

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # *C-1

Urgent

Routine

AGENDA DATE May 6, 2008

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Award Contract to Pacific Excavation, Inc., of Elk Grove, California, for the Sisk Road at Bangs Avenue Traffic Signal, Federal-Aid Project No. CML-5938(139)

STAFF RECOMMENDATIONS:

1. Award contract in the amount of \$174,562 to Pacific Excavation, Inc., of Elk Grove, California, for the construction of the Sisk Road at Bangs Avenue Traffic Signal, Federal-Aid Project No. CML-5938(139).
2. Authorize the Director of Public Works to execute a contract with Pacific Excavation, Inc., for \$174,562 and to sign necessary documents.
3. Direct the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet.

FISCAL IMPACT:

Costs associated to assure the delivery of this project in the amount of \$212,062 (\$174,562 contract, \$15,000 construction quality assurance, \$5,000 material testing, \$17,500 contract change orders and contingencies) will be satisfied with funds available from Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds (88.53%) and Public Works funds (11.47%). The Department anticipates using fund balance to provide the local match portion. There will be no impact to the Stanislaus County General Fund.

BOARD ACTION AS FOLLOWS:

No. 2008-320

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Award Contract to Pacific Excavation, Inc., of Elk Grove, California, for the Sisk Road at Bangs Avenue Traffic Signal, Federal-Aid Project No. CML-5938(139)

4. Authorize the Director of Public Works to execute change orders in accordance with Public Contract Code, Section 20142.
5. Upon project completion, authorize the Director of Public Works to accept the completed improvements and perform all necessary closeout activities.

DISCUSSION:

This project consists of the installation of traffic signals at the intersection of Sisk Road and Bangs Avenue. This intersection is currently a three-legged intersection with a stop sign on Bangs Avenue. Improvements are needed to accommodate additional traffic related to general growth in the region.

On October 3, 2006, the Board of Supervisors awarded a consulting engineering contract to Associated Engineering Group, Inc. for the design of the Sisk Road at Bangs Avenue Traffic Signal project. Upon Board approval, the Department of Public Works entered into a contract with Associated Engineering to provide professional engineering services for the signalization of Sisk Road at Bangs Avenue.

This project is exempt from the California Environmental Quality Act (CEQA) under Title 14, Section 15301 (Existing Facilities) of the California Code of Regulations.

On February 12, 2008, the Board of Supervisors approved and adopted the plans and specifications for the Federal Project No. CML-5938(139) Sisk Road at Bangs Avenue Traffic Signals and directed the Clerk to publish the notice inviting bids.

On March 19, 2008, four sealed bids were received, publicly read and opened. A summary of the bids follows:

CONTRACTOR	BID
Pacific Excavation, Inc.	\$174,562
Richard A. Heaps Electrical Contractors, Inc.	\$175,000
Tennyson Electrical, Inc.	\$187,251
Collins Electrical Company, Inc.	\$189,800

The engineer's estimate for the project is \$250,680.00. This project is anticipated to begin construction on June 2, 2008 and end July 14, 2008.

The Department of Public Works requests that the Board of Supervisors award the contract to the lowest bidder, Pacific Excavation, Inc., of Elk Grove, California, in the amount of \$174,562.00.

Approval to Award Contract to Pacific Excavation, Inc., of Elk Grove, California, for the Sisk Road at Bangs Avenue Traffic Signal, Federal-Aid Project No. CML-5938(139)

POLICY ISSUES:

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community and a well-planned infrastructure system. Furthermore, the Board should decide if it should authorize the Director of Public Works to issue change orders in accordance with Public Contract Code, Section 20142.

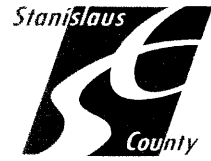
STAFFING IMPACT:

There is no staffing impact associated with this item.

PS:sr

L:\ROADS\19435 SISK RD AT BANGS AVE\DESIGN DIVISION\BOARD ITEMS\AWARD CONST CONTRACT BOARD ITEM 4-14-08

AUDITOR-CONTROLLER BUDGET JOURNAL



Balance Type	Budget	
Category	Budget - Upload	
Source		
Currency	USD	
Budget Name	LEGAL BUDGET	
Batch Name		BO#
Journal Name		
Journal description	Transfer budget to Sisk Road At Bangs Avenue Traffic Signal	
Period	JUL-07 to JUN-08	
Organization	Stanislaus Budget Org	

Line	Coding Structure						Debit		Credit		Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6	incr appropriations decr est revenue	decr appropriations incr est revenue			
1	1102	40310	63280	9435	0	0.0	212,062.00				
2	1102	40310	63280	0	0	0.0		212,062.00			
3	1102	40310	27600	0	0	0.0	187,738.49				
4	1102	40310	27600	9435	0	0.0		187,738.49			
5						0					
6						0					
7						0					
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18						0					
19						0					
20						0					
21						0					
22						0					
23						0					
24						0					
25						0					
Totals							399,800.49	399,800.49			

Transfer budget to Sisk Road At Bangs Avenue Traffic Signal

Requesting Department	GEO	Auditors Office Only
Sharon Andrews		
Signature	Signature	Prepared By
4/22/08	04/22/08	Admin Approval (\$75K+)
Date	Date	Date
		4/23/08
		Date

Contact Person & Phone Number

AGREEMENT

THIS AGREEMENT, dated this 6th day of May, 2008, by and between PACIFIC EXCAVATION, INC., whose place of business is located at 9796 Kent Street, Elk Grove, California, 95624 ("Contractor"), and the COUNTY OF STANISLAUS ("County"), acting under and by virtue of the authority vested in the County by the laws of the State of California.

