



## Legislation Details (With Text)

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**File created:** 11/12/2019      **In control:** Board of Supervisors

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**Title:** Department of Transportation recommending the Board take the following actions pertaining to the South Tahoe Greenway Shared Use Trail Phase 1B and 2 Project (CIP 95200/36107022, Contract 3785):

- 1) Award the Construction Contract to Herback General Engineering, Inc., who was 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:** Active Transportation Program (33% - Federal), Congestion Mitigation and Air Quality Program (13% - Federal), California Tahoe Conservancy (54% - State).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - 3785 Bid Summary

Date	Ver.	Action By	Action	Result
12/17/2019	1	Board of Supervisors	Approved	Pass

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**DEPARTMENT RECOMMENDATION**

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

On Friday, December 6, 2019 at 2:00 p.m. Department of Transportation (Transportation) opened bids for South Tahoe Greenway Shared Use Trail Phase 1B and 2 Project (Project). Seven Bids were received ranging from \$3,648,829.38 to \$5,202,734.85.

Transportation issued the All Bidders Letter on Monday, December 9, 2019, notifying the bidders of

the recommendation to the Board for award of the contract to Herback General Engineering, Inc. (Herback) and initiating the bid protest period. The bid protest period ended at 5:00 P.M. on Monday, December 16, 2019, with no protests filed.

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 Resolution 102-2012 authorize the Director to execute individual CCOs, the maximum value of which is based on the original contract amount with a not-to-exceed limit of \$364,882.94. This authority is also for a cumulative total of contingency CCOs not to exceed 10% of the original Contract value.

**DISCUSSION / BACKGROUND**

Department of Transportation (Transportation) proposes to construct a new Class 1 bike and pedestrian pathway in the City of South Lake Tahoe. The South Tahoe Greenway Shared Use Trail (Greenway) is a long term California Tahoe Conservancy project that will eventually comprise a multi-use trail from Meyers to Van Sickle Bi-State Park near Stateline, Nevada. Phase 1B of the Greenway is located in Bijou Meadow between Al Tahoe Boulevard and Glenwood Way. Phase 2 of the Greenway will start at the southeasterly end of Sierra Boulevard and run parallel to Barbara Avenue, across Trout Creek meadow (including a bridge over Trout Creek), and then continue towards the Lake Tahoe Community College before joining an existing pathway near the end of Meadow Crest Drive.

The work consists of construction of a Class 1 shared use pathway, a 10-foot wide paved path with two-foot aggregate base shoulders, precast concrete boardwalk system, tubular steel railing, and a prefabricated steel truss bridge. Construction also includes clearing and grubbing, tree removal, excavation and grading, drainage improvements, bridge abutments, signing and striping, pavement markings, revegetation, dewatering, traffic control, and temporary erosion control.

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 September 16, 2011, with a supplemental filed on March 23, 2016. A Caltrans NEPA Categorical Exclusion Determination was issued on February 21, 2018, and re-validated on April 24, 2019.

Right of way permits are secured. 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 federal funding authorization (E-76) for the construction phase activities.

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%.

The Project was approved for advertisement on November 5, 2019 (Item 26).

### **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. Note: The Board has previously approved the Project and the County would not be reimbursed for the Project work completed to date.

### **PRIOR BOARD ACTION**

See Discussion/Background section above.

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

County Counsel and Risk Management reviewed and approved the Contract Documents on September 27, 2019.

### **CAO RECOMMENDATION**

It is recommended that the Board approve this item.

### **FINANCIAL IMPACT**

The Engineer's Estimate for the construction phase of the Project is \$4,706,829.38, which includes an estimated bid of \$3,648,829.38; construction management, survey, materials testing and admin support during construction totaling \$600,000; and contingency of \$458,000. Maintenance funding for the proposed improvements will come from Measure S/R funds.

### **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 John Kahling, for further processing.

### **STRATEGIC PLAN COMPONENT**

Infrastructure

**CONTACT**

Rafael Martinez, Director  
Department of Transportation