



## Legislation Text

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**File #:** 24-0788, **Version:** 2

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Department of Transportation recommending the Board take the following actions pertaining to the El Dorado Trail - Missouri Flat Road Bike/Pedestrian Overcrossing Phase 2 Project, Capital Improvement Program No. 36109002:

- 1) Award Bid Schedules A and B of the Construction Contract to Westcon Construction Corp., 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;
- 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; and
- 4) Approve \$250,000.00 of Shingle Springs Band of Miwok Indians Intergovernmental Agreement (Tribe) Funds to be added to the project. (Cont. 6/11/2024, Item 22)

**FUNDING:** Congestion Mitigation and Air Quality (18%), Road Fund (<1%), Active Transportation Program (41%), Regional Surface Transportation Program Federal Funds - Caltrans Local Assistance (31%), Transportation Development Act (2%), Regional Surface Transportation Program Advance - Match (4%), and proposed Tribe Funds (3%). (Federal, State, and Local Funds)

### **DISCUSSION / BACKGROUND**

The El Dorado Trail - Missouri Flat Road Bike/Pedestrian Overcrossing Phase 2 Project (Project) will construct a bicycle/pedestrian over-crossing as part of the El Dorado Trail at Missouri Flat Road.

The Project is federally funded, therefore both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance is required. A CEQA Notice of Determination was recorded on December 20, 2017. A NEPA Categorical Exemption/Categorical Exclusion was approved on December 17, 2018 with a re-validation approved on May 30, 2023.

All necessary environmental permits and right of way have been obtained for the Project.

The Contract Documents include all required federal provisions and incorporate the current Caltrans Disadvantaged Business Enterprise (DBE) requirements. The DBE goal is 16%.

Authorization for construction funding (E-76) has been received for the Project.

The Project was originally approved for advertisement by the Board on January 23, 2024 (Legistar #24-0056, Item 11). On April 9, 2024 (Legistar #24-0528, Item 39), the Board rejected bids received and approved re-advertisement of the Project due to bids coming in significantly higher than the Project budget. Transportation reviewed the contract documents and made adjustments to the plans and specifications to reduce the estimated direct construction project costs prior to re-advertising the Project.

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

On Friday, May 17, 2024 at 2:30 p.m., Department of Transportation (Transportation) opened bids for the Project. Four (4) bids were received ranging from \$5,785,733.00 to \$6,289,844.00. The Project was advertised with a Base Bid (Bid Schedule A) and two Additive Alternative Bid Schedules (Schedules B and C). Schedule B includes a “stacked rock” architectural treatment to the concrete faces of the abutment and pier walls, consistent with similar retaining wall structures constructed on recent projects. Schedule C includes a bridge lighting system that would provide low-level illumination to the deck of the center 180-foot truss bridge span only. Transportation has reviewed the costs and benefits of each Additive Alternate Bid and recommends awarding Base Bid (Schedule A) and Additive Alternate Bid (Schedule B) for total Contract amount of \$5,650,733.00.

The low bidders’ bid is as follows:

Base Bid (Schedule A)	\$5,508,633.00
Additive Alternative Bid (Schedule B)	\$142,100.00
Additive Alternative Bid (Schedule C)	\$135,000.00
<b>Total of all bid schedules (A+B+C)</b>	<b>\$5,785,733.00</b>

Transportation issued the All-Bidders Letter on Monday, June 3, 2024, notifying the bidders of the recommendation to the Board for award of the Contract to Westcon Construction Corp. (Contractor) and initiating the bid protest period. The bid protest period ended on Wednesday, June 5, 2024, with no protests filed.

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

Pursuant to Section 9-1.16F(1), "Retentions" of the Contract Documents, 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.

*Supplemental CCOs*

Certain types of work are necessary to complete the Project which cannot be estimated accurately because they require a variable effort to complete. These items are referred to as supplemental items

and are identified in the Contract Documents as CCO work to be performed and paid for on a time and material basis using California Department of Transportation (Caltrans) standard force account billing procedures. The work is authorized by issuance of a CCO, which also encumbers the funds anticipated for each of the planned supplemental items of work and is billed against as the work progresses. The amount of each CCO is based on an evaluation by Transportation staff of the Project components, area, and time frame. Supplemental items in this contract include reimbursement to the Contractor for participating in a Federal Trainee Program which has been established to promote training of apprentices to develop full journeymen in the types of trades or classifications involved. The County is required to credit the Contractor for employing apprentices/trainees and for becoming enrolled in a federally-recognized training program totaling \$5,000. Because this work is anticipated and budgeted for separately, supplemental CCOs are not included in the 10% cap normally associated with contingency CCOs.

#### *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 Resolution 102-2012 authorize the Director to execute individual CCOs, the maximum value of which is based on the original contract amount. This authority is also for a cumulative total of contingency CCOs not to exceed 10% of the original Contract value.

#### **ALTERNATIVES**

- 1) The Board could choose to only award the Base Bid (Schedule A), which would remove the architectural treatment from the abutment and pier walls, decreasing the Tribe Fund contribution to \$93,690.00.
- 2) The Board could choose to award all bid schedules (A+B+C), which would add lighting to the bridge, increasing the Tribe Fund contribution to \$398,500.00.
- 3) The Board could choose to not award the Contract and direct Transportation to re-advertise for construction bids.
- 4) The Board could choose to cancel the Project. Canceling the Project may include the consequence of reimbursing federal funding received to date.

#### **PRIOR BOARD ACTION**

On December 19, 2017 (Legistar #17-1246, Item 25), the Board adopted the CEQA Initial Study/Mitigated Negative Declaration.

On January 23, 2024 (Legistar #24-0056, Item 11), the Board approved advertisement for the Project.

On April 9, 2024 (Legistar #24-0528, Item 39), the Board rejected bids received and approved re-advertisement of the Project.

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

County Counsel and Risk Management

#### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

#### **FINANCIAL IMPACT**

The total estimated cost for Project construction is \$7,125,806.00, which includes construction items

of work, construction management, inspection, materials testing, and contingencies.

The County will be responsible for the ongoing maintenance of this Project which is estimated to be \$4,000 per year. It is anticipated these additional maintenance costs will be absorbed by the Facilities budget, funded by the General Fund.

Bids received for this Project have come in higher than what was anticipated. The current Project shortfall based on the award recommendation is \$250,000.00. Therefore, Transportation staff is requesting \$250,000.00 of Tribe Funds be approved and allocated for this Project. Currently, there are sufficient Tribe Funds available in Fiscal Year 24/25 and 25/26 to allocate.

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

- 1) Upon approval by County Counsel and Risk Management, Department of Transportation will forward two (2) originals of the Construction Contract #8144, 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 Department of Transportation, attention of Jen Rimoldi, Office Engineer Group, for further processing.

### **STRATEGIC PLAN COMPONENT**

Priority: N/A

Action Item: N/A

### **CONTACT**

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