

**CONSTRUCTION DIVISION**

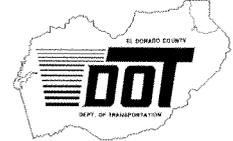
2441 Headington Road  
Placerville CA 95667  
Phone: (530) 642-4987  
Fax: (530) 295-2655

**KIMBERLY A. KERR**  
Interim Director of  
Transportation

Internet Web Site:  
<http://edcgov.us/dot>

**MAIN OFFICE**

2850 Fairlane Court  
Placerville CA 95667  
Phone: (530) 621-5900  
Fax: (530) 626-0387



April 27, 2012

Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667

**Agenda Title: DOT 5/1/12 Wentworth Springs Road at Gerle Creek –  
Bridge Replacement Project Award of Bid, Legistar # 11-  
0005**

**Meeting Date: May 1, 2012**

Dear Members of the Board:

Department of Transportation recommending the following pertaining to the Wentworth Springs Road at Gerle Creek - Bridge Replacement Project, Contract No. PW 11-30573, CIP No. 77118:

- 1) Adopt the factual findings as stated in the Department of Transportation's April 27, 2012 letter responding to JFC Construction, Inc.'s protest and, based thereon, deny the protest;
- 2) Award the Construction Contract to C.W. Fox Construction, Inc. who submitted the lowest responsive, responsible bid of \$755,723.01;
- 2) Authorize the Chair to sign the Construction Contract, subject to review and approval of the final Contract Documents by County Counsel and Risk Management;
- 3) Authorize the Interim Director of Transportation to sign an Escrow Agreement, if requested by the Contractor and in accordance with Public Contract Code Section 22300, for the purpose of holding Contract retention funds; and
- 4) Authorize the Interim Director of Transportation to execute Contract Change Orders with an individual value up to \$50,286, provided the cumulative total of all Contract Change Orders is within the funding limits for the Project. (Est. Time: 5 Min.)

**Funding:**

Because the Wentworth Springs Road at Gerle Creek - Bridge Replacement Project (Project) is located in an area that receives high accumulations of snowfall, the Department of Transportation (Department) is constrained from commencing construction in late spring. Although \$150,000 has been budgeted in Fiscal Year 11-12, the Department anticipates that little construction will take place in Fiscal Year 11-12. The low bid is 4% higher than the Engineer's Estimate. The Department will adjust the appropriation for the direct construction cost line item in the proposed Fiscal Year 12-13 budget accordingly. The Project is eligible for 100% construction phase funding through the Federal

## Highway Administration's Highway Bridge Program (HBP) and Toll Credits Program.

### Background:

On March 13, 2012 the Board adopted and approved the Plans and Specifications and authorized advertisement for construction bids for the Wentworth Springs Road at Gerle Creek - Bridge Replacement Project (Project) with the bid opening scheduled for Monday, April 9, 2012. In order to issue an addendum in response to bidders' inquiries no sooner than 72 hours before the bid opening to comply with Public Contract Code Section 4104.5, the Department postponed the bid opening to Thursday, April 12, 2012.

### Reason for Recommendation:

On Thursday, April 12, 2012 the Department opened bids for the Project. Four bids were received ranging from \$755,723.01 to \$868,932.65. The Engineer's Estimate is \$727,507.

### Adopt the factual findings as stated in the Department's April 27, 2012 letter and deny the bid protest:

On April 19, 2012 following the Department's review of the Underutilized Disadvantaged Business Enterprise (UDBE ) information, the Department issued the All Bidders Letter notifying bidders of the Department's intent to recommend award of the Project to the lowest responsive, responsible bidder: C.W. Fox Construction, Inc.

On April 24, 2012 the Department received via email a protest from JFC Construction, Inc. recommending that the apparent low bid (C.W. Fox Construction, Inc.) and the apparent second low bid (RNR Construction, Inc.) be deemed non-responsive and that the contract be awarded to JFC Construction, Inc. The protest contends that neither bidder met the requirements of the Subletting and Subcontracting Fair Practices Act because they failed to list on their Subcontractor Listing forms a crane company to set/install the pre-fabricated bridge into place.

