

## **RESOLUTION NO. 21-044**

### **RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS APPROVING NOTICE OF COMPLETION AND RELEASE OF CONTRACT SURETY AND AUTHORIZING THE DIRECTOR OF TRANSPORTATION TO ACCEPT THE CONTRACT FOR DEPARTMENT OF TRANSPORTATION CONTRACT NUMBER 160090 FOR THE ROWES CREEK BRIDGE REPLACEMENT ON SHERWOOD ROAD, COUNTY ROAD 311, MILEPOST 5.52 (WILLITS AREA)**

WHEREAS, by Resolution Number (No.) 16-141 adopted December 6, 2016, the Mendocino County Board of Supervisors authorized the Department of Transportation (DOT) to advertise and award DOT Contract No. 160090; and

WHEREAS, on February 12, 2019, DOT awarded DOT Contract No. 160090 to Dunton Construction Company, Inc., in Anderson, California (CONTRACTOR), for the Rowes Creek Bridge Replacement on Sherwood Road, County Road 311, milepost 5.52; and

WHEREAS, final inspection and submission of contract records for the construction activity on the project was made pursuant to the Recommendation for Acceptance and filing of Notice of Completion accompanying this resolution; and

WHEREAS, Section 9204 of the California Civil Code provide that a public entity may record a notice of completion on or within 15 days after the date of completion of a work of improvement, and Section 9200 provides that completion of a work of improvement occurs at the earlier of the acceptance of the work of improvement by the public entity or the cessation of labor on the work of improvement for a continuous period of 60 days; and

WHEREAS, Section 9356 of the California Civil Code provides that a stop payment notice is not effective unless given before the expiration of 30 days after the recordation of a Notice of Completion; and

WHEREAS, Section 9558 of the California Civil Code provides that a claimant may commence an action to enforce the liability on a payment bond no later than six months after the period in which a stop payment notice may be given under Section 9356 of the Civil Code; and

WHEREAS, the Department of Transportation is requesting the authority to issue acceptance of the contract for the purpose of grant funding claims, apart from the actions taken to comply with the above-referenced sections of the California Civil Code, which acceptance would occur following confirmation from the Clerk of the Board and the Auditor that no claims or lawsuits have been filed against CONTRACTOR.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors:

1. Accepts the completed work, approves the form of Notice of Completion, and authorizes the Director of Transportation to execute the Notice of Completion for DOT Contract No. 160090 and file it with the County Recorder; and
2. Authorizes and directs the Director of Transportation to release, in accordance with the following schedule, the contract bonds filed by the contractor, Dunton Construction Company, Inc., 19802 Ox Yoke Road, Anderson, CA 96007, pursuant to the provisions of DOT Contract No. 160090, executed April 4, 2019; and

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3. Authorizes and directs the Director of Transportation to release, thirty days from the date of recordation of Notice of Completion, upon confirmation with the Clerk of the Board and the Auditor, no claims or lawsuits have been filed against same, the Performance Bond (No. 3013000) in the amount of \$2,327,221.21 issued by Great American Insurance Company, 301 E. 4<sup>th</sup> Street, Cincinnati, Ohio, 45202; and
4. Authorizes and directs the Director of Transportation to accept DOT Contract No. 160090 for the purpose of grant funding claims, upon confirmation from the Clerk of the Board and the Auditor that no claims or lawsuits have been filed against CONTRACTOR; and
5. Authorizes and directs the Director of Transportation to release, thirty days plus six months from the date of the recordation of Notice of Completion, providing no claims or lawsuits have been filed against same, the Payment Bond (No. 3013000) in the amount of \$2,327,221.21 issued by Great American Insurance Company, 301 E. 4<sup>th</sup> Street, Cincinnati, Ohio, 45202.

The foregoing Resolution introduced by Supervisor Williams, seconded by Supervisor McGourty, and carried this 6<sup>th</sup> day of April, 2021, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams  
NOES: None  
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO  
Clerk of the Board

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DAN GJERDE, Chair  
Mendocino County Board of Supervisors

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Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:  
CHRISTIAN M. CURTIS  
County Counsel

BY: CARMEL J. ANGELO  
Clerk of the Board

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Deputy