

# City of Calistoga

## Staff Report

**TO:** Honorable Mayor and City Council  
**FROM:** Derek Rayner, Deputy Public Works Director  
**VIA:** Michael Kirn, Public Works Director/City Engineer  
**DATE:** March 6, 2018  
**SUBJECT:** Consideration of a Resolution Awarding a Construction Contract to Granite Construction Company in the amount of \$1,874,955 for the Feige Canyon Water Storage Tank Replacement Project, Approving a Budget Adjustment and Authorizing the City Manager to Execute the Contract

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**APPROVAL FOR FORWARDING:**



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Dylan Feik, City Manager

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**ISSUE:** Consideration of a Resolution that:

1. Conditionally awards the construction contract to Granite Construction Company in the amount of \$1,874,955 for the Feige Canyon Water Storage Tank Replacement Project subject to Granite providing all documents in satisfaction of the bid award requirements.
2. Approves the Project construction budget in the amount of \$2,125,000 which includes Project construction, construction management, special inspections and contingency and authorizes the Public Works Director/City Engineer to negotiate and approve contract change orders up to the approved construction budget amount.
3. Approves a Budget Adjustment in the amount of \$2,041,116 increasing appropriations for the Feige Tank Replacement CIP, Account No. 12-5419 to \$2,441,160.
4. Authorizes the City Manager to execute the Project contract on behalf of the City of Calistoga and to execute an amendment to the consulting services agreement

- 18 with Kennedy/Jenks Consulting Engineers for construction management and  
19 special inspection services in the amount of \$150,000.
- 20 5. Directs staff to issue a notice of award to Granite Construction Company and  
21 otherwise administer the Project.
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- 23 6. In the event Granite Construction Company is unable to meet the conditions of  
24 award, awards the construction contract to MDS Engineering & Construction, Inc.  
25 conditioned upon MDS providing all documents in satisfaction of the bid award  
26 requirements
- 27 7. Waives any informalities or irregularities in Granite's bid.

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29 **RECOMMENDATION:** Adopt the Resolution.

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31 **BACKGROUND:DISCUSSION:** The Feige Canyon Water Storage Tank is a one-  
32 million gallon storage tank constructed in 1966. It is structurally and seismically  
33 deficient, and its replacement has been identified as critical for public health and safety.  
34 Public Works staff has successfully secured a Hazard Mitigation Grant (HMGP) from  
35 FEMA for its replacement (the Project). The HMGP grant will fund 75% of the total  
36 project cost with the City responsible for 25% of the Project cost.

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38 A notice inviting bids for construction of the Project was advertised on December 19,  
39 2017 with bids due on February 6, 2018. Six bids, which included the Add Alternate,  
40 were received as follows:

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42	1. Granite Construction Company	\$1,874,955
43	2. MDS Engineering & Construction Inc.	\$1,887,176
44	3. KG Walters Construction	\$1,948,000
45	4. Pacific Infrastructure Corp	\$2,201,850
46	5. Valentine Corporation	\$2,279,265
47	6. Gordon N. Ball	\$2,418,500

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49 The City received two protest letters within the time limit specified in the Instructions to  
50 Bidders. The first was from MDS Engineering & Construction Inc. protesting that  
51 Granite's bid was non-responsive due to Granite's failure to include a signed Non-  
52 Collusion Affidavit and therefore Granite's bid should be rejected.

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54 Staff reviewed the protest from MDS and consulted with the City Attorney's Office and it  
55 was determined that Granite's failure to include a signed Non-Collusion Affidavit with  
56 their bid is a minor irregularity which neither affected the amount of their bid nor did it  
57 give Granite an unfair advantage or benefit. On February 14, 2018 a letter was sent to  
58 MDS Engineering & Construction Inc. indicating the City's determination and advised  
59 them of our intent to recommend to the City Council that it award the contract to the low  
60 bidder Granite at the Council's regular March 6, 2018 meeting. See Attachment 2.

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62 The second protest was from United Industries Group, Inc. (UIG), a tank manufacturing  
63 company, contending that the City pre-selected a particular tank vendor/manufacturer in  
64 violation of Public Contracting Code §3400 and/or showed bad faith to UIG. UIG

65 requested that the City reject all bids and rebid the Project identifying UIG as an  
66 approved tank supplier.

