

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY  
AND RECORD OF ACTION**

December 19, 2023

**FROM**

**BRENDON BIGGS, Director, Department of Public Works – Transportation**

**SUBJECT**

Reject All Bids and Re-Advertise for the Chino and Montclair Areas Americans with Disabilities Act Ramps Project

**RECOMMENDATION(S)**

1. Reject all bids received on October 5, 2023 for the Chino and Montclair Areas Americans with Disabilities Act Ramps Project and find that the rejection of the bids is in the best general interest of the County.
2. Approve the revised plans and specifications for the Chino and Montclair Areas Americans with Disabilities Act Ramps Project, as signed and sealed by a registered civil engineer.
3. Authorize the Director of the Department of Public Works to re-advertise the Chino and Montclair Areas Americans with Disabilities Act Ramps Project for formal bids.  
(Presenter: Brendon Biggs, Director, 387-7906)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.  
Provide for the Safety, Health and Social Service Needs of County Residents.**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The Chino and Montclair Areas Americans with Disabilities Act (ADA) Ramp Project (Project) is funded with Senate Bill 1 (SB1) Road Maintenance and Rehabilitation Account (RMRA) revenue and City of Montclair (City) funding. Sufficient appropriation and revenue are included in the Department of Public Works (Department) 2023-24 Road Operations budget (6650002000 20H15061).

**BACKGROUND INFORMATION**

The Project involves constructing new and replacing existing curb ramps at 25 locations in the Chino and Montclair areas in accordance with current design standards and pursuant to the ADA guidelines. Other improvements include reconstruction of sidewalks, driveways, spandrels, cross gutters, and minor street improvements, as needed. All work for the Project will be done within the existing right-of-way. On August 8, 2023 (Item No. 43), the Board of Supervisors (Board) approved the Project's plans and specifications, as well as authorized the Director of the Department to advertise the Project for bids.

On October 5, 2023, the Department received four bids for the Project. On the same day as the bid opening, the apparent second lowest bidder, Onyx Paving Company, Inc. (Onyx), submitted a timely bid protest asserting that the apparent lowest bidder's bid, submitted by Hardy &

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Harper, Inc. (H&H), should be found to be non-responsive because H&H was absent from the Plan Holder List. The Project's Notice to Bidders and Special Provisions requires that all bidders must be listed on the Project's Plan Holder List, within the ePro system, at the time bids are opened. This requirement is to ensure that all bidders received the official plans and specifications, use the required bid forms, and receive notice of any addenda to the bid package. H&H subsequently submitted a protest claiming that there is no merit to the Onyx bid protest, and, in the alternative, that any such irregularity in H&H's bid should be waived.

Following an evaluation and consultation with County Counsel, the Department reviewed the ePro system and Plan Holder List and determined that H&H was not listed on the Project's Plan Holder List at the time bids were opened. However, upon further evaluation of the ePro system, the Department identified a technical issue, affecting all bidders, wherein the official bid solicitation could be accessed, viewed, downloaded, and used without also listing the bidder on the official Plan Holder List, or automatically listing some bidders on the Plan Holder List but not others based upon certain commodity codes used for a bidders ePro profile. Moreover, bidders were unable to view if they were included on the Plan Holder List prior to the bid deadline. Accordingly, due to the technical issue with the ePro system, the Department is recommending the Board reject all bids for the Project in the general interest of the County and approve the revised plans and specifications, which adds additional technical direction as to the Plan Holder List in ePro, a telephone number bidders may use to verify and add themselves to the Plan Holder List, and an acknowledgment in the Bid Proposal of the Plan Holder List requirement.

California Public Contract Code (PCC) section 22038, in addition to the provisions in the plans and specifications, allows the Board to reject any bids presented and re-advertise the Project for bids. The Department provided all bidders with notice of the County's intent to reject all bids.

Recommendation No. 3 will authorize the Director of the Department to re-advertise the Project for formal bids.

**PROCUREMENT**

The Project will be re-advertised for bids in accordance with Public Contract Code section 22037. The Department anticipates returning to the Board for an award of the construction contract in March 2024.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Aaron Gest, Deputy County Counsel, 387-5455) on November 8, 2023; Purchasing (Jason Cloninger, Lead Buyer, 387-8258) on November 8, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404) on November 30, 2023; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on December 4, 2023.

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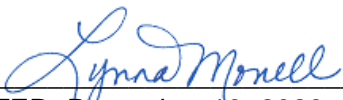
Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

Moved: Curt Hagman Seconded: Col. Paul Cook (Ret.)

Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: December 19, 2023



cc: File - Transportation w/CD w/map  
CCM 12/27/2023