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Title: Community Development Agency, Transportation Division, recommending the Board consider the following regarding the U.S. 50/Missouri Flat Road Interchange Improvements - Phase 1B Project, CIP No. 71336:

- 1) Authorize the Chair to sign Contract Change Order No. 4.4 with DeSilva Gates - Viking, A Joint Venture in the amount of \$300,000 to provide payment for water pollution control work on the project;
- 2) Authorize the Chair to sign Contract Change Order No. 56.1 with DeSilva Gates - Viking, A Joint Venture in the amount of \$55,788.20 to provide payment for construction of improvements to the Motherlode Park and Ride Lot on the project; and
- 3) Authorize the Chair to sign a Budget Transfer increasing the revenue and expenditures for the proposed Contract Change Orders. (4/5 vote required)

FUNDING: State Transportation Improvement Program regional grant funds and Missouri Flat Master Circulation and Funding Plan local funds (No Federal Funds).

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2A - CCO 4.4 12/17/13, 2. 2B - CCO 56.1 12/17/13, 3. 2C - Project Budget Update 12/17/13, 4. 2D - Budget Transfer 12/17/13, 5. 2E - Fully executed Change Order 56.1.pdf, 6. CCO 56 9-25-12 - Fully Executed, 7. A - CCO 56 9-25-12, 8. B - Budget Summary 9-25-12, 9. C - Budget vs Actuals - att'd 9/25/12, 10. Executed CCO 4.4 BOS 12-17-13.pdf, 11. Executed BT BOS 12-17-13.pdf

Date	Ver.	Action By	Action	Result
12/17/2013	2	Board of Supervisors	Approved	Pass
9/25/2012	1	Board of Supervisors	Approved	Pass

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BUDGET SUMMARY:	
Total Estimated Cost.....	\$355,789.00

Budget - Current FY.....	\$0
Budget - Future FY.....	
New Funding.....	\$355,789.00
Savings.....	
Other.....	
Total Funding Available.....	\$355,789.00
Change To Net County Cost.....	\$0

Fiscal Impact/Change to Net County Cost

The total cost of the Contract Change Orders (CCO) is \$355,788.20. Payment for the proposed CCOs will come from State Transportation Improvement Program (Proposition 1B bond funds). The attached Budget Transfer will increase the Direct Construction budget for the U.S. 50/Missouri Flat Road Interchange Improvements - Phase 1B Project (Project).

Background

On October 21, 2009, the Transportation Division (Transportation) opened bids for the Project. The construction estimate for the Project was \$32 million and the low bid submitted by DeSilva Gates - Viking, A Joint Venture (DSG-V) was \$23,834,107. On November 9, 2009 (Item #1, Legistar file 09-1101), the Board awarded construction of the Project to DSG-V. As a part of the award, the Board also authorized a construction phase budget of \$41,815,000. Subsequent to award, Transportation submitted and the Board approved a construction phase budget of \$39,303,000 as part of the CIP. The Project’s roadway improvements were fully opened to motorists in fall 2012. Changes to the proposed bicycle path outside the eastbound lanes between Missouri Flat Road and Forni Road are expected to be completed in 2014. A summary of this Project’s construction phase budget and expenditures is attached.

Reason for Recommendation - Contract Change Order 4.4

At the time of Project award, the Board authorized execution of a \$300,000 contract change order (CCO) to provide compensation for water pollution control. On December 7, 2010, the Board approved an additional \$200,000 for water pollution control (CCO 4.2). On June 28, 2011 the Board approved an additional \$500,000 for water pollution control (CCO 4.3), increasing the total authorization for water pollution control to \$1,000,000.

During 2013, Transportation has been working with DSG-V to finalize costs for water pollution control. After compiling all of the billings and negotiating resolution on several discrete water pollution control issues, Transportation has concluded that DSG-V is owed approximately \$1.3 million for water pollution control work performed since the Project started in January 2010. Therefore, Transportation proposes the Board authorize execution of CCO 4.4 for \$300,000.

