

**CITY MANAGER'S REPORT  
JUNE 11, 2018 CITY COUNCIL REGULAR MEETING**

**ITEM:** **CREATE CIP PK 18-10 MOSSDALE COMMUNITY PARK TRAIL LIGHTING AND AWARD A CONSTRUCTION CONTRACT TO T & S INTERMODAL MAINTENANCE, INC.**

**RECOMMENDATION:** **Adopt Resolution Approving the Creation of CIP PK 18-10 Mossdale Community Park Trail Lighting, Award Construction Contract to T & S Intermodal Maintenance Inc, and Approve Related Budget Amendment**

**SUMMARY:**

At the March 12, 2018 City Council Meeting, Council adopted Resolution No. 18-4357 approving Option 1b to proceed with the installation of additional wired lighting at Mossdale Community Park. Staff is requesting that City Council approve the creation of Capital Improvement Project (CIP) PK 18-10, award a construction contract to T&S Intermodal Maintenance, Inc. and authorize a budget amendment to complete the Mossdale Community Park Trail Lighting Project.

**BACKGROUND:**

At the On March 12, 2018 City Council Meeting, staff presented hard wired and solar pathway lighting options for Mossdale Community Park. City Council selected Option 1b to install additional wired lighting and requested staff to bid the project and select a competent responsible contractor to perform the work.

Staff completed contract plans and specifications in March 2018 for the Mossdale Trail Lighting Project; the project was bid according to the Public Contract Code and LMC 2.36.060. The City received three (3) sealed bids on May 23, 2018, the bids were opened by the City Clerk on May 23, 2018. T & S Intermodal Maintenance Inc. submitted the lowest total base bid in the amount of \$72,600 and was determined to be responsive and responsible based upon previous project history, licensing qualifications and responsiveness to the bid requirements.

**Bid Results Summary:**

<b>Company</b>	<b>Bid Amount</b>
T & S Intermodal Maintenance, Inc.	\$72,600
Pacific Excavation Inc.	\$109,236
Tennyson Electric Inc.	\$143,735

**CITY MANAGER'S REPORT  
JUNE 11, 2018 CITY COUNCIL REGULAR MEETING  
PARK LIGHTING AT MOSSDALE COMMUNITY PARK**

Tonight, staff is requesting that City Council approve the creation of CIP PK 18-10 Mossdale Community Park Trail Lighting Project, award a construction contract with T & S Intermodal Maintenance Inc. and authorize the related budget amendment of \$23,360 from General Fund Reserves to be reimbursed from Measure C to complete the Mossdale Community Park Trail Lighting Project, CIP PK 18-10.

**REASON FOR RECOMMENDATION:**

Staff requests that City Council award a contract with T & S Intermodal Maintenance, Inc. for the Mossdale Community Park Trail Lighting Project in the amount of \$72,600. In addition, a 10% contingency in the amount of \$7,260 is requested for a total authorization of \$79,860 to complete the Mossdale Community Park Lighting Trail project.

**FISCAL IMPACT:**

Resolution No. 18-4357, Option 1b adopted March 12, 2018 authorized a budget amendment from the General Fund Reserves of \$56,500 to be reimbursed by Measure C upon review and confirmation of the Measure C committee.

The cost of the construction contract with T & S Intermodal Maintenance, Inc. is \$72,600 plus a 10% contingency in the amount of \$7,260 for a total cost of \$79,860. An additional budget amendment in the amount of \$23,360 from the General Fund Reserve to be reimbursed by Measure C upon review and confirmation by the Measure C committee. Staff requests the following budget amendment for the creation of CIP PK 18-10:

Increase Transfers Out (Measure C) 1060-9900-990-9010	\$79,860
Increase Transfer In 3010-9900-393-0000	\$79,860
Increase Expenditure 3010-8000-420-1200      PK 18-10	\$79,860

**ATTACHMENTS:**

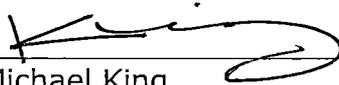
- A. Resolution Approving Creation of CIP PK 18-10, Awarding the Construction Contract with T & S Intermodal Maintenance, Inc., and Authorizing the Related Budget Amendment.
- B. Construction Contract with T & S Intermodal Maintenance, Inc. for the Mossdale Community Park Trail Lighting Project, PK 18-10

