

The County of Yuba

Community Development and Services Agency



TO: Board of Supervisors

FROM: Community Development and Services Agency, Samuel Bunton

SUBJECT: Community Development and Services: Approve Agreements with Teichert for the Kibbe Road project, “Construction and Access” and “Construction and Operation”, and waive public bidding requirement

DATE: October 24th, 2023

NUMBER: 420/2023

RECOMMENDATION:

The department of Public Works recommends that the Board of Supervisors approve the two (2) agreements with Teichert, which are the agreements for “Construction and Access” and “Construction and Operation of State Route 20/Kibbe Road Intersection Improvement Project”, and authorize the Board Chair to sign. The department of Public Works also recommends that the Board of Supervisors waive the public bidding requirement for construction of the Kibbe Road improvements.

BACKGROUND:

In order to improve the flow and safety of its vehicles at the intersection of Kibbe Road and SR-20, Teichert wishes to perform road improvements at said location. Teichert Aggregates (Teichert) owns and operates the Hallwood mine, an existing 720-acre mining and processing facility. Teichert’s Hallwood mine is currently accessed through Hallwood Boulevard and Walnut Avenue. The neighborhood surrounding the existing haul route has been slowly transitioning from agricultural to rural residential uses. As such, Teichert has proposed the project as an effort to alleviate the Hallwood mine’s traffic impacts on the Hallwood Boulevard and Walnut Avenue neighborhoods.

The proposed project would include the construction of a private haul road to connect the Teichert Aggregates’ Hallwood mine directly to State Route (SR) 20, at the existing intersection of SR 20 and Kibbe Road. The proposed project would also include the addition of a left-turn pocket for westbound SR 20 traffic and the installation of 12-foot shoulders on both sides of SR 20 to the west of the proposed intersection.

Recently a Cooperative Agreement with Caltrans was executed since the proposed project partly resides in their right of way.

DISCUSSION:

The “Construction and Access Agreement” identifies that Teichert is responsible for buying the needed right of way to accommodate the project (1.65 acres), which property will be deeded directly to the County, so as not to violate the Subdivision Map Act. The agreement further stipulates that after the property is deeded to the County, Teichert has the right to enter upon the property and construct the improvements with regard to the project.

The “Construction and Operation of State Route 20/Kibbe Road Intersection Improvement Project” agreement outlines the construction and operations responsibilities of each party. This agreement stipulates that Teichert will essentially stand in place of the County for all of the County obligations under the Cooperative Agreement between the County and Caltrans. The agreement further states that all funding costs associated with the project shall be covered by Teichert. Teichert will also advance \$10,000 to the County for electricity costs associated with ongoing operations of the proposed traffic signal.

Furthermore, we are requesting that your Board waive the requirement for public bidding as it would not provide any benefit and would surely result in increased costs and use of taxpayer dollars. This action will require a 4/5 vote of approval by the Board.

“As a general rule, competitive bidding for public entities is a mandatory requirement as provided by statute, charter, or ordinance (see here Health & Saf. Code § 33422). However, there are certain well known exceptions to said rule. One exception is where the nature of the subject of the contract is such that competitive proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.” *Graydon v. Pasadena Redevelopment Agency*, 104 Cal.App.3d 631 (1980). “The rationale for the adoption of the above exception is found in the purposes of the provisions requiring competitive bidding in letting public contracts. Those purposes are to guard against favoritism, improvidence, extravagance, fraud, and corruption; to prevent the waste of public funds; and to obtain the best economic result for the public.” *10 McQuillin, Municipal Corporations (3d ed.) § 29.29.*

In summary, because bidding the project would not produce an advantage, would likely in fact waste public funds, and would not obtain the best economic result for the public, we are requesting that your Board apply the *Graydon* exception in this instance.

COMMITTEE ACTION:

This item was brought directly to the full Board for consideration due to time constraints associated with construction seasons.

FISCAL IMPACT:

General Fund – None

Non General Fund – Administrative only. Teichert will reimburse Public Works for any project related expenses.

Attachments