



## Legislation Text

**File #:** 18-0866, **Version:** 1

Community Development Services, Department of Transportation, recommending the Board consider the following pertaining to the Lakeview Drive Road Repair Project, Contract PW 18-31215, CIP 78722, Contract 2752:

- 1) Authorize \$90,135 in additional funding for the subject Project to reflect the value of the low bid received, raising the estimated construction phase cost from \$300,000 to \$390,135;
- 2) Award the Construction Contract to MKD Construction, Inc., who submitted the lowest responsive, responsible bid of \$278,669;
- 3) Approve and authorize the Chair to sign the Construction Contract, subject to review and approval of the final Contract Documents by County Counsel and Risk Management; and
- 4) 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:** Local and state discretionary funding initially (100%), with Department of Transportation staff working with the Federal Emergency Management Agency (FEMA) and the California Office of Emergency Services to obtain reimbursement (Local, State, and Federal).

### **DEPARTMENT RECOMMENDATION**

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

On July 25, 2018, the Community Development Services (CDS), Department of Transportation (Transportation) opened bids for the Lakeview Drive Road Repair Project (Project). Two bids were received ranging from \$278,669.00 to \$312,735.35. MKD Construction, Inc. was determined to be the lowest responsive, responsible bidder, with a bid of \$278,669.00. Both Bids received were higher than the Engineer's Estimate. Given the remote location of this Project and the recent bidding climate that had generated fewer bidders submitting high bids, Transportation does not believe that lower prices will be realized by rebidding the Project.

Transportation issued the All Bidders Letter on Monday, July 30, 2018, notifying bidders of the recommendation to the Board for award and initiating the five-day bid protest period. The bid protest period ended at 5:00 p.m. on Monday, August 6, 2018, with no protests filed.

#### Authorize the Director of Transportation (Director), or Successor, to Sign Escrow Agreement:

Pursuant to Special Provisions Section 9-1.16F, "Retentions," Transportation will retain 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, or successor, 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 Escrow Account and any interest earned thereon. A portion of the retention and interest will be retained in the Escrow Account until 35 days after the recordation of the Notice of Acceptance of the Contract at which time, upon written notification from the Director, 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 the 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 to be needed 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 rock fracturing and additional removal of unsuitable material items totaling 5% of the original Contract value. 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 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. This authority is also for a cumulative total of Contingency CCOs not to exceed 10% of the original Contract value.

### **DISCUSSION / BACKGROUND**

The Work to be performed includes drainage and roadway improvements to repair a road slipout failure along a section of the roadway that includes: roadway excavation, installation of a sub-surface drain, placement of structure backfill with reinforcing geogrid, 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 and shoulder backing. The roadway will be closed throughout the duration of this Project. Other items or details not mentioned above, that are required by the Plans, Standard Plans, Standard Specifications, or these Special Provisions must be performed, constructed, or installed.

In order to perform road section construction activities, Contractor will be allowed full closure of Lakeview Drive, from 500 feet east of Silvertip Drive to approximately 300 feet east to the bulb intersection with Saturn Drive, for construction and staging activities. The exact dates of the closures will be determined once the contractor has submitted a schedule of construction activities. Transportation will notify the public of this road closure via the County website, a press release, and changeable message signs at the site. A copy of the Project Traffic Control Plan is included for your

reference. Transportation has coordinated with local emergency agencies regarding the closures and will notify these agencies once the dates of the closure are set. A County Special Event Permit for the full road closure of Lakeview Drive has been fully executed by the Director.

Due to the potential for federal funding, both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance are required. The CEQA Notice of Exemption was filed on March 27, 2017. FEMA has neither provided a Record of Environmental Consideration nor issued an email stating NEPA Categorical Exclusion is authorized; however, FEMA has advised that waiting for the written NEPA clearance is not required due to time constraints. FEMA has advised to make sure that permits and permit requirements are received and complied with as necessary.

The Project does not contain a jurisdictional waterway within the construction limits and does not appear to require coverage of the United States Army Corps of Engineers, California Department of Fish and Wildlife, or Regional Water Quality Control Board permits. Requirements from past projects with similar permitting conditions are included in the Contract Documents. Any additional or revised requirements will be added to the Contract through a contract change order.

No Right of Way was necessary for this Project.

No utility agreements or relocations are necessary for this Project.

The Contract Documents include all required federal provisions and incorporate the current Caltrans DBE requirements. The DBE goal is 8%.

## **ALTERNATIVES**

- 1) The Board could choose to not award contract and direct Transportation to re-advertise for construction bids.
- 2) The board could choose to cancel the Project.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel and Risk Management

## **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

## **FINANCIAL IMPACT**

The Project was authorized by the Board on June 6, 2017 (Item 43) with an estimated Project cost of \$432,000.

The estimate for the construction phase of the Project is \$390,135, which includes an estimated bid of \$278,669; supplement costs of \$13,933; construction management, survey, materials testing and design support during construction totaling \$69,667; and a contingency of \$27,866. The estimated construction total of \$390,135 exceeds the \$300,000 total construction cost communicated to the Board on June 26, 2018 (Item 35), by an increase of \$90,135. 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 two (2) originals of the Construction Contract, together with the required bonds and insurance, and the approved Contract Routing Sheet, to the Clerk of the Board for securing the Chair's signature.
- 2) The Clerk of the Board will forward one (1) fully executed Construction Contract to CDS Transportation, attention of Brian Franklin, Office Engineer, for further processing.

**STRATEGIC PLAN COMPONENT**

Infrastructure

**CONTACT**

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