

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

DEPT: Public Works *slad*

BOARD AGENDA # *C-3

Urgent Routine

AGENDA DATE April 24, 2012

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Award the Construction Contract for the Howard Road Bike Trail Roadway Improvements to Garrett Thompson Construction, Inc., of Modesto, California

STAFF RECOMMENDATIONS:

1. Approve the conditional award of the contract in the amount of \$107,989 to Garrett Thompson Construction, Inc., of Modesto, California, for the construction of the Howard Road Bike Trail Roadway Improvements, subject to receipt of the appropriate insurance and bonds.
2. Authorize the Director of Public Works to execute a contract with Garrett Thompson, Inc., for \$107,989 and to sign necessary documents.
3. Authorize the Director of Public Works to execute change orders in accordance with Public Contract Code, Section 20137.

(Continued on Page 2)

FISCAL IMPACT:

Costs associated to assure the delivery of this project in the amount of \$144,859 (\$107,989 contract; \$26,070 for quality assurance, inspections, and material testing; \$10,800 contract change order and contingencies) will be fully funded with Local Transportation non-motorized funds. Funding is available in the Fiscal Year 2011-2012 Road Projects' budget.

BOARD ACTION AS FOLLOWS:

No. 2012-192

On motion of Supervisor Withdraw, Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withdraw, Monteith, De Martini and Chairman O'Brien

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 the Construction Contract for the Howard Road Bike Trail Roadway Improvements to Garrett Thompson Construction, Inc., of Modesto, California

STAFF RECOMMENDATIONS (continued):

- 4. Upon project completion, authorize the Director of Public Works to accept the completed improvement and perform all necessary closeout activities.
- 5. Authorize the Construction Manager to issue a "Notice to Proceed" contingent upon receipt of proper insurance and bonds.

DISCUSSION:

The Howard Road Bike Trail Roadway Improvements Project is located in Westley, California. The project will install a bike path from the intersection of Highway 33 and Howard Road to the Grayson School, located approximately 800 feet west of Highway 33.

The primary purpose of this project is to improve pedestrian and bicyclist safety along a segment of Howard Road in Westley, California. This will be accomplished by widening the existing asphalt concrete surface of Howard Road from 24 feet to 34 feet within the existing County right of way. As a result, an 8-foot wide bi-directional bicyclist/pedestrian trail will be added to the north side of Howard Road. To ensure safe conditions, a 4-foot wide striped barrier will separate the proposed bike trail from the automotive traffic. The total length of the resulting bike trail will be 644 feet.

On March 11, 2011, a Notice of Exemption under California Environmental Quality Act (CEQA) was filed with the County Clerk-Recorder under the "General Rule: Exemption: California Environmental Quality Act, Class 4, 15304(h) (Minor Alterations to Land).

A Caltrans encroachment permit has been secured. Caltrans encroachment permit is necessary due to the proposed construction activities being within the State highway (Hwy 33) rights of way.

On February 7, 2012, the Board of Supervisors adopted the plans and specifications for the Howard Road Bike Trail Improvements and directed the Public Works Staff to publish the notice inviting bids.

On March 14, 2012, eight sealed bids were received, read, and opened. A summary of the bid results are as follows:

CONTRACTOR	BID
Garrett Thompson Construction, Inc.	\$107,989
Ross F. Carroll	\$123,300
Knife River Construction	\$124,670
Breneman, Inc.	\$127,670
Granite Construction	\$128,809
George Reed	\$148,002
AJ Excavation, Inc.	\$149,539
Roger Construction & Engineering	\$154,974

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The engineer's estimate for the construction total of the project was \$120,317 (not including contingencies, materials testing and construction). The lowest bid is 10% below the engineers estimate.

POLICY ISSUES:

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community, and A Well-Planned Infrastructure System by improving non-motorized safety and traffic flow in this area of Stanislaus County. Furthermore, the Board should decide if it should authorize the Director of Public Works to execute change orders in accordance with Public Contract Code, Section 20137.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

Matt Machado, Public Works Director. Telephone: (209) 525-4130.