WHEREAS, County, by its Resolution No. 2008-320 adopted on the 6th day of May, 2008 awarded to Contractor the following Contract:

CONTRACT NUMBER 2008-02

SISK ROAD AT BANGS AVENUE TRAFFIC SIGNAL, FEDERAL-AID PROJECT NO. CML-5938(139)

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Contractor and County agree as follows:

Article 1. Work

- 1.1 Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents.

Article 2. Architect/Engineer and Project Manager

- 2.1 **Associated Engineering** designed the Project and furnished the Plans and Specifications. **Associated Engineering** shall have the rights assigned to Architect/Engineer in the Contract Documents.
- 2.2 County has designated **Construction Services** as its Project Manager to act as County's Representative in all matters relating to the Contract Documents.
- 2.3 The County may assign all or part of the Project Manager's rights, responsibilities and duties to a Construction Manager.

Article 3. Contract Time and Liquidated Damages

3.1 Contract Time

Contractor shall commence Work on the date established in the Notice to Proceed. County reserves the right to modify or alter the Commencement Date of the Work.

Contractor shall achieve Final Completion of the entire Work and be ready for Final Payment in accordance with Contract Closeout Thirty (30) Working Days from the date when the Contract Time commences to run as provided in Section 4, Special Provisions.

3.2 Liquidated Damages

County and Contractor recognize that time is of the essence of this Agreement and that County will suffer financial loss in the form of Contract administration expenses (such as Project management and consultant expenses), if all or any part of the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the Contract Documents. Contractor and County agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by County because of a delay in completion of all or any part of the Work. Accordingly, County and Contractor agree that as liquidated damages for delay Contractor shall pay the County:

- 3.2.1 Twenty-five hundred dollars (\$ 2,500.00) for each Calendar Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

Liquidated damages shall apply cumulatively and except as provided below, shall be presumed to be the damages suffered by County resulting from delay in completion of the Work.

- 3.3 Liquidated damages for delay shall only cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by County as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from County (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof.

Article 4. Contract Sum

- 4.1 County shall pay Contractor the Contract Sum for completion of Work in accordance with Contract Documents as set forth in Contractor's Bid.

Article 5. Contractor's Representations

In order to induce County to enter into this Agreement, Contractor makes the following representations and warranties:

- 5.1 Contractor has visited the Site and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- 5.2 Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, as-built drawings, drawings, products specifications or reports, available for Bidding purposes, of physical conditions, including Underground Facilities, which have been made available for Bidders or which may appear in the Drawings. Contractor accepts the determination set forth in these Documents and General Conditions of the limited extent of the information contained in such materials upon which Contractor may be entitled to rely. Contractor agrees that except for the information so identified, Contractor does not and shall not rely on any other information contained in such reports and drawings.
- 5.3 Contractor has conducted or obtained and has understood all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in Section 5.2 of this Document that pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the Site or otherwise that may affect the cost, progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.
- 5.4 Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

Article 6. Contract Documents

- 6.1 Contract Documents consist of the following documents, including all changes, Addenda, and Modifications thereto:

Notice of Award
Agreement
Notice to Proceed
Construction Performance Bond
Construction Labor and Material Payment Bond
Special Provisions
General Conditions
Supplementary General Conditions
Addenda
Amendments to the May 2006 Standard Specifications
Construction Details
Drawings
Encroachment Permit **[If applicable]**

- 6.2 There are no Contract Documents other than those listed in this Document, Article 6. The Contract Documents may only be amended, modified or supplemented as provided in General Conditions.

Article 7. Miscellaneous

- 7.1 Terms and abbreviations used in this Agreement are defined in General Conditions and Section (References and Definitions) and will have the meaning indicated therein.
- 7.2 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of County or acting as an employee, agent, or representative of County, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of the County is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.
- 7.3 Contractor shall not assign any portion of the Contract Documents, and may subcontract portions of the Contract Documents only in compliance with the Subcontractor Listing Law, California Public Contract Code §4100 *et seq.*
- 7.4 The Contract Sum includes all allowances (if any).
- 7.5 In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the

Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time County tenders final payment to Contractor, without further acknowledgment by the parties.

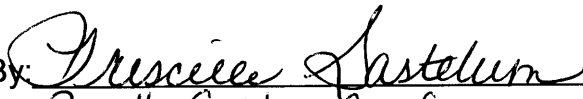
- 7.6 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at County's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §1861, Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.
- 7.7 Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).
- 7.8 This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Stanislaus, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in Stanislaus County Superior Court. Contractor accepts the Claims Procedure in General Conditions, as a claims procedure by agreement under the California Government Code, Title 1, Division 3.6, Part 3, Chapter 5.

IN WITNESS WHEREOF the parties have executed this Agreement in quadruplicate the day and year first above written.

COUNTY OF STANISLAUS

PACIFIC EXCAVATION, INC.:

By: 
Matthew Machado, Director of Public Works

By: 
Prescilla Custelum, Corp. Sec

APPROVED AS TO FORM AND LEGALITY
John P. Doering, County Counsel

By: 
Thomas E. Boze, Deputy County Counsel

COUNTY RESOLUTION NO. 2008-320

END OF DOCUMENT