



## Legislation Details (With Text)

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**Type:** Agenda Item **Status:** Approved  
**File created:** 3/26/2019 **In control:** Board of Supervisors  
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**Title:** Department of Transportation recommending the Board take the following actions related to the White Meadow Road and Peavine Ridge Road Storm Damage Repair Project, CIP 78711/36102025, Contract 2771:

- 1) Approve and authorize the Board Chair to sign Contract Change Order 5, in the amount of \$181,498 to realign a portion of Peavine Ridge Road;
- 2) Find that an exception to the competitive bidding requirement exists for the work described in Contract Change Order 5 and that a waiver of competitive bidding is appropriate; and
- 3) Authorize an increase to the construction phase budget in the amount of \$247,498.

**FUNDING:** State Transportation Block Grant Exchange funds.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - CCO 5, 2. Executed Work Order

| Date      | Ver. | Action By            | Action   | Result |
|-----------|------|----------------------|----------|--------|
| 7/16/2019 | 1    | Board of Supervisors | Approved | Pass   |

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### DISCUSSION / BACKGROUND

The contract for the White Meadow Road and Peavine Ridge Road Storm Damage Repair Project (Project) was approved by the Board on September 25, 2018 (Item 49) and notice to proceed was issued for November 5, 2018. On February 12, 2019 (Item 19), the Board approved Contract Change Order (CCO) 4 in the amount of \$144,525 and also a budget increase of \$75,000. On March 19, 2019 (Item 32), the Department of Transportation (Transportation) advised the Board that additional damage had occurred at one of the Project sites, and that Transportation would be returning with a CCO for Board approval at a later date.

This Project has two distinct sites: One on White Meadows Road about 1.4 miles from U.S. 50, and another site on Peavine Ridge Road about 5.1 miles from U.S. 50. Both sites were damaged by heavy rain in early 2017. There were numerous other storm damage projects on the west slope with

higher repair priorities, so this Project sat idle through the winter of 2017-2018 (with no subsequent damage to either site). Construction started in September 2018. Work was approximately 80% completed before rain in late 2018 caused work to be suspended. The White Meadows site made it through winter 2018-2019 with no damage, but the Peavine Ridge site experienced significant additional damage between Christmas 2018 and March 1, 2019. The damage includes slide debris from a slope above the road damaging a roadside ditch and extensive heaving in the roadway. There are only approximately 10 residences out past the Peavine Ridge site.

#### CCO 5 Work

Upon inspecting the slide uphill from the road in early 2019, Transportation staff saw that there was a large area of unstable earthen material above the road with many recently opened fissures, many of which were more than a foot deep. Transportation engaged Crawford and Associates, Inc. (Crawford), a geotechnical engineering firm, to evaluate the site and offer ideas for remediation. Crawford evaluated the site with a pedestrian inspection and several borings through the failed material. Crawford provided the County with two recommendations for remediation. The first was an extensive network of new underdrains in the failed material uphill from Peavine Ridge Road connecting to another new underdrain along Peavine Ridge Road, with the existing ditch and road to be reconstructed in their existing locations. Transportation estimates the cost of this proposal to be approximately \$325,000. Crawford's second proposal was to remove all of the failed material, install a new underdrain along Peavine Ridge Road, and reconstruct the ditch and the road in their existing locations. Transportation estimates the cost of this proposal to be approximately \$353,000. Both of these proposals are expensive, and they both carry the risk of future slides impacting Peavine Ridge Road. Therefore, after considering Crawford's proposals, Transportation decided to instead relocate a 300'-long portion of Peavine Ridge Road to the south, which will be far enough away from the slide zone that any future movement of the hillside should not impact the road. Surface and subsurface drainage improvements will also be installed to make sure the road prism and surrounding areas drain properly. Transportation and the Contractor have agreed on a price of \$181,498 for this work.

#### Waiver of Competitive Bidding

Execution of CCO 5 will push the cumulative value of CCOs on this Project to 37% of the original contract amount. Public Contract Code section 20137 requires that changes to public works contract exceeding 10% of the original contract amount be let by competitive bidding. However, a well-recognized exception to that requirement applies when the nature of the subject of the contract is such that competitive proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible. (Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal.App.3d 631). The courts developed this exception to assure that the competitive bidding requirement is applied reasonably with reference to the public interest and its underlying purposes, including obtaining the best economic result for the public. Where competitive proposals would not result in any advantage to the public entity or where it is practically impossible to obtain what is required, competitive bidding may be waived.

The specific circumstances concerning the subject Project support the conclusion that competitive bidding for the work described in CCO 5 would have been undesirable and impractical and would not have resulted in the best economic result for the public for the following reasons:

1. Each of the items of change order work is functionally integrated with the base project; that is, when the Contractor is performing base project work, it can quickly and effortlessly move to the work proposed by CCO 5 with no loss in efficiency. The Contractor and its subcontractors will already be mobilized and on site doing the base Project work. These factors allow the

integration of the CCO work to be successful and maximize the public benefits from the Project;

2. Advertising and bidding for the Project changes would result in delays in Project completion; and
3. Competitive bidding requires award to the lowest responsible bidder. This could result in multiple contractors working on the same Project components at the same time, potentially causing conflicts between contractors and problems with the efficient performance of each contractor, overall system functionality, and warranty liabilities.

For these reasons, Transportation recommends the Board find that an exception to the competitive bidding requirement exists here and that a waiver of competitive bidding is appropriate.

### **ALTERNATIVES**

The Board could choose to not approve this CCO. The Contractor would complete the remaining base project work. Peavine Ridge Road would remain in its damaged condition.

### **PRIOR BOARD ACTION**

See Discussion / Background section above.

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

N/A

### **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

### **FINANCIAL IMPACT**

While the Project is eligible for 75% reimbursement by FEMA and 18.75% reimbursement by California Office of Emergency Services for eligible costs, CCO 5 will not be eligible for reimbursement, since the damage proposed to be repaired by CCO 5 did not occur during the 2017 storms. Therefore, Transportation proposes that funding for CCO 5 be provided with State Transportation Block Grant Exchange funds to cover expenditures as follows:

|                         |                     |
|-------------------------|---------------------|
| Crawford and Associates | \$ 32,000.00        |
| CCO 5                   | \$ 181,498.00       |
| Construction Management | \$ <u>30,000.00</u> |
| Total                   | \$ 247,498.00       |

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

N/A

### **STRATEGIC PLAN COMPONENT**

Infrastructure

### **CONTACT**

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Department of Transportation