

# County of Santa Clara

## Roads & Airports Department

### Infrastructure Development Division



---

RA03 032409

Prepared by: Mike Griffis  
Senior Civil Engineer

DATE: March 24, 2009

TO: Board of Supervisors

FROM: *M. J. Murdter*  
Michael Murdter  
Director, Roads & Airports Department

SUBJECT: Contract Documents for American Recovery and Reinvestment Act (ARRA) Projects

### **RECOMMENDED ACTION**

Consider recommendations relating to the following American Recovery and Reinvestment Act (ARRA) projects.

Possible action:

- a. Approve the Project, adopt plans and specifications, and authorize advertisement of Contract Documents for the Montague Expressway Pavement Rehabilitation Project (Phase 3), Federal Project Number ESPL-5937(132), subject to authorization by Caltrans to advertise the project.
- b. Approve the Project, adopt plans and specifications, and authorize advertisement of Contract Documents for the County Unincorporated Roads Pavement Rehabilitation Project, Federal Project Number ESPL-5937(133), subject to authorization by Caltrans to advertise the project.

## **FISCAL IMPLICATIONS**

There is no impact to the County General Fund. Funding from the American Recovery and Reinvestment Act has yet to be allocated. Once the final amount of funding is known the Department will bring forward an Appropriation Modification (F-85) for Board approval.

It is Department practice to disclose the Engineer's Estimate of construction costs at the time of bid opening.

## **CONTRACT HISTORY**

On March 3, 2009, the Board of Supervisors adopted a Resolution of Local Support for these two projects as required by MTC in order to access ARRA funding.

This is a Type I service contract subject to the Resolution of Contracting Principles adopted by the Board of Supervisors on October 28, 1997. The Contracting Principles are included in the Special Provisions of the Contract Documents.

## **REASONS FOR RECOMMENDATION**

The Department is awaiting authorization from Caltrans District 4 Local Assistance to advertise these two ARRA projects and is requesting Board approval to advertise, subject to Caltrans' authorization. The Board's contingent approval to advertise will expedite the project by allowing the advertisement period to commence immediately upon receipt of Caltrans' Notice to Proceed. Based on the date of Caltrans' authorization, the bid opening date will be established to provide for a sufficient advertising period.

Timely action by Caltrans is essential to avoid a major delay to the start of work. On March 5, 2009, staff learned that Disadvantaged Business Enterprise (DBE) program requirements are again changing as outlined in the attached letter from Caltrans. From the standpoint of the ARRA's goal of awarding projects in a timely manner to stimulate the economy, the DBE changes are being implemented at the worst possible time. Caltrans has established a deadline

of June 2, 2009 for awarding projects under our existing approved DBE program. Taking into consideration the Board meeting calendar and the time required to advertise the projects, we must receive Caltrans' approval to proceed no later than April 9, 2009 in order to meet the deadline. Although the Department has taken all actions and submitted all paperwork to Caltrans necessary for the projects to proceed, it is not known how the flood of ARRA projects will affect Caltrans' ability to process approvals in a timely manner. If Caltrans' approval to proceed is not received by April 9, the ARRA projects (and all other federally-funded road projects, for that matter) will be on hold until our DBE program is revised to reflect the new requirements and subsequently approved by Caltrans. It is too early to tell how long that process may take.

Both projects have been determined to be exempt under the California Environmental Quality Act (CEQA) and are currently undergoing review by Caltrans for National Environmental Policy Act (NEPA) clearance.

The Contract Documents are on file in the Office of the Clerk of the Board of Supervisors for viewing. The Roads & Airports Department may make minor modifications to the plans and specifications prior to advertisement for bidders. If this occurs, the Project Engineer will provide the complete and final version of the Contract Documents to the Clerk of the Board to be retained as the official public record.

## **BACKGROUND**

The American Recovery and Reinvestment Act (ARRA), more commonly referred to as the federal economic stimulus plan, provides \$27.5 billion for highways and bridges nationwide. The amount received by the County will ultimately be determined by the apportionment numbers released by the Federal Highway Administration (FHWA), potential state legislation that would specify the allocation percentages of all ARRA highway funding designated for California between the state and the Regional Transportation Planning Agencies (RTPA), and the allocation formula adopted by the Bay Area's RTPA, the Metropolitan Transportation Commission (MTC). As of this writing, the County's share is estimated to be approximately \$3.3 million based on MTC projections.

