

## EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve findings and a Modification to the Contract with **Knight Construction & Supply, Inc** for **Construction Services at Leaburg Dam Roll Gate 2 Hoist Replacement**.

Board Meeting Date: June 3, 2014

Project Name/Contract#: Leaburg Dam Roll Gate 2 Hoist Replacement/057-2013

Primary Contact: Mel Damewood Ext. 7145

Purchasing Contact: Sarah Gorsegner Ext. 7348

### Contract Amount:

Original Contract Amount: \$1,617,000

Additional \$ Previously Approved: \$0

Invoices over last approval: \$0

Percentage over last approval: 0 %

Amount this Request: \$1,617,000

**Resulting Cumulative Total:** \$1,617,000

### Contracting Method:

Method of Solicitation: Formal Invitation to Bid

If applicable, basis for exemption: n/a

Term of Agreement: November 11, 2014

Option to Renew? No

Approval for purchases "as needed" for the life of the contract No

### Narrative:

In February, 2014 staff issued a Formal Invitation to Bid for the replacement of the Leaburg Dam Roll Gate 2 Hoist. The solicitation closed in March and the contract was approved by the Board April 1, 2014. In early May, Knight Construction submitted a substitution request. The substitution request proposes a hoist with the originally specified capabilities, however the revised system offers fewer moving parts, reduced maintenance, ease of installation, redundancy in the event of failure, and requires less spare parts. The substitution request will require partial revision of the hoist system layout design and construction. Staff have reviewed the substitution request and support the requested revisions. There is no change to the cost associated with this substitution request.

Contract language requires the contractor to have personally investigated the proposed substitute product, provide the same warranty, and certify that the cost data includes all related costs. The contractor has represented in their substitution request that they comply with these requirements.

Legal Counsel has advised that the partial design modification of the hoist system may be perceived as a substantial change. A member of the contractor community could contend that the project should be considered as a new procurement to be rebid. Staff feels that the contractor's proposal is within the bounds of substitution requests that are allowed by the contract and perceive low risk that the substitution request would be viewed otherwise by the contractor community. In order to maintain transparency in the procurement process, mitigate the risk of delaying the project and address any potential requests from the contracting community, Legal Counsel has advised staff to request approval by the Board before allowing Knight Construction to proceed with the substitution request fabrication without entering a new competitive process. To begin a new competitive process would put the project behind schedule and delay completion until after the 2014/15 wet weather season, exposing EWEB to penalties for missing the operability deadlines required by the FERC as well as increasing the risk of flood damage. It is unlikely that proceeding with the current contractor, instead of issuing a new solicitation, would diminish competition as we only received one bid in the original Invitation to Bid. It is staff's assessment that the field of competition and contractor selection would not likely have been affected by the proposed partial substitution of design components within the project.

### Action Requested:

Contract Award  
 Contract Renewal  
 Contract Increase  
 Other: Approval of Alternative Amendment Process

### Funding Source:

Budget  
 Reserves  
 New Revenue  
 Bonding  
 Other

### Form of Contract:

Single Purchase  
 Services  
 Personal Services  
 Construction  
 IGA  
 Price Agreement  
 Other

**ACTION REQUESTED:**

Management requests that the Board approve a finding that the proposed substitution is within the scope of the original project bid under competitive process and may proceed without necessity for new competitive bidding and allow modification to the agreement with **Knight Construction and Supply, Inc.** as necessary to accommodate the substitution request.

**SIGNATURES:**

Project Coordinator: \_\_\_\_\_

LT Manager: \_\_\_\_\_

Purchasing Manager: \_\_\_\_\_

General Manager: \_\_\_\_\_

Board Approval Date: \_\_\_\_\_

Secretary/Assistant Secretary verification: \_\_\_\_\_