Transportation requests that the Board approve this funding and authorize the Director of Transportation to sign a Grant Modification Form to accept the funding. This grant funding requires the County provide a 1:1 programmatic match., and Transportation staff will use California Tahoe

Conservancy funds to match the grant funds. Board approval of this additional grant funding will allow Transportation to award the Oflyng Water Quality Project to the lowest responsive, responsible bidder as per Transportation's recommendation below.

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

On Friday, April 15, 2022, at 3:00 p.m., Transportation opened bids for the Oflyng Water Quality Project (Project). Two bids were received ranging from \$1,219,658.20 to \$1,361,777.00

Transportation issued the All Bidders Letter on Thursday, June 23, 2022, notifying the bidders of the recommendation to the Board for award of the contract to the lowest responsive, responsible bidder, North Star Construction and Engineering, 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 construction contract of this scope, 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 for a cumulative total of Contingency CCOs not to exceed 10% of the original Contract value.

All work is to be completed within County maintained rights-of-way, USFS-owned parcels with a special use permit, and California Tahoe Conservancy owned parcels with a license agreement in place to complete the work. There are no utility relocations associated with the project.

### **ALTERNATIVES**

1) Do not authorize the additional funding for the Project. Transportation will reject the bids received and rebid the Project for construction next year.

- 2) Do not award the contract and direct Transportation to re-advertise for construction bids.
- 3) Cancel the Project. Canceling the Project may include the consequence of reimbursing all federal funding received to date.

### **PRIOR BOARD ACTION**

A Mitigated Negative Declaration for the Project was adopted by the Board on February 26, 2019 (Legistar #18-1761, Item 18), in accordance with the California Environmental Quality Act.

The Project was authorized by the Board for advertisement on March 22, 2022, (Legistar #22-0227, Item 22).

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

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

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

### **FINANCIAL IMPACT**

Additional grant funds from the USFS are necessary to award and construct the project. The addition of the \$500,000 in USFS funding proposed by this item brings the Project's estimated total cost to \$1,697,000, which includes past planning costs of \$106,000 and past design costs of \$171,000. After construction, there is \$25,000 budgeted for environmental mitigation and \$22,000 budgeted for plant establishment. This leaves an estimated construction phase budget of \$1,373,000, comprised of a low bid of \$1,219,658; construction management, survey, materials testing and design support during construction totaling \$31,376; and a contingency of \$121,966. 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 Brian Franklin, Office Engineer, for further processing.

### **STRATEGIC PLAN COMPONENT**

Infrastructure

### **CONTACT**

Rafael Martinez, Director  
Department of Transportation