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68 Staff reviewed UIG's protest and consulted with the City Attorney's Office. Based on  
69 this review it was determined that UIG is a supplier and not a bidder, and therefore does  
70 not have standing as a bidder to file a protest. Notwithstanding UIG's standing as a  
71 supplier and not a bidder, the City does not believe it pre-selected a particular tank  
72 vendor/manufacture, violated PCC §3400 or showed bad faith to UIG. On February 14,  
73 2018 a letter was sent to UIG indicating our intent to recommend to the City Council that  
74 it award the contract to the low bidder Granite at the Council's regular March 6, 2018  
75 meeting, and that we were not going to take any further action regarding the matters  
76 addressed in UIG's letter. See Attachment 3.

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78 Staff has reviewed the low bid proposal from Granite Construction Company and has  
79 performed due diligence to verify the information presented. Based on the reference  
80 checks staff recommends that the City Council find Granite Construction Company to be  
81 the lowest responsive and responsible bidder, and waive any minor bid irregularities.

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83 **COUNCIL GOALS AND OBJECTIVES:** The Project is consistent with Council Goal 3:  
84 Establish, Improve and Maintain City Infrastructure; Objective 2 – Upgrade and maintain  
85 the long-term reliability of the City's water supply.

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87 **CEQA/NEPA PERMIT COMPLIANCE:** All CEQA and NEPA environmental reviews  
88 have been completed for the Project.

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90 **FISCAL IMPACT:** The FY 2017/18 CIP Budget includes the Feige Tank Replacement  
91 Project which has an unappropriated fund balance of \$262,020. The City Council  
92 previously authorized the submittal of a HMGP Grant application to FEMA for the  
93 Project, with the understanding that FEMA would fund 75% of the Project costs and the  
94 City would be responsible for the remaining 25% as local match. On November 22,  
95 2017 we were informed that our request for additional funding was approved, for a total  
96 project of \$2,441,160. See Attachment 4. The maximum HMGP grant amount is  
97 \$1,830,870 with our local match being up to \$610,290.

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99 The recommend Budget Adjustment appropriates an additional \$2,041,116 derived from  
100 Grant Proceeds in the amount of \$1,530,870 (Fund 12-3230) and \$510,290 from Water  
101 Connection Fees to the Feige Tank Replacement project, Account # 12-5419 to fund  
102 construction, construction management, special inspections, and contingencies.

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104 **ATTACHMENTS:**
- 105 1. Resolution
  - 106 2. Response letter to protest from MDS Engineering & Construction Inc.
  - 107 3. Response letter to protest from United Industries Group, Inc.
  - 108 4. November 22, 2017 funding letter from FEMA.
  - 109 5. Correspondence Received from Haslerud Law Office dated 02/27/18
  - 110 6. Correspondence Received from Granite Construction Co. dated 02/28/18
  - 111 7. Correspondence Received from Granite Construction Co. dated 03/01/18

RESOLUTION NO. 2018-XXX

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3 **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF**  
4 **NAPA, STATE OF CALIFORNIA, CONDITIONALLY AWARDING A CONSTRUCTION**  
5 **CONTRACT TO GRANITE CONSTRUCTION COMPANY IN THE AMOUNT OF**  
6 **\$1,874,955 FOR CONSTRUCTION OF THE FEIGE CANYON WATER STORAGE**  
7 **TANK REPLACEMENT PROJECT, APPROVING A BUDGET ADJUSTMENT IN THE**  
8 **AMOUNT OF \$2,041,160 AND AUTHORIZING THE CITY MANAGER TO EXECUTE**  
9 **THE CONTRACT**

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11 **WHEREAS**, the Feige Canyon Water Storage Tank is over fifty-years old, is  
12 structurally and seismically deficient, and its replacement has been identified as critical  
13 for public health and safety; and

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15 **WHEREAS**, CEQA and NEPA has been completed and all permits obtained for  
16 the Feige Canyon Water Storage Tank Replacement Project (the Project); and

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18 **WHEREAS**, the City published a request for bids on December 19, 2017, bids  
19 opened February 6, 2018 with six bids being received ranging from \$1,874,955 to  
20 \$2,418,500; and

