

W. S. C. G.

AGENDA COVER MEMO

DATE: April 21, 2004
TO: Lane County Board of Commissioners
DEPARTMENT: Public Works
PRESENTED BY: Sonny Chickering, County Engineer
TITLE: IN THE MATTER OF APPROVING A CONSTRUCTION CLAIM SETTLEMENT WITH CONCRETE ENTERPRISES INC. IN THE AMOUNT OF \$100,971.21 FOR COSTS ASSOCIATED WITH REPLACEMENT OF THE MOHAWK RIVER BRIDGE (M.P. 5.836 OF MARCOLA ROAD).

I. MOTION

Move approval of the Order as presented.

II. ISSUE

Whether to approve a tentative construction claim settlement negotiated with the prime Contractor by the County Engineer.

III. DISCUSSION

A. Background

In April of 2002, Concrete Enterprises Inc. was awarded a contract for replacement of the Mohawk River Bridge at m.p. 5.836 of Marcola Road. During construction, the contractor encountered difficulty in driving steel piling for construction of foundations. Subsequent to this work the Contractor submitted a claim in the amount of \$156,244.47 for additional costs incurred due to Differing Site Conditions, and for schedule recovery costs associated with completing work within the flood plain of the Mohawk River by the prescribed October 21, 2002 deadline.

B. Analysis

Review of the claim was performed in accordance with the project Special Provisions. A Step 1 Review by the Project Manager did not result in agreement between the parties, so the claim was elevated to Step 2, which involved review by the County Engineer. The result of this second review is a tentative claim settlement in the amount of \$100,971.21. The Contractor has indicated verbally and in writing that they are willing to settle the claim for this amount.

This matter is being brought before the Board in accordance with past Public Works practice for claim settlements reached prior to mediation or arbitration, and in excess of \$50,000.

C. Alternatives / Options

1. Approve the tentative settlement as described in the Order.
2. Deny approval of the tentative settlement. The Contractor may elect to pursue review of the claim at Step 3, Public Works Director.

D. Recommendation

Option 1.

E. Timing

Replacement of the bridge is complete. Resolution of this claim will allow staff to process all remaining contractor payments and close the contract.

IV. IMPLEMENTATION/FOLLOW-UP

Upon approval of the tentative settlement staff will process a price agreement for signature by the County Administrator.

V. ATTACHMENTS

Board Order.

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

ORDER NO.) IN THE MATTER OF APPROVING A CONSTRUCTION
) CLAIM SETTLEMENT WITH CONCRETE ENTERPRISES
) INC. IN THE AMOUNT OF \$100,971.21 FOR COSTS
) ASSOCIATED WITH REPLACEMENT OF THE MOHAWK
) RIVER BRIDGE (M.P. 5.836 OF MARCOLA ROAD).

WHEREAS, in April of 2002, Lane County awarded a construction contract to Concrete Enterprises, Inc. for replacement of the Mohawk River Bridge at m.p. 5.836 of Marcola Road; and

WHEREAS, during construction Concrete Enterprises Inc. encountered difficulty in driving steel piling for bridge foundations; and

WHEREAS, subsequent to completion of the steel piling work, Concrete Enterprises Inc. submitted a claim for additional costs incurred due to Differing Site Conditions, and for schedule recovery costs associated with completing work within the flood plain of the Mohawk River by the prescribed deadline; and

WHEREAS, the contractors claim has been reviewed in accordance with the project Special Provisions and the County Engineer and Concrete Enterprises, Inc. have agreed upon a tentative settlement amount at Step 2 of the claim process; and

WHEREAS, Concrete Enterprises has indicated verbally and in writing that they are willing to settle the claim for the tentatively agreed to amount; **NOW THEREFORE, BE IT**

ORDERED, that the construction claim tentative agreement in the amount of \$100,971.21 is approved by the Board; **AND BE IT FURTHER**

ORDERED, that the County Administrator is authorized to execute a contract price agreement for payment of \$100,971.21 to Concrete Enterprises, Inc. as full payment and final resolution of the contractor's claim.

DATED this _____ day of _____ 2004.

Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5/3/04 Lane County
Teresa A. Delo
OFFICE OF LEGAL COUNSEL