



## Legislation Text

**File #:** 19-1197, **Version:** 1

Department of Transportation recommending the Board consider the following pertaining to the Tree Mortality Project Phase IV, Contract 3688:

- 1) Award the Contract to Joe Benigno Tree Service, Inc., who was the lowest, responsive, responsible bidder;
- 2) Approve and authorize the Chair to sign the Contract, subject to review and approval by County Counsel and Risk Management;
- 3) Authorize the 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; and
- 4) ~~Approve and authorize the Chair to sign a~~ Direct staff to return with a Budget Transfer adjusting the budget for Fiscal Year 2019-2020 ~~to allow for a General Fund contribution of \$57,719.34 from the General Fund Contingency to allow for the award of all the subject project's bid schedules (4/5 vote required for recommendation 4).~~ based on the Board's decision on award of contract. (Est. Time: 15 Min.)

**FUNDING:** California Disaster Assistance Act Funds (75% - State), CAL FIRE Grant (17% - State), and General Fund (8% - Local).

### **DEPARTMENT RECOMMENDATION**

Award and Sign Contract with Lowest Responsive, Responsible Bidder:

On Friday, August 16, 2019 at 2:00 p.m. Department of Transportation (Transportation) opened bids for the Tree Mortality Project Phase IV (Project). Two bids were received ranging from \$631,465.00 to \$787,900.00.

On July 23, 2019 (Item 21), the Board approved advertisement for bids for this fourth phase of the Tree Mortality Project, and directed staff to prepare an advertising package, utilizing multiplying bid schedules and return to the Board for consideration for award after the bids are opened. This Project was advertised and has been bid with a Base Bid for the highest priority trees for removal, and six (6) Additive Alternative bid schedules (Schedules A through G). Any combination of Base Bid plus Additive Alternative bid schedules can be awarded. Transportation is recommending awarding all bid schedules (A through G).

Transportation issued the All Bidders Letter on Friday, August 16, 2019, notifying the bidders of the recommendation to the Board for award of the contract to Joe Benigno Tree Service, Inc. (Benigno) and to recommend awarding all bid schedules (A through G). This also initiated the five (5) day bid protest period. The bid protest period ends at 4:00 P.M. on Friday, August 23, 2019. If a bid protest is filed, Transportation will present that information to the Board with this item at the Board meeting.

Authorize the Transportation Director to Sign Escrow Agreement:

Pursuant to Article 6, "Payment," 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 Section 22300 provides that the Contractor may request that payment of retentions earned 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 Transportation Director to execute the Escrow Agreement. Upon satisfactory completion of portions of the Contract and upon written notification from the Transportation 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 Transportation Director, these funds will be released to the Contractor.

## **DISCUSSION / BACKGROUND**

Data collected by state and federal agencies demonstrates that drought conditions and bark beetle infestation have killed over 102 million trees in the State of California (State). On October 30, 2015, Governor Brown proclaimed a State of Emergency due to unprecedented tree mortality caused by conditions of extreme drought and drought-related bark beetle infestations. The Governor's Emergency Proclamation contains 18 distinct actions that direct State agencies, utilities, and local governments to remove dead or dying trees in high hazard areas across the entire State.

On March 28, 2016 (Item 1), the Board adopted Resolution 053-2016 declaring a State of Emergency in El Dorado County due to pervasive tree mortality, and on May 17, 2016 (Item 46), the Board approved the County's Tree Mortality Hazard Tree Removal Plan. On August 2, 2016 (Item 33), the Board authorized the Chair to sign the California Disaster Assistance Act (CDAA) application and authorized the submittal of the application for funding related to the State's declared Tree Mortality Emergency. The El Dorado County Sheriff's Department received confirmation on September 2, 2016, that the County had been approved for CDAA funding.

Trees marked for removal under CDAA funding must be verified by Registered Professional Foresters (RPFs) or Certified Arborists (CA). On November 15, 2016 (Item 39), the Board approved an Agreement for Services with Black Fox Timber Management Group, Inc. (Black Fox) to meet the RPF/CA requirement and to provide project coordination services.

