

MEMORANDUM

TO: Board of Trustees

THROUGH: Bobby Magee, District General Manager

FROM: Kate Nelson, Interim Director of Public Works

SUBJECT: Review, Discuss, and Approve the Construction Contract for the Tyner Way Emergency Asphalt Replacement Project - 2023/24 Water Reserves; Fund: Utility Fund; Division: Water; Contractor: Sierra Nevada Construction, in the Amount of \$149,007.00. (Requesting Staff Member: Interim Director of Public Works Kate Nelson).

RELATED FY 2023 STRATEGIC PLAN

BUDGET INITIATIVE(S):

LONG RANGE PRINCIPLE #5 -- ASSETS AND INFRASTRUCTURE

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long-term utility services and recreation activities. Maintain, renew, expand and enhance District infrastructure to meet the capacity needs and desires of the community for future generations.

RELATED DISTRICT POLICIES, PRACTICES, RESOLUTIONS OR ORDINANCES

Purchasing Policy for Public Works Contracts - Policy 21.1.0

DATE: May 29, 2024

I. RECOMMENDATION

That the Board of Trustees make a motion to:

1. Approve the Construction Contract with Sierra Nevada Construction (SNC) in the amount of \$149,007.00 for the emergency replacement of approximately 6,100 SF of asphalt, 240 LF of asphalt curb and related materials; and,
2. Direct the Board Chair and Board Secretary to sign and execute the

Agreement.

II. BACKGROUND

Per Policy 21.2.1.5.1, the Board of Trustees was informed of a water main break on Tyner Way that occurred on February 29, 2024. The water main was repaired and placed back in service the same day. However, as a result of the water main break, substantial damage to the asphalt and subgrade on Tyner Way occurred. The water main break was a result of a broken water service saddle on an existing asbestos cement (AC) water main. The water main on Tyner Way and related appurtenances were installed in 1969 and have outlived their design life.

Public Works and the Washoe County Road Department Staff repaired the roadway to the extent practicable on February 29, 2024 and have been monitoring the condition of the road since that time. Working collaboratively with Washoe County, the road has been maintained to provide a safe travel surface until final restoration can occur.

III. BID RESULTS

The District publicly advertised the Project for bidding in accordance with NRS 338 on April 24, 2024 with a bid opening on May 9, 2024. This project adheres to prevailing wage standards (PWP WA-2024-356).

The engineer's estimate for the project was \$175,000. The lowest responsive and responsible bid was submitted by Sierra Nevada Construction, Inc (SNC) for an amount of \$149,007.00. The District received a total of four bids as shown below:

- Sierra Nevada Construction: \$149,007.00
- F.W. Carson: \$172,369.95
- West Coast Paving: \$177,000.00
- Colbre Grading and Paving of NV, Inc.: \$197,955.00.

IV. FINANCIAL IMPACT AND BUDGET

Public Works Staff has reviewed the remaining balances within Division: Water, Fund: Utility for any unused available funding; however, at this point in the FY there is not enough available funds to cover the asphalt repair costs. Therefore, the cost of asphalt repair will be funded from the Utility Operating Reserves.

V. ALTERNATIVES

Not authorize the construction contract for the Tyner Way Asphalt Replacement Project, and allow Washoe County to engage a contractor for the asphalt replacement and subsequently bill the District for the costs incurred.

VI. COMMENTS

The Agreement between the District and SNC has been reviewed and approved by District Legal Counsel.

VII. BUSINESS IMPACT/BENEFIT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement

VIII. ATTACHMENTS

1. S05 - Agreement - SNC

IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES

SECTION 5

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

This Agreement is by and between the **Incline Village General Improvement District** (“Owner” or “IVGID”) and **Sierra Nevada Construction, Inc.**, a Domestic Corporation with its principal place of business located at 2055 E. Greg Street, Sparks, Nevada (“Contractor”). This Agreement will be effective on **May 30, 2024** (which is the Effective Date of the Contract). Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: The proposed work will include full depth asphalt concrete and base removal and replacement, and the project site is located from 824-834 Tyner Way in Incline Village, Washoe County, Nevada.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2024 TYNER WAY PAVEMENT REPLACEMENT.**

ARTICLE 3—ENGINEER

3.01 IVGID’s Engineering Division is to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by the IVGID Engineering Division.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