**CITY MANAGER'S REPORT  
JUNE 11, 2018 CITY COUNCIL REGULAR MEETING  
PARK LIGHTING AT MOSSDALE COMMUNITY PARK**

**APPROVALS:**

  
\_\_\_\_\_  
Ken Reed  
Senior Construction Manager

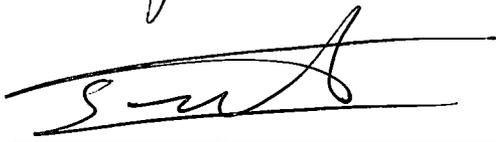
6-6-2018  
Date

  
\_\_\_\_\_  
Michael King  
Senior Civil Engineer

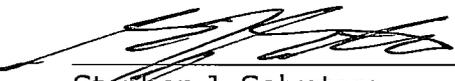
6-6-18  
Date

  
\_\_\_\_\_  
Cari James  
Director of Finance

6/6/18  
Date

  
\_\_\_\_\_  
Salvador Navarrete  
City Attorney

6-6-18  
Date

  
\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

6-6-18  
Date

**RESOLUTION NO. 18 - \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP  
APPROVING CREATION OF CIP PK 18-10 MOSSDALE COMMUNITY PARK  
TRAIL LIGHTING, AWARDED CONSTRUCTION CONTRACT TO T & S  
INTERMODAL MAINTENANCE, INC., AND AUTHORIZING RELATED BUDGET  
AMENDMENT**

**WHEREAS**, on March 12 2018 council adopted Resolution 18-4357, Option 1b to install additional wired lighting at Mossdale Community Park; and

**WHEREAS**, contract plans and specifications for the Mossdale Trail Lighting Project were completed by staff in March 2018 and the Mossdale Trail Lighting Project was bid according to the Public Contract Code and LMC 2.36.060; and

**WHEREAS**, Three (3) sealed bids were received and opened by the City Clerk on May 23, 2018, T & S Intermodal Maintenance Inc. was the lowest responsible bidder; and

**WHEREAS**, the cost of the construction contract with T & S Intermodal Maintenance Inc. is \$72,600; and

**WHEREAS**, a construction contingency in the amount of \$7,260 and additional costs in the amount of \$16,100 is also requested for a total authorization of \$79,860; and

**WHEREAS**, authorize staff to use the construction contingency and additional costs in the amount of \$23,360 to accomplish the goals of the project; and

**WHEREAS**, staff is requesting approval of the creation of CIP PK 18-10 Mossdale Community Park Trail Lighting;

**THEREFORE, BE IT RESOLVED**, that the City Council of the City of Lathrop hereby awards a construction contract to T & S Intermodal Maintenance Inc. for the Mossdale Trail Lighting Project for \$72,600; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Lathrop hereby approves the creation of CIP PK 18-10 Mossdale Community Park Trail Lighting, awarding construction contract with T & S Intermodal Maintenance Inc. and authorizes the following budget amendment:

Increase Transfers Out (Measure C)		
1060-9900-990-9010		\$79,860
Increase Transfer In		
3010-9900-393-0000		\$79,860
Increase Expenditure		
3010-8000-420-1200	PK 18-10	\$79,860

The foregoing resolution was passed and adopted this 11th day of June 2018 by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Teresa Vargas, City Clerk

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

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CONTRACT

This Contract, dated June 11, 2018, is entered into by and between the City of Lathrop, a municipal corporation of the State of California (City), and T & S Intermodal Maintenance, Inc. (Contractor), who's Taxpayer Identification Number is 68-0479675

For and in consideration of the following covenants, terms and conditions, City and Contractor (the parties) agree:

1. Term. This Contract shall commence on, and be binding on the parties on, the date of execution of this Contract, and shall expire on the date of recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder, subject to the earlier termination of this Contract.
2. General Scope of Project and Work. Scope determined in Construction Documents for City Multi Parks Improvement Project. Contractor shall furnish labor, services, materials and equipment in connection with the construction of the Project and complete the Work in accordance with the covenants, terms and conditions of this Contract to the satisfaction of City. The Project and Work is generally described as follows:

The work to be performed under this contract includes all work contained in the Construction Documents, as detailed in Paragraph 3 below, including, but not limited to Improvements to The Mossdale Community Park Trail Lighting project to accomplish the aforementioned tasks.

