



## Legislation Details (With Text)

**File #:** 2021-0255  
**Type:** Consent Calendar Item **Status:** Agenda Ready  
**File created:** 3/12/2021 **In control:** Sonoma County Water Agency  
**On agenda:** 4/6/2021 **Final action:**  
**Title:** Mirabel Inflatable Dam Fabric Replacement - Contract Award Revocation and Award to Second Low Bidder  
**Sponsors:** Sonoma County Water Agency  
**Indexes:**  
**Attachments:** 1. Summary Report, 2. Resolution, 3. Settlement Agreement

Date	Ver.	Action By	Action	Result
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**To:** Board of Directors, Sonoma County Water Agency  
**Department or Agency Name(s):** Sonoma County Water Agency  
**Staff Name and Phone Number:** Mike West 707.524.1178  
**Vote Requirement:** 4/5th  
**Supervisory District(s):** Fourth and Fifth

**Title:**

Mirabel Inflatable Dam Fabric Replacement - Contract Award Revocation and Award to Second Low Bidder

**Recommended Action:**

- A) Revoke the award of the contract to Leonida Builders, Inc. for \$ 1,790,000 for construction of Mirabel Inflatable Dam Fabric Replacement.
- B) Authorize the General Manager of the Sonoma County Water Agency to execute a waiver and release with Leonida Builders, Inc.
- C) Award to Second Low Bidder the contract to Power Engineering Construction Co. for \$1,882,700 for construction of the Mirabel Inflatable Dam Fabric Replacement and authorize the Chair to execute the contract.
- D) Authorize the General Manager of the Sonoma County Water Agency to sign Section 00 65 23 (Agreement and Release of Any and All Claims), with County Counsel review, if any unresolved claims are listed by the contractor.
- E) Adopt a Resolution Authorizing Adjustment to the Board Adopted Budget for Fiscal Year 2020-2021 for the Common Facilities Fund in the amount of \$92,700 for the Mirabel Inflatable Dam Fabric Replacement.

(4/5<sup>th</sup> Vote Required)(Fourth and Fifth Districts)

**Executive Summary:**

This item requests the Board revoke the Award of the contract to Leonida Builders, Inc. (Leonida) for construction of the Mirabel Inflatable Dam Fabric Replacement Project (Project) in the amount of \$1,790,000 and Award the contract for the Project to second low bidder Power Engineering Construction Co. in the amount of \$1,882,700.

On January 26, 2021 the Board, at staff's recommendation, awarded the construction of the Mirabel Inflatable Dam Fabric Replacement Project to the low bidder, Leonida. This is a complex project located in the Russian River at a critical area of Sonoma Water's water delivery system. To date Leonida has failed to fully execute the agreement and comply with the requirements of the contract documents, which is putting the Project at tremendous risk. Sonoma Water has diligently worked to resolve the issues with Leonida. However, Sonoma Water and Leonida have been unable to resolve the issues in a timely manner. Sonoma Water and Leonida have agreed that Sonoma Water would revoke the award of the contract for the Project and award the contract to the second low bidder, and both have agreed to a Settlement Agreement with a mutual waiver. Through this Settlement Agreement Sonoma Water would waive the right to pursue Leonida's Bid Bond while Leonida would agree not to pursue Sonoma Water for claims of costs incurred or potential damages. Due to the complexity and timeliness required to complete this project staff recommend revoking the Award of the Project from Leonida and Award to the second low Bidder Power Engineering Construction Co.

**Discussion:**

The Mirabel Inflatable Dam was originally constructed in 1976 and its inflatable rubber fabric was replaced in 1995 after nearly 20 years of service. In 2005, the rubber dam, while still inflated, was submerged by an unexpected storm, which caused the dam to lift off its foundation, causing damage to the dam body requiring repair. The repair was completed the following summer in 2006. In 2016 a condition assessment of the dam found that the dam was near the end of its useful life and should be replaced within the next 5 years.