B. The OWNER anticipates issuing the Notice to Proceed on or about **May 31, 2024.**

4.02 *Contract Times: Dates*

A. Alternate: The Work will be substantially complete on or before **June 21, 2024**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **July 3, 2024.**

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion*: Contractor shall pay Owner \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500 for each day that expires after such time until the Work is completed and ready for final payment.
 4. Liquidated damages for failing to timely attain Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

ARTICLE 5—CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- A. For all Work other than Unit Price Work, a lump sum of **One Hundred Forty-Nine Thousand and Seven Dollars (\$149,007.00)**.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment, as recommended by Engineer, on or about the first day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as

provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. Ninety-five percent (95%) of the value of the Work completed (with the balance being retainage).
 - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage.
 - b. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to ninety-seven and one-half percent (97.5%) of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, and as recommended by Engineer, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of six percent (6%) per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 1. This Agreement.
 2. Contractor's Bid dated May 9, 2024.
 3. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 4. General Conditions.

5. Supplementary Conditions.
 6. Specifications as listed in the table of contents of the project manual (copy of list attached).
 7. Drawings (not attached but incorporated by reference) consisting of **2** sheets with each sheet bearing the following general title: **2024 Tyner Way Pavement Replacement**.
 8. Addenda #1.
 9. Exhibits to this Agreement (enumerated as follows):
 - a. For all projects over \$100,000, State of Nevada Prevailing Wage Rates, Washoe County, current edition as of Bid Opening date of project.
 10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in

the Supplementary Conditions, with respect to Technical Data in such reports and drawings.

6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

OWNER:
INCLINE VILLAGE G. I. D.
Agreed to:

Trustee Sara Schmitz, Chairperson

Date

Trustee Michaela Tonking, Secretary

Date

Reviewed as to Form:

Sergio Rudin
District Legal Counsel

Date

CONTRACTOR:
SIERRA NEVADA CONSTRUCTION, INC.
Agreed to:

By: _____


Signature of Authorized Agent

Marc Markwell, CFO

Print or Type Name and Title

5/20/2024

Date

If CONTRACTOR is a Corporation, attach evidence of authority to sign.

ACTION BY UNANIMOUS WRITTEN CONSENT OF THE BOARD
OF DIRECTORS AND SHAREHOLDERS
OF
SIERRA NEVADA CONSTRUCTION, INC.
MARCH 2, 2020

The undersigned, being all the directors and shareholders of Sierra Nevada Construction, Inc., a Nevada corporation (the "Corporation"), do hereby unanimously approve, adopt, make, ratify and confirm the following:

WHEREAS, Kevin L. Robertson acts in the capacity of President, Craig D. Holt acts in the capacity of Vice President, and Marc T. Markwell acts in the capacity of Treasurer, Chief Financial Officer, and Secretary of Sierra Nevada Construction, Inc.

WHEREAS, Kevin L. Robertson, Craig D. Holt, and Marc Markwell as officers of this Corporation may be required from time to time to execute agreements on behalf of Sierra Nevada Construction, Inc.

NOW THEREFORE, the undersigned directors and shareholders of Sierra Nevada Construction, Inc., resolve as follows:

RESOLVED, that the following individuals are appointed to service as officers of the Corporation in the specified capacities:

Kevin L. Robertson	President
Craig D. Holt	Vice President
Marc T. Markwell	Chief Financial Officer/Secretary/Treasurer

RESOLVED, that Kevin L. Robertson, Craig D. Holt and Marc T. Markwell as officers of this Corporation are authorized to execute agreements into, between or among Sierra Nevada Construction, Inc., and third parties without further authorization from the directors and/or shareholders.

and, further

RESOLVED, that Kevin L. Robertson, Craig D. Holt and Marc T. Markwell in their capacities as officers of this Corporation are authorized to take all necessary and appropriate steps on behalf of the Corporation to effectuate the proposed amendments to the Articles of Incorporation and the Bylaws of the Corporation.

IN WITNESS WHEREOF, the directors and shareholders have executed this instrument effective March 2, 2020.

Directors:

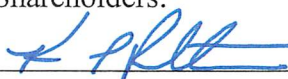


Kevin L. Robertson




Craig D. Holt

Shareholders:



Kevin L. Robertson



Craig D. Holt