The Work shall be complete, and all appurtenant work, materials, and services not expressly shown or called for in the Construction Documents which may be necessary for the complete and proper construction of the Work in good faith shall be performed, furnished, and installed by the Contractor as though originally specified or shown. The Contractor will be compensated for work actual work performed in accordance with the unit prices and provisions contained in these Construction Documents.

Base Bid Total: \$72,600

3. Construction Documents. This Contract shall include the Construction Documents which are on file with the City Clerk and are hereby incorporated by reference (i.e. Project Specifications, Project Plans, addenda, performance bond, labor and materials bond, certification of insurance, workers compensation certification, and guaranty) and the Bid Documents submitted by T & S Intermodal Maintenance, Inc. on June 11, 2018. For the purposes of construing, interpreting and resolving inconsistencies between the provisions of this Contract, these documents and the provisions thereof are set forth in the order of precedence described in Article 3 of the General Conditions.

4. Compensation. In consideration of Contractor's performance of its obligations hereunder, City shall pay to Contractor the amount set forth in Contractor's Bid in accordance with the provisions of this Contract and upon the receipt of written invoices and all necessary supporting documentation within the time set forth in the Construction Documents. Contractor hereby shall not be permitted to invoice the City nor accept compensation for work not yet complete. In no event, shall the Contractor be entitled to payment for work not included in the approved scope of work, a written task order, or change order signed by the City's Public Works Director prior to commencement of any work.
5. Insurance. On or before the Date of Execution, Contractor shall obtain and maintain the policies of insurance coverage described in Section 5.2 of the General Conditions on terms and conditions and in amounts as may be required by the City. City shall not be obligated to take out insurance on Contractor's personal property or the personal property of any person performing labor or services or supplying materials or equipment under the Project. Contractor shall furnish City with the certificates of insurance and with original endorsements affecting coverage required under this Contract on or before the Date of Execution. The certificates and endorsements for each insurance policy shall be signed by a person who is authorized by that insurer to bind coverage in its behalf. Proof of insurance shall be mailed to the Project Manager to the address set forth in Section 15 of this Contract.
6. Indemnification. Contractor agrees to protect, defend, indemnify and hold City, its City Council members, officers, employees, engineer, and construction manager harmless from and against any and all claims, demands, liabilities, losses, damages, costs, expenses, liens, penalties, suits, or judgments, arising in whole or in part, directly or indirectly, at any time from any injury to or death of persons or damage to property as a result of the willful or negligent act or omission of Contractor, or which results from Contractor's noncompliance with any Law respecting the condition, use, occupation or safety of the Project site, or any part thereof, or which arises from Contractor's failure to do anything required under this Contract or for doing anything which Contractor is required not to do under this Contract, or which arises from conduct for which any Law imposes strict liability on Contractor in the performance of or failure to perform the terms and conditions of this Contract, except as may arise from the sole willful or negligent act or omission of City or any of its City Council members, officers, employees. This indemnification shall extend to any and all claims, demands, or liens made or filed by reason of any construction, renovation, or remodeling work performed by Contractor under this Contract at any time during the term of this Contract, or arising thereafter.
7. Assumption of Risk. Contractor agrees to voluntarily assume any and all risk of loss, damage, or injury to the property of Contractor which may occur in, on, or about the Project site at any time and in any manner, excepting such loss, injury, or damage as may be caused by the sole willful or negligent act or omission of City or any of its City Council members, officers, or employees.
8. Waiver. The acceptance of any payment or performance, or any part thereof, shall not operate as a waiver by City of its rights under this Contract. A waiver by City of any breach

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of any part or provision of this Contract by Contractor shall not operate as a waiver or continuing waiver of any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the parties in the administration of any part or provision of this Contract be construed to waive or to lessen the right of City to insist upon the performance of Contractor in strict compliance with the covenants, terms and conditions of this Contract.

