



## Legislation Text

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**File #:** 12-0778, **Version:** 1

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Department of Transportation recommending the Board authorize the Chair to sign a Surety Takeover Agreement with Upper Hudson National Insurance Company for the Ice House Road Bridges - Maintenance Project, CIP No. 77121.

### **Fiscal Impact/Change to Net County Cost**

There is no fiscal impact associated with this agenda item.

### **Background**

On June 20, 2011, the Department of Transportation (Department) opened bids for the Ice House Road Bridges - Maintenance Project (Project). On June 28, 2011, in accordance with a recommendation made by the Department, the Board found all bids opened on June 20, 2011 to be non-responsive and directed the Department to re-advertise the Project. The Department opened bids for a second time on July 25, 2011. The low bidder was Victory Engineers, Inc. (Victory) with a bid of \$351,350. The Board awarded the Project to Victory on August 9, 2011. Victory began work on September 26, 2011 and approximately 55% of the Project work was completed before the Project was suspended for winter on November 2, 2011.

### **Reason for Recommendation**

On January 27, 2012, the Department received a letter from Victory, stating that Victory could not complete the contract work and that they were in default under the Project's contract. Shortly thereafter, counsel for Upper Hudson National Insurance Company, Victory's bonding company (Surety), contacted the Department to discuss the manner in which the Surety would complete the contract work under the Project's Payment and Performance Bonds.

The Department requested assistance from County Counsel in working with the Surety's counsel. County Counsel and the Surety's counsel determined that the best course of action would be for the County and the Surety to execute the proposed takeover agreement, which further establishes Victory's default under the Project's contract and documents the rights and responsibilities of the County and Surety with respect to completing the work under the Project's Payment and Performance Bonds. The Department anticipates that the Surety's contractor will complete the remaining contract work in August 2012.

### **Action(s) to be taken following Board approval**

1. The Acting Clerk of the Board will obtain the Chair's signature on the two originals of the Surety Takeover Agreement.
2. The Acting Clerk of the Board will forward one original of the fully executed Surety Takeover Agreement to the Department for further processing.
3. The Department will arrange for the Surety's contractor to complete the remaining contract work in August 2012.

### **Contact:**

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Concurrences: County Counsel