ES/sn

L:\ROADS\9289 - Howard Road Bike Trail\Design\Board\4-24-12 BOS item_9289-Award Contract Bid_for EStagg

COUNTY OF STANISLAUS

AGREEMENT

THIS AGREEMENT, dated April 24, 2012, by and between GARRETT THOMPSON CONSTRUCTION, INC., whose place of business is located at 515 Pentecost Drive, Modesto, California 95356 ("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. 2012-192 adopted on the 24th day of April, 2012, awarded to Contractor the following Contract:

**CONTRACT NUMBER 9289
HOWARD ROAD BIKE TRAIL**

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 Public Works Engineering Services designed the Project and furnished the Plans and Specifications. Engineering Services shall have the rights assigned to Architect/Engineer in the Contract Documents.
- 2.2 County has designated the Public Works Construction Manager as its Project Manager to act as County's Representative in all matters relating to the Contract Documents.

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 Twenty (20) Working Days from the date when the Contract Time commences to run as provided in the Agreement.

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 County:

One Thousand Dollars (\$1,000.00) 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 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 the Special 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
- Special Provisions
- Construction Performance Bond
- Construction Labor and Material Payment Bond
- Special Conditions
- Addenda
- Special Provisions
- Drawings
- Encroachment Permit [if applicable]

- 6.2 There are no Contract Documents other than those listed in this Document, Article 6.

Article 7. Indemnity

- 7.1 County and each of its officers, employees, consultants and agents including, but not limited to the Board, Architect/Engineer and each County Representative, shall not be liable or accountable in any manner for loss or damage that may happen to any part of the Work; loss or damage to materials or other things used or employed in performing the Work; injury, sickness, disease, or death of any person; or damage to property resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence, attributable to performance or character of the Work, and Contractor releases all of the foregoing persons and entities from any and all such

claims.

- 7.2 To the furthest extent permitted by law (including without limitation California Civil Code Section 2782), Contractor shall assume defense of, and indemnify and hold harmless, County and each of its officers, employees, consultants and agents, including but not limited to the Board, Architect/Engineer and each County representative, from claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether it is caused in part by the negligence of County or by any person or entity required to be indemnified hereunder.
- 7.3 With respect to third-party claims against Contractor, Contractor waives any and all rights to any type of express or implied indemnity against County and each of its officers, employees, consultants and agents including, but not limited to County, the Board, Architect/Engineer and each County representative.
- 7.4 Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its Subcontractors of any tier, or the officers or agents of any of them.
- 7.5 To the furthest extent permitted by law (including, without limitation, Civil Code Section 2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout the Contract Documents shall apply even in the event of breach of contract, negligence (active or passive), fault or strict liability of the party(is) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of the Contract Documents. If Contractor fails to perform any of these defense or indemnity obligations, County may in its discretion back charge Contractor for County's costs and damages resulting therefrom and withhold such sums from progress payments or other contract moneys which may become due.
- 7.6 The indemnities in the Contract Documents shall not apply to any indemnified party to the extent of its sole negligence or willful misconduct; nor shall they apply to County or other indemnified party to the extent of its active negligence.

Article 8. Miscellaneous

- 8.1 Terms and abbreviations used in this Agreement are defined in Special Provisions, Section 1: DEFINITIONS AND TERMS and will have the meaning indicated therein.

- 8.2 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.
- 8.3 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.*
- 8.4 The Contract Sum includes all allowances (if any).
- 8.5 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.
- 8.6 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.
- 8.7 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).
- 8.8 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 Special Conditions, Article SC-16, WORK DISPUTES, as a claims procedure by agreement under the California Government Code, Title 1, Division 3.6, Part 3, Chapter 5.

