



Legislation Details (With Text)

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On agenda: 7/18/2023 **Final action:** 7/18/2023

Title: Department of Transportation recommending the Board approve and authorize the Chair to sign First Amendment to the Offsite Road Improvement Agreement for Malcolm Dixon Area of Benefit, Road Improvement Agreement 19-54910, between the County and the Developers, Omni Financial, LLC, Alto, LLC, La Canada 143-25, LLC, Diamante Development, LLC and the Christopher A. LaBarbera Revocable Trust, 2019, extending the performance period to September 23, 2024, reducing Performance Bond LICX1167096 from \$2,319,097.11 to \$231,909.71, representing 100% of the total remaining improvements, and reducing Laborers & Materialmens Bond LICX1167096 from \$2,319,097.11 to \$1,159,548.56. These amounts guarantee against any defective work, labor done, or defective materials furnished. (District 4)

FUNDING: Developer Funded.

Sponsors:

Indexes:

Code sections:

Attachments: 1. A - Counsel Approval, 2. B - Amend 1 to Agmt 19-54910, 3. C - Certificate of Partial Completion, 4. D - Agmt 19-54910, 5. Executed Agmt 19-54910

Date	Ver.	Action By	Action	Result
7/18/2023	1	Board of Supervisors	Approved	Pass

Department of Transportation recommending the Board approve and authorize the Chair to sign First Amendment to the Offsite Road Improvement Agreement for Malcolm Dixon Area of Benefit, Road Improvement Agreement 19-54910, between the County and the Developers, Omni Financial, LLC, Alto, LLC, La Canada 143-25, LLC, Diamante Development, LLC and the Christopher A. LaBarbera Revocable Trust, 2019, extending the performance period to September 23, 2024, reducing Performance Bond LICX1167096 from \$2,319,097.11 to \$231,909.71, representing 100% of the total remaining improvements, and reducing Laborers & Materialmens Bond LICX1167096 from \$2,319,097.11 to \$1,159,548.56. These amounts guarantee against any defective work, labor done, or defective materials furnished. (District 4)

FUNDING: Developer Funded.

DISCUSSION / BACKGROUND

Four previously-approved residential subdivisions in the Malcolm Dixon Road area of El Dorado Hills (La Canada TM08-1463, Malcolm Dixon Estates TM05-1401E, Alto TM06-1408, and Diamante Estates/Vineyards TM06-1421E, collectively "Subdivisions") were all conditioned to make improvements to Malcolm Dixon Road. These improvements include realigning, widening, and modifying the profile of Malcolm Dixon Road, completing the Malcolm Dixon Cutoff connecting to Green Valley Road, and reconfiguring the intersection with Via Veritas. The common conditions of approval for the four Subdivisions also provided for a joint funding structure, which the applicants fulfilled by jointly funding the construction of the improvements through private agreement.

On September 24, 2019, the Board approved Road Improvement Agreement (RIA) #19-54910 between the County and the owners of the Subdivisions, which established the terms and conditions of construction for the Malcolm Dixon Road realignment. Several delays occurred in the project due to extraordinary circumstances, including but not limited to the COVID-19 pandemic, material shortages, and utility delays, and the Subdivisions' owners requested invocation of the RIA's force majeure clause to allow for additional time to complete the project. This Amendment further extends the performance period of the RIA to September 23, 2024.

Department of Transportation's (Transportation) construction inspection staff has inspected the work and confirms the road improvements are substantially complete according to the plans and specifications and per the conditions of the various subdivisions. The Subdivisions' owners have requested the Performance and Laborers & Materialmens Bonds for the project be reduced commensurate with the work completed, and Transportation agrees the reductions are appropriate. No additional reductions will be made upon acceptance of the project as complete.

ALTERNATIVES

The Board could choose not to approve this amendment, in which case both the Performance and Laborers & Materialmens Bonds would be held at their current values of \$2,319,097.11 and the Subdivisions' owners would be out of compliance with the terms of the agreement.

PRIOR BOARD ACTION

See Discussion / Background section above.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION / COMMENTS

Approve staff recommendation.

FINANCIAL IMPACT

The requested Board action has no associated fiscal impact or change to Net County Cost. The developers will bear the cost of constructing the improvements in the proposed Agreement.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk of the Board will obtain the Chair's signature on one (1) original of the Amendment.
- 2) The Clerk of the Board will return one (1) copy of the fully executed Amendment to Department of Transportation, attn.: Lindsay Tallman, for further processing.
- 3) The Clerk of the Board will reduce Performance Bond LICX1167096 to \$231,909.71 and advise Transportation, attn.: Lindsay Tallman, and the Bonded Developer, OMNI Financial, LLC, Attn.: Martin Boone, 1260 41st Street, Suite O, Capitola, CA 95010, that it has been reduced.
- 4) The Clerk of the Board will reduce Laborers & Materialmens Bond LICX1167096 to \$1,159,548.56 and advise Transportation, attn.: Lindsay Tallman, and the Bonded Developer, OMNI Financial, LLC, Attn.: Martin Boone, 1260 41st Street, Suite O, Capitola, CA 95010, that it has been reduced.

STRATEGIC PLAN COMPONENT

Infrastructure, Economic Development

CONTACT

Rafael Martinez, Director

Department of Transportation