9. Compliance with Laws. Contractor shall comply with all Laws now in force or which may hereafter be in force pertaining to the Project and Work and this Contract, with the requirement of any bond or fire underwriters or other similar body now or hereafter constituted, with any discretionary license or permit issued pursuant to any Law of any public agency or official as well as with any provision of all recorded documents affecting the Project site, insofar as any are required by reason of the use or occupancy of the Project site, and with all Laws pertaining to nondiscrimination and affirmative action in employment and hazardous materials.
10. Bonds. As a condition precedent to City's obligation to pay compensation to Contractor, and on or before the date of Execution, Contractor shall furnish to the Project Manager the Bonds as required under the Notice to Contractors.
11. Representations and Warranties. In the supply of any materials and equipment and the rendering of labor and services during the course and scope of the Project and Work, Contractor represents and warrants:
  - (1) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be vested in Contractor;
  - (2) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be merchantable and fit to be used for the particular purpose for which the materials are required;
  - (3) Any labor and services rendered and materials and equipment used or employed during the course and scope of the Project and Work shall be free of defects in workmanship for a period of one (1) year after the recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder;
  - (4) Any manufacturer's warranty obtained by Contractor shall be obtained or shall be deemed obtained by Contractor for and on behalf of City.
  - (5) Any information submitted by Contractor prior to the award of Contract, or thereafter, upon request, whether or not submitted under a continuing obligation by the terms of the Contract to do so, is true and correct at the time such information is submitted or made available to the City;
  - (6) Contractor has not colluded, conspired, or agreed, directly or indirectly, with any person in regard to the terms and conditions of Contractor's Bid, except as may be permitted by the Notice to Contractors;

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- (7) Contractor has the power and the authority to enter into this Contract with City, that the individual executing this Contract is duly authorized to do so by appropriate resolution, and that this Contract shall be executed, delivered and performed pursuant to the power and authority conferred upon the person or persons authorized to bind Contractor;
  - (8) Contractor has not made an attempt to exert undue influence with the Project Manager or any other person who has directly contributed to City's decision to award the Contract to Contractor;
  - (9) There are no unresolved claims or disputes between Contractor and City which would materially affect Contractor's ability to perform under the Contract;
  - (10) Contractor has furnished and will furnish true and accurate statements, records, reports, resolutions, certifications, and other written information as may be requested of Contractor by City from time to time during the term of this Contract;
  - (11) Contractor and any person performing labor and services under this Project is duly licensed as a contractor with the State of California as required by California Business & Professional Code Section 7028, as amended; and
  - (12) Contractor has fully examined and inspected the Project site and has full knowledge of the physical conditions of the Project site.
12. Assignment. This Contract and the performance required hereunder is personal to Contractor, and it shall not be assigned by Contractor. Any attempted assignment shall be null and void.
  13. Claims of Contractor. All claims pertaining to extra work, additional charges, or delays within the Contract Time or other disputes arising out of the Contract shall be submitted by Contractor in accordance with the General Conditions.
  14. Audits by City. During the term of this Contract and for a period of not less than three (3) years after the expiration or earlier termination of this Contract, City shall have the right to audit Contractor's Project-related and Work-related writings and business records, as such terms are defined in California Evidence Code Sections 250 and 1271, as amended, during the regular business hours of Contractor, or, if Contractor has no such hours, during the regular business hours of City.
  15. Notices. All contracts, agreements, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail, postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile

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transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) days by delivery of a hard copy of the material sent by facsimile transmission, in accordance with (1), (2) or (3) above. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City:           City of Lathrop  
                          City Clerk  
                          390 Towne Centre Drive  
                          Lathrop, CA 95330

Copy to:           City of Lathrop  
                          Department of Public Works  
                          390 Towne Centre Drive  
                          Lathrop, CA 95330

                          PHONE: (209) 941-7363  
                          FAX: (209) 941-7449  
                          ATTN: Ken Reed,  
                          Senior Construction Manager

