



## Legislation Details (With Text)

**File #:** 19-0627      **Version:** 1

**Type:** Agenda Item      **Status:** Approved

**File created:** 4/10/2019      **In control:** Board of Supervisors

**On agenda:** 4/30/2019      **Final action:** 4/30/2019

**Title:** Department of Transportation recommending the Board consider the following pertaining to the El Dorado Trail - Missouri Flat Road to El Dorado Project, CIP 97014, Contract 2778:

- 1) Award the Construction Contract to Westcon Construction Corporation who was the lowest responsive, responsible bidder;
- 2) Approve and authorize the Chair to sign the Construction Contract, subject to review and approval by County Counsel and Risk Management; and
- 3) Authorize the 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.

**FUNDING:** Accumulative Capital Outlay (<1%), Active Transportation Program (66%), Congestion Mitigation and Air Quality Program (25%), Air Quality Management District and Air Pollution Control District Grant (8%) (Federal Funds).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Addendum 1, 2. B - Bid Summary, 3. Executed Agreement 2778

Date	Ver.	Action By	Action	Result
4/30/2019	1	Board of Supervisors	Approved	Pass

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**DISCUSSION / BACKGROUND**

Award and Sign Construction Contract with Lowest Responsive, Responsible Bidder:  
 The Department of Transportation (Transportation) received sealed bids for the El Dorado Trail - Missouri Flat Road to El Dorado Project (Project) on Wednesday, April 10, 2019 at 2:00 p.m. Transportation opened and read all bids received in conformance with contract bidding requirements.

Seven (7) bids were received ranging from \$2,618,754.16 to \$4,746,351.03. Westcon Construction

Corporation (Westcon) provided the lowest, responsive, responsible bid of \$2,618,754.16. Transportation issued the all bidders letter on Friday, April 19, 2019 with the bid protest period ending Friday, April 26, 2019, with no protests received. Transportation recommends award of the Construction Contract to Westcon.

Authorize the Director of Transportation (Director) to Sign Escrow Agreement:

Pursuant to Special Provisions Section 9-1.16F, "Retentions", Transportation 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 held 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, Transportation requests that the Board authorize the Director to execute the Escrow Agreement. Upon satisfactory completion of portions of the Contract and upon written notification from the Director, the Contractor will receive incremental releases from the Escrow Agent 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, upon written notification, these funds will be released to the Contractor.

Contract Change Orders (CCOs):

In any contract there is a need to be able to make changes and the CCO process facilitates the ability to make necessary changes when needed within a contract.

*Supplemental CCOs*

Certain types of work are necessary to complete the Project which cannot be estimated accurately because they require a variable effort to complete. These items are referred to as supplemental items and are identified in the Contract Documents as CCO work to be performed and paid for on a time and material basis, using California Department of Transportation (Caltrans) standard force account billing procedures. The work is authorized by issuance of a CCO, which also encumbers the funds anticipated to be needed for each of the planned supplemental items of work and is billed against as the work progresses. The amount of each CCO is based on an evaluation by Transportation staff of the Project components, area, and time frame. Supplemental items in this contract include Traffic Control and Storm Water totaling \$290,330.42 for this Contract. Because this work is anticipated and budgeted for separately, supplemental CCOs are not included in the 10% cap normally associated with contingency CCOs.

*Contingency CCOs*

With construction contracts, there is an expectation that unanticipated changes will be encountered once construction begins. To prepare for this, a 10% contingency budget is set aside. PCC Section 20142 and Resolution 102-2012 authorize the Director to execute individual CCOs, the maximum value of which is based on the original contract amount with a not-to-exceed limit of \$143,437.71. This authority is also for a cumulative total of contingency CCOs not to exceed 10% of the original Contract value.

The Project will provide 2.2 miles of Class I bike path along the existing railway corridor. Construction items include grading and paving; segmental retaining walls; pedestrian signal systems;

modifications to the railroad; and, signing, striping, and drainage system improvements.

Due to federal funding, both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance are required. A CEQA Initial Study/Mitigated Negative Declaration (IS/MND) was approved by the Board on December 19, 2017, Item 25, Legistar 17-1246. A CEQA Notice of Determination/Mitigated Negative Declaration was filed on December 20, 2017 and a California Department of Transportation (Caltrans) NEPA Categorical Exclusion Determination was issued on December 7, 2018. All required environmental permits have been approved for this Project.

All required right of way has been acquired for the Project.

The Contract Documents include all required federal provisions and incorporate the current Caltrans Disadvantaged Business Enterprise (DBE) requirements. The DBE goal is 16%.

The Project was approved for advertisement on March 5, 2019, Item 13, Legistar 19-0156.

### **ALTERNATIVES**

- 1) The Board could choose to not award the contract and direct Transportation to re-advertise for construction bids.
- 2) The Board could choose to cancel the Project. Note: The Board has previously approved the Project and the County would not be reimbursed with federal funds for the Project work completed to date.

### **PRIOR BOARD ACTION**

See Discussion / Background Section.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel and Risk Management reviewed and approved the Contract Documents on February 15, 2019.

### **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

### **FINANCIAL IMPACT**

The Engineer's Estimate for the construction phase of the Project is \$3,589,960.00, which includes an estimated bid of \$2,618,754.16; construction management, survey, materials testing and design support during construction totaling \$419,000.00; supplemental items of work totaling \$290,330.42 and, contingency of \$261,875.42.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Upon approval by County Counsel and Risk Management, Transportation will forward two (2) originals of the Construction Contract, together with the required bonds and insurance, and the approved Contract Routing Sheet to the Clerk for the Chair's signature.
- 2) The Clerk will forward one (1) fully executed Construction Contract to Transportation, attention of Brian Franklin, Office Engineer, for further processing.

### **STRATEGIC PLAN COMPONENT**

Infrastructure

**CONTACT**

Rafael Martinez, Director  
Department of Transportation