



Legislation Text

File #: 11-0774, Version: 1

Department of Transportation recommending the Board consider the following pertaining to the White Rock Road Widening and Signalization Project (JN 72372):

- 1) Approve and authorize the Chair to sign the "Reimbursement Agreement for the Advancement of Funds for the Construction of the White Rock Road / Post Street Intersection Signalization between the County and the Developer";
- 2) Approve and authorize the Chair to sign Contract Change Order No. 5 with Granite Construction Company in an estimated amount of \$158,300 to construct a new traffic signal system at the intersection of White Rock Road and Post Street, and in doing so, find that it is in the public's best interest to waive competitive bidding for the work described therein; and
- 3) Approve and authorize the Chair to sign a Budget Transfer increasing the revenue and expenditures for the proposed Contract Change Order.

FUNDING: State and Local Partnership Program Grant Funds, Developer Advance.

BUDGET SUMMARY:		
Total Estimated Cost		\$170,000
Funding		
Budgeted	\$0	
New Funding	\$170,000	
Savings	\$	
Other	\$	
Total Funding Available	\$170,000	
Change To Net County Cost		\$0

Fiscal Impact/Change to Net County Cost:

The estimated cost of this proposed Contract Change Order (CCO) is \$158,300. Payment for this proposed CCO will come from State and Local Partnership Program (SLPP) Grant Funds (\$79,150) and advancement of funds by Arrowest Properties, Inc. (\$79,150). It's anticipated that there will be additional construction management and inspection costs which will be funded 50% by State and Local Partnership Program Grant Funds with the remainder coming from the Developer Advance.

Background:

On August 17, 2010, the Board authorized the White Rock Road Widening and Signalization Project (Project) for advertisement and directed the Department of Transportation (Department) to include wording to allow the County to delay issuance of the Notice to Proceed for up to 90 days after award of the Contract. On September 10, 2010, the Department opened bids for the Project. The construction estimate for the Project was \$767,000, and the low bid submitted by Granite Construction Company (Granite) was \$358,358. On October 5, 2010, the Board awarded

construction of the Project to Granite. As a part of the award, the Board also authorized a contingency budget of \$74,000, a supplemental work budget of \$56,000, and a construction management budget of \$120,000. Construction started on December 6, 2010, but significant non-compensable delays and a suspension have occurred due to the wet winter and spring weather.

The Project is currently expected to be completed in August 2011. If approved, the proposed CCO will enact a temporary suspension of the Project during procurement of CCO signal hardware, and then allow for 20 working days to construct the signal system once the hardware is procured. This will push overall Project completion back to late Fall 2011.

Reason for Recommendation:

Funding

The Project bid documents did not include the traffic signal at White Rock Road and Post Street. The southerly leg of this intersection is the entrance to a commercial development on land owned by Arrowest Properties, Inc. (Developer). The Department has been conducting ongoing discussions with the Developer regarding the Developer's participation in funding a traffic signal at White Rock Road and Post Street with an advance of funds. The Department and the Developer have reached agreement on the manner in which the Developer will fund half of the cost of the proposed signal, per the terms of the proposed Reimbursement Agreement.

The "Reimbursement Agreement for the Advancement of Funds for the Construction of the White Rock Road / Post Street Intersection Signalization between the County and the Developer" (Agreement) would require the Developer to deposit an amount of \$85,000 with the County, which represents half of the cost of the proposed CCO plus an amount for the associated cost of construction management. The Agreement allows for future reimbursement or future issuance of fee credits for these advanced funds. Acknowledging the currently existing reimbursement agreements in the Zone 8 Traffic Impact Mitigation Fee area, the Agreement requires all outstanding payments for preexisting agreements be paid in full before reimbursement for the subject Agreement can be paid by the County or fee credits can be issued.

The other half of the funding will come from SLPP Grant Funds. The Department has consulted with the State personnel responsible for administering and distributing the SLPP funds, and the Department has received concurrence to proceed with this proposed CCO and that the proposed CCO is eligible for SLPP reimbursement.

Need for Signal System

Concurrent with obtaining the funding for the proposed CCO, the Department researched the traffic engineering-based need for the signal system. In doing so, Department staff ran traffic signal warrants and found that three warrants were met at the intersection. Staff realized that the proximity of the proposed signal system at Post Street to the existing signal at White Rock Road and Latrobe Road would limit queue storage space on White Rock Road to approximately 450 feet. At full build out of the General Plan Model, a signal system at White Rock Road and Post Street causes Latrobe Road to operate at an unacceptable level of service. However, in the interim, a signal at Post Street will have no significant impacts to the adjacent intersections and there are considerable positive results:

- Significant enhancements to pedestrian and motorist safety at the intersection.

