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Title: Department of Transportation recommending the Board take the following actions pertaining to the Apache Avenue Pedestrian Safety and Connectivity Project, Capital Improvement Program project number 36107021:

- 1) Award Bid Schedules A, B, and C of the Construction Contract to RaPiD Construction, Inc. dba Rapid General Engineering who is the lowest responsive, responsible bidder;
- 2) Approve and authorize the Chair to sign the Construction Contract in the amount of \$4,321,123.40 effective upon execution, subject to review and approval by County Counsel and Risk Management;
- 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; and
- 4) Approve \$250,000 of Discretionary Transient Occupancy Tax funds from Fallen Leaf Lake Road Project allocation (\$1.9 million) to be redirected to the Apache Avenue Pedestrian Safety and Connectivity Project. (District 5) (Cont. 5/21/2024, Item 23)

FUNDING: Active Transportation Program (37%), Carbon Reduction Program (12%), Congestion Mitigation and Air Quality Program (11%), Regional Surface Transportation Program Federal Funds - Caltrans Local Assistance (22%), and Tahoe Regional Planning Agency Mitigation Funds (8%), Discretionary Transient Occupancy Tax (5%), Road Fund (5%). (Federal Funds)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A - Apache Bid Results

Date	Ver.	Action By	Action	Result
6/11/2024	2	Board of Supervisors	Approved	Pass
5/21/2024	1	Board of Supervisors	Continued	Pass

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DISCUSSION / BACKGROUND

The Apache Avenue Pedestrian Safety and Connectivity Project (Project) will construct pedestrian, bicycle, and drainage improvements along Apache Avenue from US 50 / SR89 to East San Bernardino Avenue in the community of Meyers, CA. Specific improvements include approximately 0.35 miles of Class I bike path on the east side of Apache Avenue; 0.37 miles of sidewalk on the west side of Apache Avenue; Americans with Disabilities Act (ADA) improvements; improved crosswalks and signage with a speed feedback sign; and drainage improvements along Apache Avenue within the Project limits.

Since this project is adding pedestrian and bicycle facilities and is not adding any traffic lanes, it is exempt from the California Environmental Quality Act (CEQA) per Section 15301(C) of the 2024 CEQA Guidelines. A Notice of Exemption was filed on March 10, 2022, and a National Environmental Policy Act (NEPA) Categorical Exclusion was approved for the Project on March 17, 2022.

All necessary environmental permits have been obtained for this Project.

Additional right of way did not need to be secured for the Project.

The Contract Documents include all required federal provisions.

The Project was approved for advertisement by the Board on February 27, 2024 (Item 35, Legistar 24-0007). Transportation received one bid, which was opened at 2:00 p.m. on March 21, 2024. The bid price for the Schedule A work was \$3,918,342.30, which exceeded the Project's construction budget of \$2,927,242.00. Transportation reviewed the contract documents and made adjustments to the plans and specifications to reduce the estimated direct construction project costs. The one bid received was rejected by the Board, and the revised project plans and contract specifications were approved for re-advertisement on April 9, 2024 (Item 40, Legistar 24-0552).

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

On Wednesday, May 1, 2024, at 2:00 p.m., the Department of Transportation (Transportation) again opened bids for the Project. Four (4) bids were received, ranging from \$4,321,123.40 to \$5,613,338.00. The Engineer's Estimate was \$3,893,636.60.

Transportation issued the All Bidders Letter on Thursday, May 9, 2024, notifying the bidders of the recommendation to the Board for award of the Contract to RaPiD Construction, Inc. dba Rapid General Engineering (Contractor) and initiating the bid protest period. The bid protest period ended on Thursday, May 16, 2024, with no protests filed.

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

Pursuant to Section 9-1.16F(1), "Retentions" of the Contract Documents, 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.

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. This authority is also for a cumulative total of contingency CCOs not to exceed 10% of the original Contract value.

ALTERNATIVES

- 1) The Board could choose not to award the Contract and direct Transportation to re-advertise for construction bids.
- 2) The Board could choose to cancel the Project.

PRIOR BOARD ACTION

February 27, 2024 (Legistar 24-0007, Item 35) the Board approved advertisement for the Project.

April 9, 2024 (Legistar 24-0552, Item 40), the Board rejected the one bid received and approved re-advertisement of the revised plans and contract documents for the Project.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel and Risk Management

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

The total estimated combined cost for the Project's construction phase is \$3,980,416.74, which includes construction items of work, supplemental items of work, construction management, inspection, materials testing, and contingencies.

Bids received for this Project have come in higher than anticipated. Based on RaPiD's bid price and anticipated contingency, construction administration, and inspection costs associated with this bid price, the current funding shortfall is \$535,000. Transportation is providing additional funding of \$35,000 from semi-discretionary TRPA Mitigation Funds. In addition, Transportation is allocating \$250,000 from the Road Fund as the Project improvements include roadway and drainage improvements that will repair and replace infrastructure that would have otherwise been performed

as maintenance work and funded by the Road Fund. In order to close the final funding gap and deliver this important Project to construction, Transportation requests that \$250,000 of Discretionary Transient Occupancy Tax funds originally allocated for the Fallen Leaf Lake Road Project be reallocated to this Project. The Fallen Leaf Lake Road Project wasn't fully funded by DTOT and the Department is still seeking funds for the Project. Reallocating \$250,000 for the Apache Avenue Pedestrian Safety and Connectivity Project will have an immediate positive impact for the area residents.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) Upon approval by County Counsel and Risk Management, Department of Transportation will forward two (2) originals of Construction Contract #7922, 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 the Department of Transportation, attention of Jen Rimoldi, Office Engineer Group, for further processing.

STRATEGIC PLAN COMPONENT

N/A

CONTACT

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Department of Transportation