



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:** Public Works  
**Department No.:** 054  
**For Agenda Of:** August 14, 2018  
**Placement:** Administrative  
**Estimated Time:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Scott D. McGolpin, P.E., Director, x3010  
Director(s)  
Contact Info: Mark Schleich, P.E., Deputy Director, x3605

**SUBJECT:** South Coast Recycling and Transfer Station Storm Drain Improvements Project;  
County Project 828369; Second Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve plans and specifications for the construction of the South Coast Recycling and Transfer Station Storm Drain Improvements Project Phase 3 – Sewer Improvements, County Project No. 828369; Second Supervisorial District, on file in the Public Works Department office;
- b) Consider the bid protest of Tierra Contracting, Inc., and the response of Cedro Construction, Inc. and follow the recommendation of Staff and County Counsel and;
  - i) Find that there is no evidence that Cedro Construction, Inc. failed to properly list subcontractors and no evidence that it violated Public Contract Code Section 4104; and
  - ii) Find the bid protest of Tierra Contracting, Inc. to be without merit with respect to Cedro Construction Inc.; and
  - iii) Award the construction contract in the amount of \$325,640 to the lowest responsible bidder, Cedro Construction, Inc., (a Tri-County Vendor) 120 E. Santa Maria Street, Santa Paula, CA 93060, subject to the provision of documents and certifications, as set forth in the plans and specifications applicable to the project, as required under California Law;

**Auditor-Controller Concurrence**

As to form: Yes

- iv) Authorize the Public Works Director or designee to approve as change order work; supplemental work itemized in the Estimate of Job Costs in the contract documents up to \$20,000.
- v) Authorize the Public Works Director or designee to approve change orders for a contingency amount up to \$28,782 for the construction of the South Coast Recycling and Transfer Station Storm Drain Improvements Project Phase 3 – Sewer Improvements, County Project No. 8283691; Third Supervisorial District, for a total project authorization of \$374,422;
- c) Approve and authorize the Chair to execute the construction contract, which has been reviewed and approved by County Counsel, Auditor-Controller and Risk Manager, or their authorized representatives;
- d) Find that the proposed actions are associated with the construction of a limited number of new, small structures where the proposed action is therefore exempt from the California Environmental Quality Act pursuant to Guideline Section 14 CCR 15303 (c) New Construction or Conversion of Small Structures, and Guideline Section 14 CCR 15304 (a) Minor Alterations to Land, 14 CCR 15282(k) Other Statutory Exemptions, and approve the filing of a Notice of Exemption on that basis.

**Summary Text:**

This item is on the agenda in order to award the contracts necessary for construction of the South Coast Recycling and Transfer Station Storm Drain Improvements Project Phase 3 – Sewer Improvements, County Project No. 828369. The proposed South Coast Recycling and Transfer Station Storm Drain Improvements Project is located at 4430 Calle Real in Santa Barbara (Attachment A - Figure 1) with pipeline installation terminating at the south end of County Road and Calle Real. This phase of construction consists of approximately 1,000 linear feet of new pipeline that tie into the Goleta Sanitation District sewer line at Calle Real. Future phases include installation a 0.6 acre-foot storm water detention tank and approximately 1,000 linear feet of pipeline on the Foothill Closed Landfill. The improved storm drain system is being designed to accept and convey runoff produced from up to an 85th percentile, 24-hour storm event as determined from local, historical rainfall records.

On Thursday, June 21, 2018 at 2:00 p.m., bids were opened for the subject project. Four bids were opened and recorded. At that time, Raminha Construction, Inc. (Raminha) was identified as the apparent responsive, responsible, low bidder in the amount of \$348,500 (Base bid plus supplemental work). Tierra Contracting, Inc. (Tierra) submitted the apparent second low bid of \$375,100. However, based on additional information obtained from County personnel, it was determined that Cedro Construction, Inc. (Cedro) timely submitted a bid before the scheduled bid opening on June 21, 2018.

The County is required to award the contract to the lowest responsive, responsible bidder. (Public Contracts Code, § 22038, subd. (b).) Cedro meets the licensing requirements to perform the work and its bid was responsive as the bid promised to do what the bidding instructions required.

The circumstances pertaining to the bid delivery and acceptance also were reviewed. The bid substantially conformed to the call for bids and, therefore, may be accepted by the County. (*Ghilotti Constr. Co. v. City of Richmond* (1996) 45 Cal.App.4th 897, 904–05.) Cedro's bid was determined to be the low bidder at \$345,640 (Base bid plus supplemental work), meeting all conditions required to be identified as the responsive, responsible low bidder.

Subsequent to posting the bid summary results identifying Cedro as the low bidder, Tierra, the third low bidder, submitted a bid protest dated July 3, 2018 (Attachment B). Their protest contends that Cedro and Raminha did not adequately list subcontractors pursuant to Public Contract Code Section 4104. Section 4104 requires that the prime contractor list all subcontractors performing work in an amount in excess of one-half of 1 percent of the prime contractor's total bid. Specifically, the protest addresses the presumed need for a qualified subcontractor to seal a Goleta Sanitary District manhole. Cedro submitted a response letter (Attachment C) dated July 6, 2018 addressing the specific claim of Tierra and overall compliance with PCC Section 4104. The response indicated that the manhole sealing would be performed by a qualified subcontractor; however, the subcontractor's bid amount did not exceed the threshold required for identification on the subcontractor list.