The Project consists of replacing the rubber dam fabric at Sonoma Water's Mirabel Inflatable Dam located at 10290 Westside Road, near the unincorporated town of Forestville, Sonoma County, California. The Work includes, but is not limited to, the removal of the existing rubber dam fabric and installation of approximately 180 lineal feet of replacement rubber dam fabric approximately 11 feet high on the existing concrete foundation. The new rubber dam fabric will be anchored to the concrete foundation by an existing upstream anchor line. The Work also includes construction of a coffer dam upriver and downriver, in conjunction with a dewatering system, to facilitate the removal of river channel material, construction of vegetated rock slope stabilization, and installation of the rubber dam fabric. Sonoma Water determined that the Project was exempt from CEQA and filed a Notice of Exemption for the Project on January 22, 2020. Work shall be completed within 130 Days from the date when Contract Time commences to run. Bidding Documents contain the full description of the Work.

Power Engineering Construction Company's bid was higher than the Engineer's Estimate, which appears to reflect the inherent risk and premium paid for construction within the river channel during dry months. Since the work is within the river channel, regulators require that the work be limited to between June 15th and October 15th.

Competitive Process, Selection & Cost Detail

The Project was advertised for bids: 10/08/2020

Bids were opened: 11/10/2020

Bids for construction of said Project were received on November 10, 2020, as follows:

Leonida Builders, Inc., Santa Clarita, CA	\$1,790,000
Power Engineering Construction Co., Alameda, CA	\$1,882,700
Sierra Mountain Construction, Inc., Sonora, CA	\$1,922,000

The Engineer's Estimate was \$1,325,000.

After award by the Board, Leonida was unable to provide a fully executed agreement by the contractual deadline of February 15, 2021. Leonida delivered an incomplete Agreement on February 16, 2021, that did not include the contractually required pollution liability insurance nor the Escrow Bid documents. After multiple requests Leonida provided incomplete Escrow Bid Documents on March 1, 2021. On March 9, 2021 Sonoma Water sent a notice to Leonida to provide the missing documents by March 16, 2021. After receiving this notification, Leonida responded and requested mutual termination of the contract and for Sonoma Water to proceed with contracting with the second lowest bidder. Sonoma Water and its legal Counsel concur with Leonida's suggestion and request that the Board revoke the award and not pursue Leonida's Bid Bond. The second lowest responsive and responsible bid is from Power Engineering Construction Co. and is \$557,700 above the Engineer's Estimate. Power Engineering Construction Co. is experienced in this type of construction and met the experience requirements.

A contractor must execute a release of claims (Section 00 65 23) before final payment but may except any unresolved claims from the release. The requested action authorizes the General Manager to approve the release unless the contractor lists unresolved claims. In that case, County Counsel must review Section 00 65 23 prior to General Manager approval.

Construction on the Project is scheduled to begin approximately May 24, 2021, with an estimated completion date of October 1, 2021.

#### ALTERNATIVES

Non-approval will compromise Sonoma Water's ability to reliably meet summer water supply demands by having to rely on the existing rubber dam fabric that is near the end of its useful life.

#### **Prior Board Actions:**

01/26/2021: 1. Adoption and approval of the Project Manual and Drawings ("plans and specifications") entitled "Mirabel Inflatable Dam Fabric Replacement Project"; 2. Award Mirabel Inflatable Dam Fabric Replacement Project to Leonida Builders for \$1,790,000; 3. Authorization for the General Manager of the Sonoma County Water Agency to sign Section 00 65 23 (Agreement and Release of Any and All Claims), with County Counsel review, if any unresolved claims are listed by the contractor.

06/09/2020: Board action to Reject all bids received for the Mirabel Inflatable Dam Fabric Replacement Project.

06/28/2006: Resolution 06-0626 of the Board declaring an emergency need to repair the Agency's Inflatable Dam.

#### **FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 20-21 Adopted</b>	<b>FY21-22 Projected</b>	<b>FY 22-23 Projected</b>
Budgeted Expenses	\$1,790,000		

Additional Appropriation Requested	\$92,700		
<b>Total Expenditures</b>	<b>\$1,882,700</b>		
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other	\$1,790,000		
Use of Fund Balance	\$92,700		
Contingencies			
<b>Total Sources</b>	<b>\$1,882,700</b>		

**Narrative Explanation of Fiscal Impacts:**

Budgeted amount of \$1,790,000 is available from FY 2020/2021 appropriations for the Common Facilities Fund. Additional appropriations of \$92,700 are required to process this expense. A budgetary resolution has been submitted with this item.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Resolution

Settlement Agreement

**Related Items "On File" with the Clerk of the Board:**

Project Manual and Drawings