

**CITY OF TEMECULA  
AGENDA REPORT**

**TO:** City Manager/City Council

**FROM:** Patrick Thomas, Director of Public Works/City Engineer

**DATE:** May 14, 2024

**SUBJECT:** Award Construction Contract to Beador Construction Company, Inc., for the Santa Gertrudis Creek Trail Phase II – Margarita Road Under-Crossing Project, PW19-04

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**PREPARED BY:** Avlin R. Odviar, Principal Civil Engineer  
William Becerra, Associate Engineer II

**RECOMMENDATION:** That the City Council:

1. Approve the appropriation of \$1,562,908 from DIF – Open Space & Trails to the Santa Gertrudis Creek Trail Phase II – Margarita Road Under-Crossing Project, PW19-04; and
2. Reject the bid received from Leonida Builders, Inc. for the Santa Gertrudis Creek Trail Phase II – Margarita Road Under-Crossing Project, PW19-04; and
3. Award a construction contract to Beador Construction Company, Inc. in the amount of \$3,565,700 for the Santa Gertrudis Creek Trail Phase II – Margarita Road Under-Crossing Project, PW19-04; and
4. Authorize the City Manager to approve construction contract change orders up to 10% of the contract amount, \$356,570; and
5. Authorize payment of \$9,831.95 to the Western Riverside County Regional Conservation Authority for the Multiple Species Habitat Conservation Plan fee required for construction of the Santa Gertrudis Creek Trail Phase II – Margarita Road Under-Crossing Project, PW19-04.

**BACKGROUND:** The Santa Gertrudis Creek Trail Phase II – Margarita Road Under-Crossing, PW19-04; includes the design, environmental clearance, and construction of the Santa Gertrudis Creek Trail under Margarita Road. The under-crossing will provide a continuous paved path beneath Margarita Road along the Santa Gertrudis Creek allowing users to pass under Margarita Road at this location.

On October 10, 2023, City Council approved the plans and specifications and authorized the Department of Public Works to solicit construction bids.

The construction contract was publicly advertised between October 12, 2023, and November 16, 2023. On December 12, 2023, the City Council approved the withdrawal of bid by Leonida Builders, Inc., rejected all construction bids, and authorized the Department of Public Works to re-advertise the project allowing time for staff to explore additional funding opportunities and revisit the bid package. The construction contract was readvertised publicly between February 12, 2024, and March 21, 2024. Three (3) bids were received and publicly opened on Thursday, March 21, 2024.

The results were as follows:

<b>Rank</b>	<b>Bidder</b>	<b>Bid Amount</b>
1.	Beador Construction Company Inc.	\$3,565,700
2.	KEC Engineering	\$3,859,999
--	Leonida Builders, Inc.	-----

On March 21, 2024, Beador Construction Company, Inc. submitted a protest letter, attached, on the basis that Leonida Builders, Inc. is barred from bidding the contract per California Public Contract Code PCC § 5105, which states that a bidder who claims a mistake or who forfeits his or her bid security shall be prohibited from participating in further bidding on the project on which the mistake was claimed or security forfeited.

On April 2, 2024, with guidance from the City Attorney, the City sent a letter, attached, to Leonida Builders, Inc. that stated the City's intent to reject Leonida's construction bid on the basis of California Public Contract Code PCC § 5105. Later that same day, Leonida Builders, Inc. sent an email correspondence, attached, that acknowledged California Public Contract Code PCC § 5105, however, Leonida Builders, Inc. asserted that there is applicable case law that would allow Leonida Builders, Inc. to submit a bid for the project on the basis that the rebid project is substantially different from the originally bid project.

After thorough review, the City responded to Leonida in a letter, attached, dated April 9, 2024. This letter specifies various factors and conditions that deem the original project to be considered the same as the rebid project, thereby barring Leonida from rebidding the project.

Beador Construction Company, Inc., of Costa Mesa, California, is the lowest responsive and responsible bidder. Beador Construction Company, Inc. has public contracting experience and has successfully completed similar public projects for the City.

The Engineer's Estimate of construction cost was \$3,860,000. The construction contract allows for 120 working days (approximately 6 months) to construct the Project.

The Multiple Species Habitat Conservation Plan (MSHCP) is an element of the Riverside County Integrated Project (RCIP) to conserve open space, nature preserves and wildlife to be set aside in some areas. It is designed to protect over 150 species and conserve over 500,000 acres in Western Riverside County. The City of Temecula is a permittee to the MSHCP and as such is required to abide by the Regional Conservation Authority's (RCA) MSHCP Mitigation Fee Implementation Manual adopted by Resolution 2020-013 on December 7, 2020. The RCA is a joint regional authority formed by the County and the Cities to provide primary policy direction for implementation of the MSHCP.

Since July 1, 2008, the RCA has required that locally funded Capital Improvement Projects contribute applicable MSHCP fees within 90 days of construction contract award. Fees outside the public right-of-way are calculated on a cost per acre of disturbed area basis. In this case, the fee for the Project is \$9,831.95, which is calculated based on a project site area of 0.51568 acres at \$19,066 per acre.

**FISCAL IMPACT:** The Santa Gertrudis Creek Trail Phase II – Margarita Road Under-Crossing Project, PW19-04 is included in the City's Capital Improvement Program, Fiscal Years 2024-28, and is funded with Measure S and Senate Bill 1. With the additional appropriation of \$1,562,908 from DIF – Open Space & Trails, adequate funds will be available in the project account to cover the contract amount of \$3,565,700 plus the 10% contingency amount of \$356,570 for a total encumbrance of \$3,922,270. Existing project funds will cover the \$9,831.95 MSHCP fee payment.

**ATTACHMENTS:**

1. Contract
2. Project Description
3. Project Location
4. Beador Letter dated March 21, 2024
5. City Letter to Leonida dated April 2, 2024
6. Leonida Email dated April 2, 2024
7. City Letter to Leonida dated April 9, 2024