The significant cost associated with water pollution control on this project can be attributed to the following:

- On July 1, 2010, a new Construction General Permit (CGP) from the State Regional Water Quality Control Board went into effect. The Project is required by State law to comply with this new CGP and it includes some significant changes to the old CGP, all of which were compensable, including the following:

- o New requirements for training for contractor personnel that develop plans for controlling water pollution.
 - o New requirements for training for contractor personnel that install and maintain water pollution control measures in the field.
 - o Preparation of Rain Event Action Plans prior to storm events.
 - o Additional site inspections prior to, during, and after storm events.
 - o Water quality sampling and analysis at all Project discharge points during storm events.
 - o New requirements for installing water pollution control measures at areas under active construction.
 - o New requirements for installing water pollution control measures during summer months.
- Steep topography at the Project site. Water passing through steep terrain moves faster, erodes more material, and is more expensive to mitigate than water on flat projects.
 - Weber Creek flows through the Project. Whenever a stream, creek or river runs through a project, costs related to water pollution control increase dramatically. Separate permits from various regulatory agencies are required, and in the case of this Project, additional testing is required to demonstrate that Weber Creek is not being impacted by the Project. Also, more water pollution control measures are needed to ensure that the Project does not discharge directly into Weber Creek.
 - Given the dramatic downturn in private development during the life of the Project, water pollution control regulators were more attentive to public projects. This additional attention resulted in identification of new problem areas that required additional mitigation.
 - Fall 2010 was wetter than average and the rain started early in the season. Large portions of the Project were under construction during this time. The fact that rain arrived early required the contractor to winterize the Project earlier than anticipated, when permanent erosion control measures could not be installed. This resulted in higher installation and maintenance costs.
 - Overall, winter 2010-2011 was significantly wetter than average. This resulted in increased deployment of water pollution control measures and increased maintenance of water pollution control measures.

Reason for Recommendation - Contract Change Order 56.1

The Project's environmental document covers all U.S. 50/Missouri Flat Road Interchange Improvements Phase 1 projects. This environmental document requires that construction of the phase 1 improvements not decrease the number of parking spots at the Motherlode Park and Ride Lot. The profile of Motherlode Drive was raised by up to seven feet during Phase 1A, which required the construction of new fill slopes that encroached onto the Motherlode Park and Ride Lot and covered several parking spaces. The restoration of the parking spaces was planned for this Project, but prior to advertising for bids, Transportation removed the restoration work from the contract documents due to concerns for the potential of bids coming in too high. Bids instead came in lower than expected, and on September 25, 2012 Transportation brought CCO 56 to the Board to fulfill the requirements contained in the environmental document. The anticipated cost of CCO 56 was \$254,388.32.

Transportation and DSG-V could not agree on the amount or type of compensation for CCO 56, so it was executed unilaterally. The Board approved CCO 56 in the amount of \$254,388.32 on September 25, 2012. DSG-V filed a Notice of Potential Claim, stating that they disagreed with the estimated compensation provided by CCO 56. During construction, Division staff and DSG-V staff carefully tracked the cost of the work done to restore the parking at the Motherlode Park and Ride. An analysis of cost showed that DSG-V actually spent \$310,176.52 completing the work as opposed to

the \$254,388.32 proposed in CCO 56. In order to pay DSG-V their actual cost associated with CCO 56 (and thereby resolve the Notice of Potential Claim), Transportation recommends the Board authorize the Board Chair to execute CCO 56.1 in the amount of \$55,788.20, which is the difference between the estimated cost in the original CCO and the actual cost incurred by DSG-V.

Action(s) to be taken following Board approval

1. The Clerk of the Board will obtain the Chair's signature on CCOs 4.4 and 56.1.
2. The Clerk of the Board will forward the signed CCOs 4.4 and 56.1 to Transportation for further processing.
3. The Clerk of the Board will obtain the Board Chair's signature on the subject Budget Transfer and forward to the Auditor-Controller for posting.

Contact

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Community Development Agency

Concurrences

N/A