

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works *Subd*

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE June 24, 2014

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt Plans and Specifications for the Parklawn Neighborhood Sewer Improvements - Phase 2, State Water Resources Control Board Project No. C-06-7870-110 and Award the Construction Contract to DSS Company dba Knife River Construction of Stockton, California

STAFF RECOMMENDATIONS:

1. Adopt the Plans and Specifications for the Parklawn Neighborhood Sewer Improvements - Phase 2 project.
2. Approve the conditional award of the contract in the amount of \$2,338,670.75 to DSS Company dba Knife River Construction of Stockton, California, for the construction of the Parklawn Neighborhood Sewer Improvements - Phase 2, subject to receipt of appropriate insurance and bonds.
3. Authorize the Director of Public Works to execute a contract with DSS Company dba Knife River Construction, for \$2,338,670.75 and sign necessary documents.

(Continued on Page 2)

FISCAL IMPACT:

Costs associated to assure the delivery of this project in the amount of \$2,923,337.75, include \$2,338,670.75 for the contract; \$350,800 for construction inspection, quality assurance and materials testing; and \$233,867 for contingencies. This project is 100% funded by the State of California, State Water Resources Control Board (SWRCB), Clean Water State Revolving Fund (CWSRF).

BOARD ACTION AS FOLLOWS:

No. 2014-332

On motion of Supervisor Chiesa, Seconded by Supervisor De Martini
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, Monteith, and Chairman De Martini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION: This Item was removed from the consent calendar for discussion and consideration.

Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

ATTEST:

File No.

Approval to Adopt Plans and Specifications for the Parklawn Neighborhood Sewer Improvements - Phase 2, State Water Resources Control Board Project No. C-06-7870-110 and Award the Construction Contract to DSS Company dba Knife River Construction of Stockton, California

STAFF RECOMMENDATIONS: (Continued)

4. Authorize the Construction Manager to issue a Notice to Proceed, contingent upon receipt of proper insurance and bonds.
5. Authorize the Director of Public Works to execute change orders in accordance with Public Contract Code, Section 20142.
6. Upon project completion, authorize the Director of Public Works to accept the completed improvements and perform all necessary closeout activities.

DISCUSSION:

The Parklawn Neighborhood Sewer Improvements - Phase 2 project is located in an existing unincorporated community south of Hatch Road and west of Morgan Road on the south side of the City of Modesto.

The primary purpose of this project is to provide a sewer system to the neighborhood that allows property owners to abandon their existing failing septic tanks and connect to a public sewer system. The Parklawn Neighborhood is an unincorporated, disadvantaged community on the south side of the City of Modesto with 327 parcels that rely on septic tanks for treatment of sewage. Failing septic tanks within the neighborhood threaten local water supplies and pose a public health risk.

Upon completion of construction, the City of Modesto will operate and maintain the sewer system, including the pump station.

On October 2, 2012, a Notice of Determination for a Negative Declaration was filed with the County Clerk-Recorder under the California Environmental Quality Act (CEQA) Section 21108 or 21152 of the Public Resources Code.

On April 16, 2013 the Board of Supervisors adopted a resolution authorizing the Director of Public Works to apply for, enter into and sign the Financial Assistance Application for the CWSRF from the SWRCB for the planning, design and construction of the second phase of the Parklawn Sewer Project. With this action the department was able to secure a grant in the amount of \$4,951,094. The grant includes 100% loan forgiveness, eliminating the need for the formation of a County Service Area to ensure funding for loan repayment.

The California SWRCB through the CWSRF offers unique financing to communities that qualify. The criteria used to determine this qualification is the median household income (MHI) level. Based on the community MHI, the Parklawn Neighborhood met the criteria for severely disadvantaged communities. This level qualified the community for a 100% principal and interest forgiveness loan.