- 8-9 Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County Public Works
Attn: Linda Allsop, Contracts Administrator
1716 Morgan Road
Modesto, CA 95358

If to Contractor:

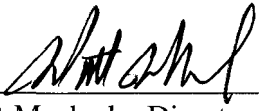
Spencer Thompson, Vice President
Garrett Thompson Construction, Inc.
511 Pentecost Drive
Modesto, CA 95356


(SIGNATURES NEXT PAGE)

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

COUNTY OF STANISLAUS

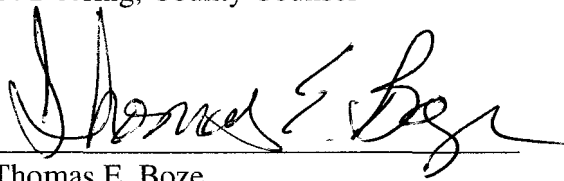
GARRETT THOMPSON CONSTRUCTION, INC.

By: 
Matt Machado, Director
Public Works Department

By: 
Garrett Thompson, Vice President

APPROVED AS TO FORM:

John P. Doering, County Counsel

By: 
Thomas E. Boze
Deputy County Counsel

END OF AGREEMENT

GARRETT THOMPSON CONSTRUCTION, INC
Howard Road Bike Trail Roadway Improvements

Item No.	Item	Estimated Quantity	Unit of Measure	Unit Price (In Figures)	Item Total (In Figures)
1	Mobilization (SP-06)	1	LS	4200 ⁰⁰	4200 ⁰⁰
2	Lead Compliance Plan (SP-36)	1	LS	2,000 ⁰⁰	2,000 ⁰⁰
3	Traffic Control (SP-07, SP-09, 10)	1	LS	6,000 ⁰⁰	6,000 ⁰⁰
4	Portable Changeable Message Signs (SP-35)	4	EA	1550 ⁰⁰	6,200 ⁰⁰
5	Clearing and Grubbing (SP-20)	1	LS	7,000 ⁰⁰	7,000 ⁰⁰
6	Earthwork (Roadway Excavation) (SP-22)	1	LS	18,500 ⁰⁰	18,500 ⁰⁰
7	Construction Staking (SP-08)	1	LS	1500 ³⁰	1500 ³⁰
8	Hot Mix AC 'Type A' Dense Graded (SP-24)	272	TONS	100 ⁰⁰	27,200 ⁰⁰
9	Class 2 Aggregate Base (SP-23)	388	TONS	40 ⁰⁰	15,520 ⁰⁰
10	Grind and Remove Existing Pavement Markings (SP-54)	1	LS	1600 ⁰⁰	1600 ⁰⁰
11	Grind Remove Existing CL Striping (SP-54)	1,020	LF	1 ⁶⁰	1632 ⁰⁰
12	Thermoplastic Striping Det. 22 (SP-28)	1,058	LF	2 ⁰⁰	2116 ⁰⁰
13	Thermoplastic Striping Det. 27B (SP-28)	1,745	LF	1 ⁶⁰	2792 ⁰⁰
14	Thermoplastic Det. 38 (SP-28)	610	LF	1 ⁸⁰	1098 ⁰⁰
15	Thermoplastic Det. 38A (SP-28)	551	LF	1 ⁶⁰	881 ⁶⁰
16	Thermoplastic Striping Det. 39A (SP-28)	31	LF	1 ⁶⁰	49 ⁶⁰
17	Thermoplastic Striping Det. 1 (SP-28)	551	LF	1 ¹⁰	606 ¹⁰
18	Thermoplastic Striping (12" white cross hatch) (SP-28)	2,444	SF	0 ⁶⁰	1466 ⁴⁰
19	Thermoplastic Pavement Markings (SP-28)	409	SF	8 ⁰⁰	3272 ⁰⁰
20	White Channelizers (Flexible base @ 10' O.C.) (SP-26)	55	EA	42 ⁰⁰	2310 ⁰⁰

21	Relocate Sign (SP-17)	3	EA	165 ⁰⁰	495 ⁰⁰
22	Barricade (SP-13)	1	LS	800 ⁰⁰	800 ⁰⁰
23	Water Pollution Control (SP-02)	1	LS	750 ⁰⁰	750 ⁰⁰

(SIGNED) Y. H. [Signature] Date: 3-14-12

TOTAL BID \$ 107,989⁰⁰

ONE Hundred Seven thousand
 NINE hundred eighty nine dollars
 and NO cents.