



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: Flood Control  
Department No.: 054  
For Agenda Of: 07/10/12  
Placement: Administrative  
Estimated Tme: N/A  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Directors, Flood Control and Water Conservation District

**FROM:** Department Scott D. McGolpin, Public Works Director, 568-3010  
Director(s)  
Contact Info: Thomas D. Fayram, Deputy Public Works Director, 568-3436

**SUBJECT:** **Carpinteria Salt Marsh, Franklin Creek Channel Wall Extension Project, First Supervisorial District**

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

- a) Find that the bid received from Heathcote Geotechnical for the Carpinteria Salt Marsh, Franklin Creek Channel Wall Extension Project is nonresponsive, and reject the bid on that basis;
- b) Award the construction contract for the Carpinteria Salt Marsh, Franklin Creek Wall Extension Project in the amount of \$146,621.00 to the lowest responsive, responsible bidder Brough Construction, Inc. (a tri-county vendor), subject to the provisions of documents and certifications, as set forth in the plans and specification applicable to the project and as required by law;
- c) Authorize the Chair to execute the construction contract upon return of the contractor's executed contract documents, and the review and approval of the County Counsel, Auditor-Controller, and Risk Manager or their authorized representatives;
- d) Approve a contingency in the amount of \$14,662.10 for the above construction contract;
- e) Approve plans and specifications for the Carpinteria Salt Marsh, Franklin Creek Wall Extension Project; and

- f) Find that pursuant to the California Environmental Quality Act (CEQA) 14 CCR, Section 15162, no substantial changes are proposed in the project, no new effects will occur and no new mitigation measures would be required as a result of the proposed action and therefore pursuant to CEQA Section 15162, the Carpinteria Salt Marsh, Franklin Creek Channel Wall Extension Project is within the scope of the project covered by the EIR No. 2003021016 for the Carpinteria Salt Marsh Enhancement Plan as well as the Findings approved by the Board July 15, 2003, and no new environmental document is required. The EIR, Findings, and associated information can be found at:

<http://santabarbara.legistar.com/LegislationDetail.aspx?ID=1123243&GUID=BD6BF023-7838-4946-988B-69D372C15F2E>

**Summary Text:**

The Carpinteria Salt Marsh, Franklin Creek Channel Wall Extension Project is the final Flood Control construction component of the Carpinteria Salt Marsh Enhancement Plan (Enhancement Plan). The District is the lead agency under CEQA and completed an Environmental Impact Report (EIR) for the Enhancement Plan that was certified by the Board in 2003. The Enhancement Plan includes several flood control components as well as enhancement opportunities within the marsh that have or will be implemented by the University of California Reserve System and/or the Land Trust for Santa Barbara County. The Carpinteria Salt Marsh, Franklin Creek Channel Wall Extension Project intends to complete the flood control portion of the Enhancement Plan by raising the existing concrete floodwall along the eastern side of Franklin Creek to an elevation of 10 feet (mean sea level) for a distance of 320 feet, between the existing earthen berm and the Union Pacific Railroad bridge. Raising the existing floodwall will reduce flooding to the adjacent residential area and will help keep flood flows within the marsh.

On May 29, 2012, the Flood Control District received five (5) bids for the Carpinteria Salt Marsh, Franklin Creek Channel Wall Extension Project. Brough Construction, Inc. submitted the lowest responsive bid in the amount of \$146,621.00. The second apparent lowest responsive bid was in the amount of \$149,514.00. The engineer's construction cost estimate is \$136,736.00.

Heathcote Geotechnical submitted a bid that contained a discrepancy. Their total that was indicated on the Bid Schedule was \$156,170, but the total sum of the individual items when added was \$145,300. The contract documents state that the total sum of the individual items governs when there is a discrepancy between the two. The reason for the discrepancy is that Heathcote left one bid item blank. County Counsel reviewed this matter and determined that to accept Heathcote Geotechnical's bid as-is would confer a material competitive advantage to the bidder: the ability to withdraw its bid without forfeiting its bid bond after seeing the other bids by claiming a clerical error as the California Court of Appeal ruled in the cases of MCM Construction, Inc. v. City and County of San Francisco (1998) 66 Cal.App.4<sup>th</sup> 359, and Valley Crest Landscape v. City Council of the City of Davis (1996) 41 Cal.App.4<sup>th</sup> 1432. Based on these rulings and County Counsel's determination, staff recommends that the Board determine the bid to be nonresponsive.

**Background:**

Carpinteria Marsh is a 230-acre estuary located in southern Santa Barbara County, adjacent to the City of Carpinteria. The Marsh lies within the jurisdictional boundaries of the City of Carpinteria, the County of Santa Barbara, and the State of California, since a portion is owned by the University of California.

The Carpinteria Salt Marsh receives storm water runoff from Franklin and Santa Monica Creek Flood Control Channels built by USDA Natural Resource Conservation Service (NRCS), and now owned and maintained by the District, as well as several other smaller drainage courses. During large storm events, adjacent developed properties can become inundated by overflows. Union Pacific Railroad runs along the northeastern side of the Marsh for a distance of approximately 1.25 miles, and during large storm events the Franklin Creek banks are in danger of overtopping downstream of the railroad bridge.

The District owns all but a small portion of the flood wall that is being added to with the Union Pacific Railroad owning a short portion at the upstream end of the project. The District is the project sponsor, and has received permission by the NRCS and by Union Pacific Railroad for construction activities above and adjacent-to their facilities.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized</u> <u>On-going Cost:</u>	<u>Total One-Time</u> <u>Project Cost</u>
South Coast FZ	-		\$ 161,283.10
State			
Federal			
Fees			
Other:	-		
<b>Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 161,283.10</b>

**Narrative:**

Construction costs for this phase of the project are included in the proposed FY 2012-13 budget in the Water Resources Division of the Public Works Department budget as shown on page D-144 in the budget book. No General Fund will be utilized with these actions

This project is also included in Capital Improvement Program on page B-124.

**Special Instructions:**

Direct the Clerk of the Board to send a copy of the minute order to the Flood Control District office, Attn: Christina Lopez.

**Attachments:**

- Attachment 1: Map
- Copy of Construction Contract Agreement

**Authored by:** Jonathan S. Frye, Engineering Manager, 568-3444

# ATTACHMENT 1