On May 9, 2017 (Item 27) the Board approved an agreement RJJ Resource Management Corp for the purchase of the felled timber. The County has received approximately \$40,000 from this agreement. The proceeds have been applied to costs that are unallowable per the terms of the CDAA funding.

The Tree Mortality Project Phase I - Grizzly Flats and Camino removed 408 trees and cost \$525,570. The work was performed by Mountain F. Enterprises between May 17, 2017 and August 11, 2017.

Phase II - Camino and Grizzly Flats removed 146 trees and cost \$111,400. The work was performed by Arborworks, Inc. between November 14, 2017 and November 30, 2017.

Phase III removed 42 trees in Camino and cost of \$303,617.43. The trees in this phase required the use of a crane for removal which increased the cost per tree. The work was performed by Joe Benigno Tree Service between April 9, 2018 and April 13, 2018.

Phase IV will remove 391 trees throughout the county. The work is expected to take 40 working days. The removal of some trees will require full road closures and the use of a crane. Transportation will coordinate with emergency services, schools, and transit. Further notification will be given at least one week in advance of the closures once the construction schedule is known. Transportation will also notify the public of the road closures at least one week in advance via the County website, press release, and portable changeable message signs.

## **ALTERNATIVES**

- 1) The Board could award only the Base Bid (Schedule A);
- 2) The Board could award any other combination of Base Bid (Schedule A) plus any Additive Alternative Schedules (B through G);
- 3) The Board could choose to not award the Contract and direct Transportation to re-advertise for bids; or
- 4) The Board could choose to cancel the Project. Note: The Board has previously approved the Project, and canceling the Project may include the consequence of reimbursing all grant funding received 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 direct staff to award the bid

## **FINANCIAL IMPACT**

The low bid for this phase of the Project is \$631,465.00. This Project has been bid with a Base Bid and six (6) Additive Alternative bid schedules. If the Board chooses to award the contract to Benigno, the Board must award the Base Bid, and the Board must also choose to award all, some, or none of the Additive Alternative bid schedules.

Benigno's bid is shown below, broken down by each bid schedule:

Schedule	Total
Base Bid - A (Camino, Pollock Pines)	\$232,380.00
Additive Alternative - B (Placerville, Kelsey)	\$80,420.00
Additive Alternative - C (Garden Valley)	\$44,200.00
Additive Alternative - D (Greenwood, Volcanoville)	\$58,465.00
Additive Alternative - E (Omo Ranch)	\$48,860.00
Additive Alternative - F (Pollock Pines)	\$65,055.00
Additive Alternative - G (Georgetown)	\$102,085.00
<b>TOTAL:</b>	<b>\$631,465.00</b>

Transportation recommends the Board award the Base Bid - Schedule A and Additive Alternative Schedules B-G. The resultant construction phase budget would be comprised as follows:

Bid price:	\$631,645.00
Contingency (5% of bid):	\$31,582.25
Administration/inspection (County staff):	\$13,000.00
Administration/inspection (consultant):	<u>\$40,000.00</u>
Total construction phase budget:	<u>\$716,227.25</u>

If the Board awards all bid schedules, the total County match required is 25% of \$716,227.25, or \$179,056.81. The County has \$125,337.47 in Cal Fire grant funding that can be used for the County's match. Therefore, the Board would need to authorize the expenditure of \$53,719.34 (\$179,056.81 - \$125,337.47 = \$53,719.34) in General Fund Contingency if the Board awards all bid schedules. Any construction contingency or administration/inspection money that remains unspent after construction completion could be returned to the General Fund Contingency. Any money received for the timber value of the removed trees could also be placed in the General Fund Contingency.

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

- 1) Upon approval by County Counsel and Risk Management, Transportation will forward the 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 Contract to Transportation, attention of Brian Franklin, Office Engineer, for further processing.

#### **STRATEGIC PLAN COMPONENT**

Infrastructure

#### **CONTACT**

Rafael Martinez, Director  
Department of Transportation