Approval to Adopt Plans and Specifications for the Parklawn Neighborhood Sewer Improvements - Phase 2, State Water Resources Control Board Project No. C-06-7870-110 and Award the Construction Contract to DSS Company dba Knife River Construction of Stockton, California

The SWRCB grant also funds the pre-payment of hook-up fees to the City of Modesto to encourage and speed the process of sewer hookups. The proposed lump-sum payment of \$1,300,000 will cover the sewer fees for each residential lot within the Parklawn Neighborhood and cover the base sewer fees at the residential rate for the industrial and commercial lots within the Parklawn Neighborhood. The sewer fees being paid include the Outside Service Agreement Fee, the Subtrunk Sewer Fee and the Wastewater Capacity Charge. The homeowners will be required to obtain a County Building Permit to construct the on-site sewer line and abandon the septic systems in accordance with County Standards and then execute the Outside Service Agreement with the City of Modesto.

In following industry procedures of advertisement, an invitation to bid was posted in the Turlock Journal on April 25, 2014; Modesto Reprographics on April 28, 2014, and Modesto Bee on May 2 and 9, 2014. The advertisement listed the final filing date as May 21, 2014. On May 21, 2014, a total of three sealed bids were received, publicly opened, and read. A summary of the bids follows:

CONTRACTOR	BID
Knife River Construction	\$2,338,670.75
Mozingo Construction	\$2,382,352.00
Preston Pipelines	\$2,974,402.75

The posted engineer's estimate for the project was \$3,500,000 (which included testing and contingency). The actual construction estimate for the project was \$2,920,000. The lowest bid is 16% below the engineers estimate. The project is anticipated to be complete by December 2014.

POLICY ISSUES:

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community, and A Well Planned Infrastructure System by building a sewer system to replace failing septic systems which threaten ground water quality and pose a public health risk.

STAFFING IMPACT:

Public Works staff will oversee the project and contract.

ATTACHMENTS AVAILABLE
FROM CLERK

CONTACT PERSON:

Matt Machado, Public Works Director. Telephone: (209) 525-4130.

**COUNTY OF STANISLAUS
AGREEMENT**

THIS AGREEMENT, by and between DSS Company dba Knife River Construction, whose place of business is located at 655 W. Clay Street, Stockton, California, (“Contractor”), and the COUNTY OF STANISLAUS (“County”), acting under and by virtue of the authority vested in the County by the laws of the State of California.

WHEREAS, County, by its Resolution No. 2014-332 adopted on the 24th day of June, 2014 awarded to Contractor the following Contract:

**Parklawn Neighborhood Sewer Improvements – Phase 2
Contract No. 8047
\$2,338,670.75**

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Contractor and County agree as follows:

Article 1. Work

- 1.1 Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents.

Article 2. Architect/Engineer and Project Manager

- 2.1 Stanislaus County Public Works Department designed the Project and furnished the Plans and Specifications. Public Works Department shall have the rights assigned to Architect/Engineer in the Contract Documents.
- 2.2 County has designated the Public Works Construction Manager as its Project Manager to act as County’s Representative in all matters relating to the Contract Documents.

Article 3. Contract Time and Liquidated Damages

- 3.1 Contractor shall commence Work on the date established in the Notice to Proceed. County reserves the right to modify or alter the Commencement Date of the Work.
- 3.2 Contractor shall achieve Final Completion of the entire Work and be ready for Final Payment in accordance with Contract Closeout Ninety (90) Working Days from the date when the Contract Time commences to run as provided in the Agreement.

- 3.3 Liquidated Damages shall comply with SC-08 of the Special Conditions and 8-1.10 of the Standard Specifications.
- 3.4 Liquidated damages shall apply cumulatively and except as provided below, shall be presumed to be the damages suffered by County resulting from delay in completion of the Work.
- 3.5 Liquidated damages for delay shall only cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by County as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from County (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof.

Article 4. Contract Sum

- 4.1 County shall pay Contractor the Contract Sum for completion of Work in accordance with Contract Documents as set forth in Contractor's Bid.

