



## Legislation Details (With Text)

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**File created:** 9/4/2018      **In control:** Board of Supervisors

**On agenda:** 10/9/2018      **Final action:** 10/9/2018

**Title:** Community Development Services, Department of Transportation, recommending the Board take the following actions pertaining to the Airport Road Storm Damage Repair Project, CIP 78717, Contract 3240:

- 1) Authorize an increase to the 2018 CIP in the amount of \$39,789 for Direct Construction Costs for a total direct construction phase amount of \$388,789;
- 2) Reject the bid submitted by Herback General Engineering, Inc. as being non-responsive for failing to demonstrate a Good Faith Effort after failing to meet the DBE goal;
- 3) Award the Construction Contract to RNR Construction, Inc. who was determined to be the lowest responsive, responsible bidder;
- 4) Approve and authorize the Chair to sign the Construction Contract, subject to review and approval by County Counsel and Risk Management; and
- 5) 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:** Federal Highway Administration anticipated reimbursement (89.11%), California Disaster Assistance Act anticipated reimbursement (8.21%), Road Fund (2.68%).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Detour Plan, 2. B - Bid Summary, 3. Executed Airport Road Storm Damage Repair Project CIP 78717

Date	Ver.	Action By	Action	Result
10/9/2018	1	Board of Supervisors	Approved	Pass

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#### **DEPARTMENT RECOMMENDATION**

Award and Sign Construction Contract with Lowest Responsive, Responsible Bidder: On Friday, September 21, 2018 at 2:00 p.m. Department of Transportation (Transportation) opened bids for Airport Road Storm Damage Repair Project (Project). Six bids were received ranging from \$322,938.00 to \$751,760.00

The Disadvantaged Business Enterprise (DBE) goal for this project is 12%. Per the Contract documents, the Contractor had until 4:00pm on the fifth business day after the bid opening to submit their DBE commitment and documentation. Herback submitted their DBE commitment and documentation on Tuesday, September 25, 2018 with a 4 % DBE commitment. Transportation reviewed their Good Faith Effort (GFE) and found Herbacks GFE insufficient under 49 CFR 26 appendix A.

The second lowest bidder, RNR Construction, Inc. (RNR) submitted a DBE commitment and documentation with a 96.7% commitment. Transportation reviewed RNR's DBE Commitment form submittal and finds that the firms listed are certified DBEs under the California Unified Certification Program and meet the criteria for a DBE; that RNR provided sufficient written confirmation from each DBE firm that each is participating in the Contract; and, that RNR Construction has committed to exceeding the Contract DBE goal.

Transportation issued the All Bidders Letter on Tuesday October 2, 2018, notifying the bidders of the recommendation to the Board for award of the contract to RNR and initiating the bid protest period. The bid protest period ended at 5:00 P.M. on Friday, October 5, 2018, with no protests filed.

#### 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.

#### *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 \$30,172.20. This authority is also for a cumulative total of contingency CCOs not to exceed 10% of the original Contract value.

## **DISCUSSION / BACKGROUND**

The Project will repair damage caused by the storms in early 2017. The work includes slope repair, culvert replacement, paving, and other work. The Project was approved for advertisement on August 28, 2018 (Item 28) and authorization to proceed with the construction phase of the Project has been obtained.

Airport Road will be fully closed to traffic for twenty-nine (29) calendar days at Post Mile 0.31. Access for local residents and visitors, as well as emergency personnel and law enforcement will be via detour to Airport Road, Broadway, Main Street, Cedar Ravine Road and Country Club Drive per the Detour Plan (Attachment A). Transportation will notify the public of this road closure at least one week in advance via the County website, press release, and portable changeable message signs.

Due to federal funding, both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance are required. A CEQA Notice of Exemption was filed on May 18, 2017. A California Department of Transportation (Caltrans) NEPA Categorical Exclusion Determination was issued on June 26, 2017. All applicable environmental permits will be retroactively obtained for the Project as determined to be necessary and in conformance with Caltrans and FHWA emergency contract procedures.

The Contract Documents include all required federal provisions and incorporate the current Caltrans' Disadvantaged Business Enterprise (DBE) requirements. The DBE goal is 12%.

## **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 FHWA funds for the Project work completed to date.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel and Risk Management reviewed and approved the Contract Documents.

## **CAO RECOMMENDATION**

It is recommended that the Board approve this item.

## **FINANCIAL IMPACT**

The total estimated cost for Project construction in the approved 2018 Capital Improvement Program is \$441,789.00, which includes an estimated bid of \$353,444.00; construction management, survey, materials testing and design support during construction totaling \$53,000; and contingency of \$35,345.00.

Total Funding for this Project is included in the 2018 CIP Book approved by the Board on June 26, 2018 (item 61).

### **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  
Community Development Services, Department of Transportation