



## Legislation Details (With Text)

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**On agenda:** 6/6/2023 **Final action:** 6/6/2023

**Title:** Department of Transportation recommending the Board take the following actions pertaining to the Enterprise Drive and Industrial Drive Intersection Improvements Project, Capital Improvement Program 36105052/36105053:

- 1) Award the Construction Contract to the lowest responsive, responsible bidder, McGuire and Hester;
- 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:** TIM - Zn 1-7 (9%), Tribe (54%), Accumulative Capital Outlay (ACO) (14%), MC&FP (6%), TIFF - Zone B (22%), General Fund (23%). (No Federal Funds)

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. A - Bid Summary, 2. Executed Construction Contract #6286

Date	Ver.	Action By	Action	Result
6/6/2023	1	Board of Supervisors	Approved	Pass

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### DISCUSSION / BACKGROUND

The Enterprise Drive and Industrial Drive Intersection Improvements Project (Project) will remove the temporary traffic signal at Missouri Flat Road and Industrial Drive and replace it with a permanent traffic signal. This Project will also signalize the intersection of Missouri Flat Road and Enterprise Drive as well as construct turn lanes and realign Industrial Drive.

This Project does not have federal funding; thus, only California Environmental Quality Act (CEQA) compliance is required. A CEQA Addendum to the EIR was approved by the Board on October 16,

2018 (Legistar 18-1493, Item 3). This Project does not require any environmental permits.

All needed right of way has been secured for the Project.

The Project was approved for advertisement by the Board on April 18, 2023 (Legistar 23-0652, Item 21).

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

On Friday, May 26, 2023 at 2:00 p.m., the Department of Transportation (Transportation), opened bids for the Enterprise Drive and Industrial Drive Intersection Improvements Project. Three bids were received ranging from \$4,643,348.00 to \$5,951,940.00.

McGuire and Hester submitted the lowest responsive, responsible bid. Transportation issued an All Bidders Letter on Tuesday, May 30, 2023, notifying the bidders of the recommendation to the Board for award of the contract to McGuire and Hester and initiating the bid protest period. No bid protests were received. McGuire and Hester's total bid for the project is \$4,643,348.00

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 \$244,677.40, 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**

October 16, 2018, Legistar# 18-1493, Item 3

April 18, 2023, Legistar# 23-0652, Item 21

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel and Risk Management

## **CAO RECOMMENDATION / COMMENTS**

Approve staff recommendation recognizing that a budget transfer for FY 2023-24 will need to be brought back at addenda to account for the funding shortfall.

## **FINANCIAL IMPACT**

The Engineer's Estimate for the construction phase of the Project is \$5,804,185.00, which includes construction items of work totaling \$4,643,348.00, construction management, environmental monitoring, inspection, materials testing totaling \$696,502.20, and contingencies totaling \$464,334.80.

To account for the construction funding shortfall, a total of \$355,156 of MC&FP funds will be added to direct construction and construction engineering budgets for CIP #36105052. For Project 36105053, a total of \$1,300,000 of TIF - Zone B funds will be added to the direct construction budget. Funding is available in the FY 2022-23 budget, but additional funding will be needed for FY 2023-24. The addition of these funds will be addressed in a budget transfer request as part of a future Board meeting for an addendum to the 2023 CIP.

## **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 the Construction Contract #6286, 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 Department of Transportation, attention of Jen Rimoldi, Office Engineer Group, for further processing.

## **STRATEGIC PLAN COMPONENT**

Infrastructure

## **CONTACT**

Rafael Martinez, Director

Department of Transportation