Article 5. Contractor's Representations

In order to induce County to enter into this Agreement, Contractor makes the following representations and warranties:

- 5.1 Contractor has visited the Site and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- 5.2 Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, as-built drawings, drawings, products specifications or reports, available for Bidding purposes, of physical conditions, including Underground Facilities, which have been made available for Bidders or which may appear in the Drawings. Contractor accepts the determination set forth in these Documents of the limited extent of the information contained in such materials upon which Contractor may be entitled to rely. Contractor agrees that except for the information so identified, Contractor does not and shall not rely on any other information contained in such reports and drawings.
- 5.3 Contractor has conducted or obtained and has understood all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in Section 5.2 of this Document that pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the Site or otherwise that may affect the cost, progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the

Contract Sum, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the Special Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.

- 5.4 Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

Article 6. Contract Documents

- 6.1 Contract Documents consist of the following documents, including all changes, Addenda, and Modifications thereto:

Notice of Award
Agreement
Notice to Proceed
Construction Performance Bond
Construction Labor and Material Payment Bond
Special Conditions
Addenda
Special Provisions
Drawings
Encroachment Permit [if applicable]
Form FHWA-1273 [if applicable]

- 6.2 There are no Contract Documents other than those listed in this Document, Article 6.

Article 7. Indemnity

- 7.1 County and each of its officers, employees, consultants and agents including, but not limited to the Board, Architect/Engineer and each County Representative, shall not be liable or accountable in any manner for loss or damage that may happen to any part of the Work; loss or damage to materials or other things used or employed in performing the Work; injury, sickness, disease, or death of any person; or damage to property resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence, attributable to performance or character of the Work, and Contractor releases all of the foregoing persons and entities from any and all such claims.
- 7.2 To the furthest extent permitted by law (including without limitation California Civil Code Section 2782), Contractor shall assume defense of, and indemnify and hold harmless, County and each of its officers, employees, consultants and agents, including but not limited to the Board, Architect/Engineer and each County representative, from claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees,

directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether it is caused in part by the negligence of County or by any person or entity required to be indemnified hereunder.

- 7.3 With respect to third-party claims against Contractor, Contractor waives any and all rights to any type of express or implied indemnity against County and each of its officers, employees, consultants and agents including, but not limited to County, the Board, Architect/Engineer and each County representative.
- 7.4 Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its Subcontractors of any tier, or the officers or agents of any of them.
- 7.5 To the furthest extent permitted by law (including, without limitation, Civil Code Section 2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout the Contract Documents shall apply even in the event of breach of contract, negligence (active or passive), fault or strict liability of the party(is) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of the Contract Documents. If Contractor fails to perform any of these defense or indemnity obligations, County may in its discretion back charge Contractor for County's costs and damages resulting therefrom and withhold such sums from progress payments or other contract moneys which may become due.
- 7.6 The indemnities in the Contract Documents shall not apply to any indemnified party to the extent of its sole negligence or willful misconduct; nor shall they apply to County or other indemnified party to the extent of its active negligence.

Article 8. Miscellaneous

- 8.1 Terms and abbreviations used in this Agreement are defined in Special Conditions, Section 1: DEFINITIONS AND TERMS and will have the meaning indicated therein.
- 8.2 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of County or acting as an employee, agent, or representative of County, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of the County is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.
- 8.3 Contractor shall not assign any portion of the Contract Documents, and may subcontract portions of the Contract Documents only in compliance with the Subcontractor Listing Law, California Public Contract Code §4100 *et seq.*

- 8.4 The Contract Sum includes all allowances (if any).
- 8.5 In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time County tenders final payment to Contractor, without further acknowledgment by the parties.
- 8.6 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at County's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §1861, Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.
- 8.7 Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).
- 8.8 This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Stanislaus, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in Stanislaus County Superior Court. Contractor accepts the Claims Procedure in Special Conditions, Article SC-16, WORK DISPUTES, as a claims procedure by agreement under the California Government Code, Title 1, Division 3.6, Part 3, Chapter 5.