The Department concludes from a review of C.W. Fox Construction, Inc.'s bid proposal and Public Contract Code Section 4104 et seq. that it will either self-perform the setting and installing of the pre-fabricated bridge, or rent equipment with or without an operator to perform this work. If after the award of the contract, C.W. Fox Construction, Inc.'s subcontracts this work to a licensed contractor for an amount exceeding the limits provided by Public Contract Code Section 4104, C.W. Fox Construction, Inc. would be subject to the penalties prescribed in Sections 4110 and 4111 of the Public Contract Code.

A more thorough discussion of the bid protest can be found in the attached copies of JFC Construction, Inc.'s protest letter, C. W. Fox Construction Inc.'s response letter, and the Department's response letter.

UDBE:

The Underutilized Disadvantaged Business Enterprise (UDBE) goal for the Project is 6.08%. Per the Contract Documents, if the top three bidders did not submit their UDBE information with their bid, they were required to submit this information by 4:00 pm the fourth business day after the bid opening, which for this Project was April 18, 2012. C.W. Fox Construction Inc. submitted a UDBE Commitment form which shows that C.W. Fox Construction Inc. has committed to a UDBE goal of 7.1%. The Department has reviewed C.W. Fox Construction Inc.'s UDBE Commitment form submittal and finds that the firms listed are certified DBEs under the California Unified Certification Program and meet the criteria for a UDBE; that C.W. Fox Construction Inc. provided sufficient written confirmation from each UDBE firm that each is participating in the Contract; and, that C.W. Fox Construction Inc. has exceeded the Contract goal of 6.08%.

Award and Sign Construction Contract with Lowest Responsive, Responsible Bidder:

C.W. Fox Construction Inc. submitted the lowest bid in the amount of \$755,723.01. The Department recommends award of the Construction Contract to C.W. Fox Construction Inc. who submitted the lowest responsive, responsible bid.

Authorize Interim Director to Sign Escrow Agreement:

Pursuant to Special Provisions Section 5-1.12, "Payment of Withheld Funds," of the Contract Documents, the Department will retain five percent (5%) of the value of work done from each Contractor payment (excluding mobilization payments) as security for the fulfillment of the Contract. Alternatively, Public Contract Code (PCC) Section 22300 provides that the Contractor may request that payment of retentions earned be made directly to an Escrow Agent. The Contractor will receive the interest earned on the investment.

In accordance with these provisions, the Contractor may request in writing that the County make payment of retention funds directly into an escrow account, which would necessitate an Escrow Agreement. To help expedite this process if requested by the Contractor, the Department requests that the Board authorize the Interim Director of Transportation to execute the Escrow Agreement. Upon satisfactory completion of portions of the Contract and upon written notification from the Interim Director of Transportation, the Contractor will receive incremental releases from the Escrow Agent of retention paid into the account and any interest earned thereon. A portion of the retention and interest will be retained in the escrow account until thirty-five (35) days after the recordation of the Notice of Acceptance of the Contract at which time these funds will be released to the Contractor.

Request for Additional Contract Change Order (CCO) Authority:

PCC Section 20142 allows a Board of Supervisors to authorize the County Engineer or other County officer to order changes in the work of a public

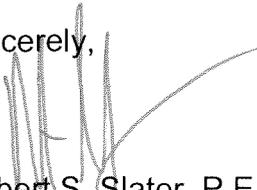
contract. This ability to delegate is capped at \$210,000. The Board, by Resolution No. 106-93, has utilized this provision and delegated to the Directors of Transportation and Environmental Management and the Chief Administrative Officer CCO authority not to exceed \$50,000. For this Project the CCO authority is limited by the resolution to \$32,557.

The Department is requesting that the Director's authority be increased pursuant to the limits set in the PCC, which for this Contract amounts to \$50,286. This authority is requested provided the cumulative cost of all CCOs is maintained within the funding limits for the Project.

Action to be taken following Board approval:

1. Upon approval by County Counsel and Risk Management, the Department will forward the Construction Contract, together with the required bonds and insurance, and the approved Contract Routing Sheet to the Acting Clerk of the Board for the Chair's signature.
2. The Acting Clerk of the Board will forward the fully executed Construction Contract to the Department for further processing.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Slater', with a long, sweeping flourish extending to the right.

Robert S. Slater, P.E.  
Assistant Director of Transportation

Attachments