To Contractor:   T & S Intermodal Maintenance, Inc. \_\_\_\_\_

Phone:            209-942-1360 \_\_\_\_\_

Fax:               209-942-1368 \_\_\_\_\_

ATTN:             Sammy Cox (President) \_\_\_\_\_

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**16. Miscellaneous.**

- (1) **Bailee Disclaimer.** The parties understand and agree that City does not purport to be Contractor's bailee, and City is, therefore, not responsible for any damage to the personal property of Contractor.
- (2) **Consent.** Whenever in this Contract the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.
- (3) **Controlling Law.** The parties agree that this Contract shall be governed and construed by and in accordance with the Laws of the State of California.
- (4) **Definitions.** The definitions and terms are as defined in these specifications.
- (5) **Force Majeure.** Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Contract, which directly results from an Act of God or an act of a superior governmental authority.
- (6) **Headings.** The paragraph headings are not a part of this Contract and shall have no effect upon the construction or interpretation of any part of this Contract.
- (7) **Incorporation of Documents.** All documents constituting the Construction Documents described in Section 3 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in this Contract and shall be deemed to be part of this Contract.
- (8) **Integration.** This Contract and any amendments hereto between the parties constitute the entire contract between the parties concerning the Project and Work, and there are no other prior oral or written contracts between the parties that are not incorporated in this Contract.
- (9) **Modification of Contract.** This Contract shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.
- (10) **Provision.** Any contract, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Contract shall define or otherwise control, establish, or limit the performance required or permitted or to be required of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.
- (11) **Resolution.** Contractor shall submit with its Bid a copy of any corporate or partnership resolution or other writing, which authorizes any director, officer or other employee or partner to act for or on behalf of Contractor or which authorizes Contractor to enter into this Contract.

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- (12) Severability. If a court of competent jurisdiction finds or rules that any provision of this Contract is void or unenforceable, the provisions of this Contract not so affected shall remain in full force and effect.
  - (13) Status of Contractor. In the exercise of rights and obligations under this Contract, Contractor acts as an independent contractor and not as an agent or employee of City. Contractor shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of City, and Contractor expressly waives any and all claims to such rights and benefits.
  - (14) Successors and Assigns. The provisions of this Contract shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.
  - (15) Time of the Essence. Time is of the essence of this Contract and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday, or any Day observed as a legal holiday by City, the time for performance shall be extended to the following Business Day.
  - (16) Venue. In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.
  - (17) Recovery of costs. The prevailing party in any action brought to enforce the terms of this Contract or arising out of this Contract, including the enforcement of the indemnity provision(s), may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.
  - (18) Contractor and subcontractors must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC1368), Executive Order 11738, and Environmental Protection Agency Regulations at 40 CFR Part 15.
  - (19) Contractors and subcontractors must comply with mandatory standards and policies relating to the energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation ACT (Public Law 94-163, 89 stat 871).
  - (20) The Contractor shall provide access to the site for the Environmental Protection Agency and its duly authorized representatives, and the City.

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- (21) If during the course of construction evidence of deposit of historical or archaeological interest is found, the Contractor shall cease operation affecting the find and shall notify the City, who shall notify the EPA and the State Historic Preservation Officer. No further disturbance of the deposits shall ensue until the Contractor has been notified by the City that construction may proceed. The City will issue a notice to proceed only after the state official has surveyed the find and made a determination to the EPA and the City. Compensation to the contractor, if any, for lost time or changes in construction to avoid the find, shall be determined in accordance with changed conditions or change order provisions of the Construction Documents.
- (22) Notice to Proceed. Prior to commencing work under this Contract, CONTRACTOR shall receive a written "Notice to Proceed" from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONTRACTOR for any services prior to issuance of the Notice to proceed.
- (23) Signatures. The individuals executing this Contract represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Contract on behalf of the respective legal entities of the CONTRACTOR and the CITY. This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- (24) This project is a public works project: Contractor shall comply with requirements of California Labor Code § 1700 and following, and prevailing wages shall be paid for work performed on this project.
- (25) The statutory provisions for penalties for failing to comply with the State of California wage and labor laws be enforced, as well as that for failing to pay prevailing wages.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above stated in Lathrop, California.

APPROVED:

Contractor:

\_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Sammy Cox

RECOMMENDED FOR APPROVAL:

Name: \_\_\_\_\_

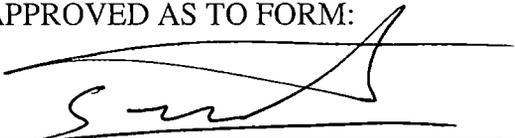
\_\_\_\_\_

Title: \_\_\_\_\_

Senior Construction Manager

APPROVED AS TO FORM:

Taxpayer I.D. No. 68-0479675 \_\_\_\_\_

  
\_\_\_\_\_  
City Attorney

*(END OF SECTION)*