8.9 Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

David Leamon, Deputy Director
Stanislaus County Public Works
1716 Morgan Road, Modesto CA 95358


If to Contractor:

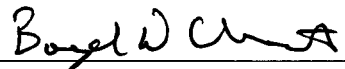
Steve Essoyan, President
Knife River Construction
655 W. Clay Street, Stockton, CA 95206

IN WITNESS WHEREOF the parties have executed this Agreement in quadruplicate the day and year first above written.

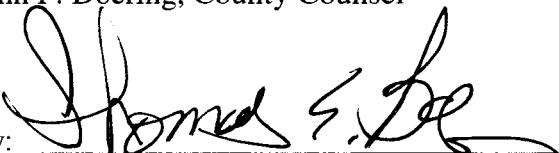
COUNTY OF STANISLAUS

**DSS COMPANY dba
KNIFE RIVER CONSTRUCTION**

By: 
Matt Machado, Director
Public Works Department

By: 

APPROVED AS TO FORM:
John P. Doering, County Counsel

By: 
Thomas E. Boze
Deputy County Counsel

CONTRACTOR'S BID SHEET

Parklawn Neighborhood Sewer Improvements - Phase 2

Item No.	Item	Estimated Quantity	Unit of Measure	Unit Price (In Figures)	Item Total (In Figures)
1	Mobilization	1	LS	61,800 ⁰⁰	61,800 ⁰⁰
2	Water Pollution Control	1	LS	22,000.00	22,000.00
3	Temporary Traffic Control	1	LS	31,500.00	31,500.00
4	Clearing and Grubbing	1	LS	12,500.00	12,500.00
5	Cold Plane Asphalt Concrete Pavement	214,255	SF	0.35	74,989.25
6	Roadway Excavation	1	LS	138,500.00	138,500.00
7	Hot Mix Asphalt (Type A)	4,895	TONS	77.50	379,362.50
8	Aggregate Road Base (Class II)	7,428	TONS	24.50	181,986.00
9	Aggregate Base Shoulder Backing (F)	920	TONS	36.50	33,580.00
10	Minor Concrete (curb)	24	LF	92.00	2,208.00
11	Minor Concrete (sidewalk)	79	SF	28.00	2,212.00
12	Thermoplastic Pavement Markings	656	SF	4.75	3,116.00
13	Thermoplastic Striping (Detail 21)	1,332	LF	2.00	2,664.00
14	Thermoplastic Striping (Detail 27B)	2,099	LF	1.00	2,099.00
15	Thermoplastic Striping (Detail 32)	1,579	LF	2.00	1,579.00
16	Thermoplastic Striping (Detail 38)	100	LF	2.00	200.00
17	8" Sewer	9,770	LF	47.50	464,075 ⁰⁰
18	6" Sewer Service	21	EA	875.00	18,375.00
19	4" Sewer Service	275	EA	870 ⁰⁰	239,250 ⁰⁰
20	6" D.I.P. Sewer Force Main	16	LF	195.00	3,120.00
21	Sewer Pump Station Complete	1	LS	338,000 ⁰⁰	338,000 ⁰⁰
22	48" Sewer Manhole	30	EA	5,200.00	156,000.00
23	Sheeting, Shoring and Bracing	1	LS	25,500.00	25,500.00
24	As-Built Drawings	1	LS	190.00	190.00
25	CCTV Pipeline Inspection	10,082	LF	3.00	30,246.00
26	Construction Staking	1	LS	23,000.00	23,000.00
27	Lead Compliance Plan	1	LS	1,600.00	1,600.00
28	Project Signage	2	EA	1,000.00	2,000.00
29	Adjust Frames, Grates & Covers to Grade	2	EA	620.00	1,240.00
30	City of Modesto Encroachment Permit	1	LS	\$35,000	\$35,000
31	Portable Changeable Message Boards	6	EA	8,200.00	49,200.00
TOTAL BID					2,338,670.75

(SIGNED) _____



Date: _____

5/21/14

Note: All line items must have an entry placed in its appropriate box, and this form must be signed for the bid to be accepted as complete.