- Increased efficiency of intersection operations (decreases delay) when compared to the existing all-way stop.
- Improved access to the Park and Ride Facility on the northwest corner of White Rock Road and Post Street.
- Improved access to the bus stop and transfer station on the north side of the intersection.

Environmental

The area of potential effect (APE) for this Project includes the area in which the proposed signal system will be located. A Categorical Exemption was filed in accordance with the California Environmental Quality Act for the complete signal system at White Rock Road and Post Street on September 9, 2008. After this Categorical Exemption was filed, portions of the underground work associated with the proposed signal system were constructed during the project that realigned White Rock Road in 2008. This was done so as to minimize the amount of trenching through the 2008 pavement once the full signal system was installed.

Public Interest Finding

Public Contract Code Section 20137 requires that changes to a public works contract exceeding ten percent 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, 635-636.) 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 eliminating favoritism and corruption, preventing waste, and obtaining the best economic result for the public. (Id., at p. 636.) Accordingly, where competitive proposals work an incongruity and are unavailing as affecting the final result, or where competitive proposals do not produce any advantage, or where it is practically impossible to obtain what is required and to observe such form, competitive bidding is not applicable. (Ibid.)

The opinion of the Department and County Counsel is that execution of the proposed CCO meets the public's best interest standard described above for the following reasons:

Immediate Availability of Funding

As stated above, the SLPP will fund one-half of the costs for the proposed CCO as an eligible project cost. If the proposed work is implemented as a stand-alone project, the aforementioned \$79,150 would not be available for this Project, and the County would have to compete for funding in subsequent grant cycles. Using this available funding is a significant benefit to the public within the jurisdiction of the Board.

Earlier Public Benefit

If the CCO is executed as proposed, it is expected that the public will benefit from the signalized intersection upon Project completion later in 2011. If the work is bid as a stand-alone project, it is uncertain when the County would be successful in securing new funds to match the Developer advance.

Minimization of Public Inconvenience

Construction of the improvements to White Rock Road in the vicinity of the White Rock Road / Post Street intersection is currently ongoing as a part of the current Project, including changes to the

striping at the White Rock Road / Post Street intersection. If the work is implemented via CCO as proposed, all construction related to the installation of the signal will be completed concurrent with the current Project. If the work is completed as a stand-alone project, changes to the striping and work associated with installation of the signal loops will have to be redone at the time of the stand-alone signalization project, resulting in additional disruptions to the public.

Enhanced Public Safety

Signalization of the White Rock Road / Post Street intersection will improve public safety through the improved motorist and pedestrian movements that are facilitated by a traffic signal.

In addition to the above reasons that demonstrate that executing a CCO meets the public's best interest as described in California Civil Code, the Department has also concluded that executing a CCO will almost certainly not cost more than bidding the project stand-alone, and will quite likely save money, due to reasons as follows:

- Lower Contractor mobilization costs. Granite is already mobilized on the site.
- No Contractor insurance costs. Granite's insurance that was already bought for the original Project will cover the CCO work.
- No administrative cost related to project advertisement.
- No administrative cost related to project award.
- Significantly reduced costs related to creation of project specifications (most of the specifications for the existing Project are acceptable for use on the CCO work).
- Reduced throwaway costs associated with the restriping.

If the proposed CCO work was publicly bid for construction, because of uncertainties related to obtaining new match funding, it would not be possible to determine what bidding climate would be in place at that time. It is expected that construction costs will increase when the overall economy improves.

It is also important to note that Granite has agreed to perform 18 of 22 of the CCO items for which there are corresponding items in the existing project at the prices listed in Granite's schedule of values for the signal work in its original Project bid for signal work at the White Rock / Windfield Intersection. The existing Project was publicly bid, and these prices remain competitive. Moreover, Granite's original Project bid price for signal work was the lowest submitted by any of the three bidders.

In sum, it is the Department's opinion that procuring the work through competitive bidding would not produce any appreciable advantage to the County or benefit to its residents. Indeed, the public would receive a significant benefit if the work is done via CCO due to earlier use of the signal system and enhancements to public safety. In these circumstances, competitive bidding is not required as to do so would be incongruous with its underlying purpose: obtaining the best result for the public. For these reasons, the Department recommends the Board find that an exception to the competitive bidding requirement exists here and, therefore, the work described herein may be performed through a CCO to the existing contract with Granite.

Action to be taken following Board approval:

- 1) The Clerk of the Board will obtain the Board Chair's signature on two originals of the subject

Agreement.

- 2) The Clerk of the Board will obtain the Board Chair's signature on the subject CCO.
- 3) The Clerk of the Board will forward the two signed originals of the Agreement and the signed CCO to the Department for further processing.
- 4) 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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Concurrences: County Counsel