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22 **WHEREAS**, the low bidder was Granite Construction Company in the amount of  
23 \$1,874,955 and the second lowest bid was from MDS Engineering & Construction Inc. in  
24 the amount of \$1,887,176; and

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26 **WHEREAS**, City staff has confirmed that the bid from Granite Construction  
27 Company satisfies the bidding requirements for the Project as described in the bid  
28 instructions; and

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30 **WHEREAS**, staff has determined that Granite Construction Company possesses  
31 the required license(s) for the Project and is otherwise qualified to perform the Project in  
32 accordance with the Contract documents; and

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34 **WHEREAS**, staff has confirmed that the bid from MDS Engineering &  
35 Construction Inc. also satisfies the bidding requirements for the Project as described in  
36 the bid instructions and that MDS Engineering & Construction Inc. is also otherwise  
37 qualified to perform the Project in accordance with the Contract documents; and

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39 **WHEREAS**, staff has reviewed the bid from Granite Construction Company and  
40 recommends that the City Council find that Granite Construction Company is the lowest  
41 responsible and responsive bidder; and

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43 **WHEREAS**, Staff recommends that the bid be conditionally awarded to Granite  
44 Construction Company in the amount of \$1,874,955, which includes the Add Alternate,  
45 conditioned upon Granite Construction Company providing all documents in satisfaction  
46 of the bid award requirements; and

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**WHEREAS**, the City's adopted FY 2017/18 CIP Budget contains \$262,020 in unencumbered appropriations for the Project under Account 12-5419; and

**WHEREAS**, it is necessary to approve a Budget Adjustment in the amount of \$1,863,000 to cover Project construction costs, including consulting services for project management, inspections services and contingencies; and

**WHEREAS**, The Calistoga City Council has considered all information related to this matter, as presented at a public meeting of the Calistoga City Council, including any supporting reports by City staff, and any information provided during the public meeting.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Calistoga that the City Council:

1. Approves the Project plans and specifications.
2. Finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.
3. Finds that the bid from Granite Construction Company is the lowest responsive bid, Granite Construction Company is a responsible bidder, and waives any and all minor bid irregularities.
4. Approves the Project construction budget in the amount of \$2,125,000 which includes Project construction, construction management, special inspections and contingency and authorizes the Public Works Director/City Engineer to negotiate and approve contract change orders up to the approved construction budget amount.
5. Approves a Budget Adjustment in the amount of \$2,041,116 derived from Grant Proceeds in the amount of \$1,530,870 (Fund 12-3230) and \$510,290 from Water Connection Fees to the Feige Tank Replacement project, Account # 12-5419 to fund construction, construction management, special inspections, and contingencies.
6. Awards the construction contract to Granite Construction Company in the amount of \$1,874,995, which includes the Add Alternate, for construction of the Feige Canyon Water Storage Tank Replacement Project conditioned upon Granite Construction Company providing all documents in satisfaction of the bid award requirements.
7. Authorizes the City Manager to execute a construction contract with Granite Construction Company on behalf of the City of Calistoga.

93 8. Authorizes the City Manager to execute an amendment to the consulting  
94 services contract with Kennedy/Jenks Consulting Engineers for construction  
95 management and special inspection services in the amount of \$150,000.  
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97 9. Directs staff to issue a Notice of Award to Granite Construction Company and  
98 otherwise administer the Project.  
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100 10. In the event Granite Construction Company is unable to satisfy the bid award  
101 requirements, awards the construction contract to MDS Engineering &  
102 Construction Inc. in the amount of \$1,887,176, which includes the Add Alternate,  
103 under the same requirements, and authorizes the commensurate increase in  
104 expenditures from CIP Account 12-5419.  
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106 **PASSED, APPROVED, AND ADOPTED** by the City Council of the City of  
107 Calistoga at a regular meeting held this **6<sup>th</sup> day of March 2018**, by the following vote:  
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109 **AYES:**  
110 **NOES:**  
111 **ABSTAIN:**  
112 **ABSENT:**  
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115 **CHRIS CANNING, Mayor**

116 **ATTEST:**  
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118 **KATHY FLAMSON, City Clerk**