

AGENDA COVER MEMO

W9C2

DATE: September 29, 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 DELTA CONSTRUCTION CO. IN THE AMOUNT OF \$77,120.63 FOR COSTS ASSOCIATED WITH RECONSTRUCTION OF IRVINGTON DRIVE (CONTRACT NO. 02/03-10).

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 May of 2003, Delta Construction Co. was awarded a contract for reconstruction of Irvington Dr. from River Rd. to the NW Expressway. During construction, the contractor encountered difficulty and delays due to utility relocation time frames and conflicts, and extra work not included in the original plans and specifications. Subsequent to project completion, the Contractor submitted a claim in the amount of \$160,341.08 for additional costs incurred on various portions of the work and for acceleration of their activities in order to complete the project within one construction season.

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 \$77,120.63. 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

Reconstruction of the road 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 DELTA CONSTRUCTION
) CO. IN THE AMOUNT OF \$77,120.63 FOR COSTS
) ASSOCIATED WITH RECONSTRUCTION OF IRVINGTON
) DRIVE (CONTRACT NO. 02/03-10).

WHEREAS, in May of 2003, Lane County awarded a construction contract to Delta Construction Co. for reconstruction of Irvington Drive from River Rd. to the NW Expressway; and

WHEREAS, during construction Delta Construction Co. encountered difficulty and delays due to utility relocation time frames and conflicts, and extra work not included in the original plans and specifications; and

WHEREAS, subsequent to completion of the road reconstruction work, Delta Construction Co. submitted a claim for additional costs incurred on various portions of the work and for acceleration of their activities in order to complete the project within one construction season; and

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

WHEREAS, Delta Construction Co. 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 \$77,120.63 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 \$77,120.63 to Delta Construction Co. as full payment and final resolution of the contractor's claim.

DATED this _____ day of _____ 2004.

Bobby Green, Sr.
Chair, Lane County Board of
Commissioners

APPROVED AS TO FORM

Date 9-17-04 lane county

OFFICE OF LEGAL COUNSEL