Public Works subsequently contacted the manhole sealing subcontractor identified by Cedro and reviewed the scope of work and estimate provided by the subcontractor. The bid appears to be valid for the work and materials required by the project plans and specifications. The County also confirmed with Goleta Sanitary District inspection staff that the proposed scope of services presented by the subcontractor satisfied the manhole sealing requirements of the project plans and specifications.

Raminha submitted a response to the protest (Attachment D) indicating it planned to self-perform all work.

In light of the information above, Public Works has concluded that the information provided in Tierra's protest does not alter the contract award. As such, staff recommends that the bid protest be rejected and the contract be awarded to Cedro as the lowest responsive bidder.

**Background:**

The South Coast Recycling and Transfer Station opened in 1967 and can process up to 550 tons of non-hazardous waste per day and approximately 200 tons per day of co-mingled recyclable materials. The site has a permitted area of 8.3 acres of which 5.5 acres are used for industrial operations including storage of co-mingled recyclables, green waste and mulch, and buildings used for maintenance and weighing activities. The remaining areas consist of moderately vegetated hillsides, administrative buildings and a parking lot that are not included within the industrial operations boundary (Attachment A - Figure 2).

Storm water discharges associated with industrial activities at the site adhere to the California Regional Water Quality Control Board's General Permit for Storm Water Discharges Associated with Industrial Activities (General Permit), Order 2014-0057-DWQ (NPDES No. CAS000001), issued by the State Water Resources Control Board. The purpose of the project is to comply with new requirements of the General Permit, comply with a recent Consent Decree entered into with Santa Barbara Channelkeeper, and generally improve storm water drain controls at the site. The project will implement new storm water drainage controls in order to further protect water quality by redirecting storm water discharge from the site to the Goleta Sanitation District for treatment prior to discharge.

All storm water runoff from the industrial operations area will continue to be collected by ten drainage inlets (DIs), which convey the storm water to a clarifier at the southern end of the site. During a Design Storm (85th percentile for 24-hour storm) or smaller than the Design Storm, storm water will be conveyed to the detention tank. From the detention tank, storm water will be discharged to the Goleta Sanitation District during off-peak hours, between 9 pm and 5 am, at a maximum flow rate of 200 gallons per minute.

The authorization to advertise this project was provided by the Board on July 11, 2017. Approval of these items is a part of the implementation of the Storm Drain Improvements Project. This project is included in the County of Santa Barbara 2017-2022 Five Year Capital Improvement Plan. The SCRTS Storm Drain Improvement Project was determined to be exempt from CEQA pursuant to CEQA Guideline Section 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations to Land), and 14 CRR 15282(k) (Other Statutory Exemptions) and a Notice of Exemption dated June 14, 2017 was previously prepared for the authorization to advertise and receive bids for project construction. The proposed actions are also exempt from CEQA on these bases (Attachment F)

**Performance Measure:**

Permitted storm water discharge to the Goleta Sanitation District.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

The Resource Recovery and Waste Management Division Enterprise Fund will provide 100% of the project funding. Costs estimated for these actions include construction to be incurred over one fiscal year.

**Fiscal Analysis:**

<u>Funding Sources</u>	<u>FY 2018/19 Cost</u>	<u>FY 2019/20 Cost</u>	<u>Total Project Cost</u>
General Fund			
State			
Federal			
Fees			
Enterprise Fund	\$ 374,422.00	\$ -	\$ 374,422.00
Total	\$ 374,422.00	\$ -	\$ 374,422.00

**Key Contract Risks:**

Contract risks have been evaluated for the contract authorization requested in this board letter. The risk factors contributing significantly to the medium risk rating have been considered. Staff believes the requested contract should be authorized, because the contract was procured in accordance with the Public Contract Code and the contractor selected has been determined to be a responsible low bidder. Contract monitoring and document management will be conducted by staff in accordance with the County’s Service Contract and Grant Compliance Management Policy (121-111).

**Cedro Construction, Inc.**

Key risk factors for this agreement that contribute to an overall medium contract risk rating include: contractor, contractor fiscal responsibility verification, and project sensitivity.

**Special Instructions:**

Please forward a certified, stamped Minute Order approving this action to:

Subject: South Coast Recycling and Transfer Station Storm Drain Improvements Project; County Project 828369

Agenda Date: August 14, 2018

Page 5 of 5

Public Works, Resource Recovery and Waste Management Division, Attn: Todd Curtis, 882-3621, 130 E. Victoria Street, Suite 100, Santa Barbara, CA 93101.

**Attachments:**

Attachment A: Figures 1 and 2

Attachment B: Bid Protest Letter from Tierra Contracting, Inc. dated July 3, 2018

Attachment C: Bid Protest Response Letter from Cedro Construction, Inc. dated July 12, 2018

Attachment D: Bid Protest Response Letter from Raminha Construction, Inc. dated July 12, 2018

Attachment E: Cedro Construction Agreement

Attachment F: CEQA Notice of Exemption

**Authored by:**

Todd Curtis, P.E., Civil Engineer Specialist, 805-882-3621