



## Legislation Text

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**File #:** 17-0987, **Version:** 1

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Community Development Services, Department of Transportation, recommending the Board consider the following pertaining to the Evelyn Road Culvert and Road Repair Project, Contract PW 17-31181, CIP 78721:

- 1) Authorize \$65,000 in additional funding for the subject Project to reflect the value of the low bid received, raising the estimated total project cost from \$300,000 to \$365,000;
- 2) Award the Construction Contract to the lowest responsive, responsible bidder, MKD Construction, Inc.;
- 3) Approve and authorize the Chair to sign the Construction Contract, subject to review and approval by County Counsel and Risk Management; and
- 4) Authorize the Community Development Services, Department of Transportation Director 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. (Est. Time: 5 Min.)

**FUNDING:** Local and State discretionary funding initially (100%), with Transportation staff working with the Federal Emergency Management Agency to obtain emergency reimbursement. (State and Federal)

### **DEPARTMENT RECOMMENDATION**

Community Development Services, Department of Transportation, recommending the Board consider the following actions regarding the Evelyn Road Culvert and Road Repair Project, Contract PW 17-31181, CIP 78721:

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- 4) Authorize the Community Development Services, Department of Transportation Director 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.

### **DISCUSSION / BACKGROUND**

Community Development Services (CDS), Department of Transportation (Transportation), received and opened sealed bids for the Evelyn Road Culvert and Road Repair Project (Project) on Friday, September 1, 2017, at 2:00 p.m. Bids were received from MKD Construction, Inc. (MKD) in the amount of \$229,697 and from Four Point Engineering in the amount of \$258,930, both of which were over the Engineer's Estimate of \$188,205. The Bid Summary is included for review. Given the remote location of this Project and the recent bidding climate that has generated few bidders submitting high bids, Transportation does not believe that lower prices will be realized by rebidding the Project. Transportation, therefore, recommends the Board award this Project to the low bidder, MKD, so that the repairs can be completed before winter.

Since the low bid was slightly higher than the Engineer's Estimate, Transportation is bringing the award of this Project back to the Board, even though the Board delegated Project advertisement and award authority to the Director of Transportation and the Chief Administrative Officer on July 25, 2017 (Item 37).

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

The Disadvantaged Business Enterprise (DBE) goal for the Project is 8%. MKD submitted its DBE information with its bid and showed it would exceed the DBE goal with 8.8% committed. Transportation has reviewed MKD's DBE Commitment form submittal and finds that the firms listed are certified DBEs under the California Unified Certification Program and meet the criteria for a DBE; that MKD provided sufficient written confirmation from each DBE firm that each is participating in the Contract; and, that MKD has committed to exceeding the Contract DBE goal.

Transportation issued the All Bidders Letter on Thursday, September 7, 2017, notifying the bidder of the recommendation to the Board for award and initiating the two-day bid protest period. No bid protest is anticipated.

Transportation recommends award of the Construction Contract to MKD, who submitted the lowest responsive, responsible bid in the amount of \$229,697.

Authorize the CDS Transportation Director to Sign Escrow Agreement:

Pursuant to Special Provisions Section 9-1.16F, "Retentions," Transportation will retain five percent 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 CDS Transportation Director (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 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 ten percent (10%) contingency budget is set aside. The budget for contingencies on this Contract based on the low bid is \$22,969.70. PCC Section 20142 and County 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

\$22,969.70 for this Contract. This authority is also for a cumulative total of contingency CCOs not to exceed 10% of the original Contract value.

### Project Summary

The Project consists of drainage, roadway and headwall improvements to repair a failed culvert and section of the roadway, and includes: removal of an existing 42-inch CMP culvert and replacement with a 42-inch plastic pipe; construction of a reinforced concrete headwall box inlet; and roadway excavation, structure backfill with slurry cement, construction of rolled concrete curb and gutter, installation of No.1 rock backing, Class 2 AB and HMA (Type A), to reconstruct the roadway section. The roadway will be closed throughout the duration of this Project with a 0.2-mile detour on Pioneer Trail and Vanderhoof Drive.

A California Environmental Quality Act Notice of Exemption was filed on March 27, 2017. Transportation is working with the Federal Emergency Management Agency (FEMA) to receive the National Environmental Policy Act determination for this Project.

Transportation has received confirmation that no permit is required from the United States Army Corps of Engineers. Transportation is working with the Tahoe Regional Planning Agency and Lahontan Regional Water Quality Control Board to obtain all required environmental permits. Construction will not begin until all required permits are executed. No special use agreements are required for this Project as all work will be completed within County-owned right-of-way and County-owned drainage easements.

Due to the extent of the damage, Evelyn Road has been closed since the damage was identified. Transportation will continue to keep Evelyn Road closed until the Project is complete, at which time Transportation will notify the public of the road opening via the County's website and a press release.

As a federally funded project, the Contract Documents incorporate the DBE requirements. The DBE goal is 8%.

### **ALTERNATIVES**

- 1) Do not authorize the additional funding for the Project. Transportation will reject the bid 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. Note: The CAO and Director have approved the Project previously, and the County would not be reimbursed with FEMA funds for the Project work completed to date.

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

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

### **CAO RECOMMENDATION**

It is recommended that the Board approve this item in order for the repair work to be completed before the winter.

### **FINANCIAL IMPACT**

The Project was authorized by the Board on July 25, 2017 (Item 37), with an estimated total Project cost of \$300,000. The new estimated total Project cost based on the low bid amount is \$365,000.

The estimate for the construction phase of the Project is \$303,200, which includes a bid of \$229,697; and construction management, survey, materials testing and design support during construction totaling \$50,533; with contingency of \$22,969.70.

This Project is eligible for 75% reimbursement by FEMA and 18.75% reimbursement by California Office of Emergency Services. The remaining 6.25% is local and State discretionary funding. Transportation will continue working with these agencies to obtain the maximum allowable reimbursement.

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

- 1) Upon approval by County Counsel and Risk Management, Transportation will forward the Construction Contract, together with the required bonds and insurance, and the approved Contract Routing Sheet, to the Clerk of the Board for obtaining the Chair's signature.
- 2) The Clerk of the Board will forward the fully executed Construction Contract to CDS Transportation, attention of Brian Franklin, Office Engineer, for further processing.

#### **STRATEGIC PLAN COMPONENT**

Infrastructure

#### **CONTACT**

Rafael Martinez, Director  
Community Development Services, Department of Transportation