Local agency adoption of a Resolution of Local Support is required by MTC in order to access ARRA funding. On March 3, 2009 the Board adopted such a resolution for the following two projects: The Montague Expressway Pavement Rehabilitation Project (Phase 3), which will provide for pavement repair and overlay of sections of Montague Expressway between Highway 101 and Interstate 680 using rubberized asphalt concrete; and the County Unincorporated Roads Pavement Rehabilitation Project, which will provide for pavement repair and overlay on sections of Moorpark Avenue, South Bascom Avenue, Tully Road, and White Road. The final scope of work will depend on the actual amount of ARRA funding received.

### **CONSEQUENCES OF NEGATIVE ACTION**

The contract documents will not be adopted, the projects will not proceed, and the County will be precluded from using approximately \$3.3 million in ARRA funds for roadway improvements.

### **STEPS FOLLOWING APPROVAL**

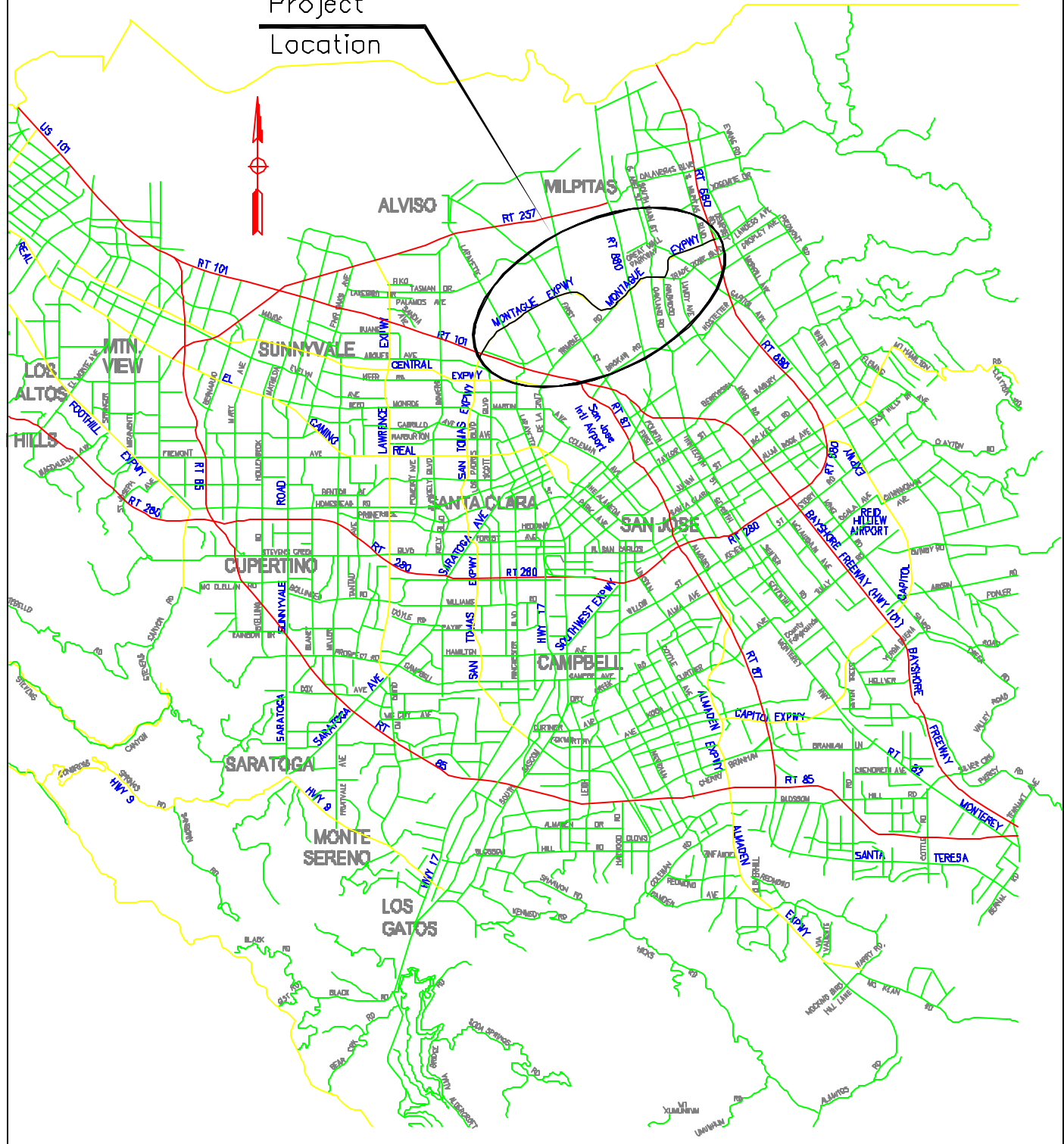
The Clerk of the Board shall take the following actions:

1. Upon approval from Caltrans, the Department will contact the Clerk of the Board to commence advertisement of the projects in a local newspaper. The cost to obtain contract documents for the Montague Phase 3 Project is \$100.00 per set, and for the Unincorporated Roads Project is \$25.00 per set and may be purchased at the Plan Counter at 101 Skyport Drive, San Jose, 95110.
2. Send KEYBOARD notification of completed processing to: Michael Griffis, Roads and Airports Department, Infrastructure Development Branch

### **ATTACHMENTS**

- Montague Phase 3 Location Map
- Unincorporated Roads Location Map
- Caltrans Change to DBE Program

Project  
Location



LOCATION MAP



LOCATION MAP

COUNTY UNINCORPORATED ROADS PAVEMENT REHABILITATION PROJECT

- ① 0.37 Miles Moorpark Ave (Beginning Limit: S Bascom Ave; End Limit: Thornton Ave)
- ② 0.47 Miles S. Bascom Ave (Beginning Limit: Moorpark Ave; End Limit: Fruitdale Ave.)
- ③ 0.10 Miles Tully Rd (Beginning Limit: 7th St; End Limit: near 10th St)
- ④ 0.36 Miles White Rd, Northwest Bound Lane (Beginning Limit: Madeline Ave; End Limit: near Alum Rock Ave)

**DEPARTMENT OF TRANSPORTATION**

DIRECTOR'S OFFICE

1120 N STREET

P.O. BOX 942873

SACRAMENTO, CA 94273-0001

PHONE (916) 654-5266

FAX (916) 654-6608

TTY 711

*Flex your power!  
Be energy efficient!*

March 4, 2009

Dear Transportation Construction Community:

The California Department of Transportation (Caltrans) has just received conditional approval from the Federal Highway Administration (FHWA) to immediately implement its Federal Fiscal Year (FFY) 2009 Disadvantaged Business Enterprise (DBE) Goal and Methodology. The 2009 Goal and Methodology provides for a 6.75 percent race-conscious goal and a 6.75 percent race-neutral goal for an overall 13.5 percent program goal.

With the recent enactment of the American Recovery and Reinvestment Act (ARRA) of 2009 and the increase in transportation contracting opportunities it will bring, the urgency for Caltrans to implement contract goals has heightened. The conditional approval requires Caltrans to submit to FHWA the additional requested information to support its decision to make no upward adjustment to the FFY 2009 goal. The conditional approval also requires Caltrans to submit monthly status reports on its use of contract goals beginning March 31, 2009.

FHWA has indicated that failure to implement the overall goal and contract goals could result in the imposition of sanctions authorized by 23 Code of Federal Regulation (CFR) section 1.36. Those sanctions may include withholding federal funds, withholding approval of projects, or other action FHWA deems appropriate under the circumstances.

By March 30, 2009, the Division of Engineering Services and the Division of Procurement and Contracts will begin including an appropriate DBE race-conscious goal to include African American, Asian-Pacific American, Women, and Native American businesses, in the advertised contracts for federally funded projects. These four groups together will be referred to as Underutilized Disadvantaged Business Enterprises (UDBEs). The race-conscious goal established for each contract will be based on the subcontracting opportunities it provides and the availability of UDBEs. At this time, Hispanic American and Subcontinent Asian American businesses are not included in the race-conscious portion of the program. However, use of these businesses does count toward meeting the race-neutral portion of the goal and the overall goal. I encourage continued use of these groups at current levels in order to avoid the necessity of adjusting the goals as time goes on.

Implementation of the race-conscious component of the DBE program applies to Local Agencies as subrecipients. Caltrans will advise regional and local partners to begin implementing DBE race-conscious goals on federally funded projects within 90 days.

Caltrans will continue its commitment to the application of race-neutral measures as before. They include, but are not limited to, providing technical assistance, one-on-one counseling, training, and direct referral of DBEs to prime contractors through the California Construction Contracting Program and the memorandum of understanding with the California Community Colleges Chancellor's Office. More information can be found on the Web site at <http://www.buildcalifornia.org>.

Caltrans will also implement its Communication Plan to advise the DBE firms, community organizations, industry/trade associations, and California Legislators that Caltrans has conditional approval to implement the race-conscious component of the overall DBE goal. To broaden business communication and outreach, the Caltrans' Office of Business and Economic Opportunity will have information and the schedule of public forums on its Web site at <http://www.dot.ca.gov/hq/bep>. In addition, Caltrans staff will work with business groups such as the City-County-State-Federal Cooperative Committee, Caltrans Statewide Small Business Council, Associated General Contractors of California, Engineering and Utility Contractors Associations, Southern California Contractors Association, and American Council of Engineering Companies on the implementation of their program revision.

I thank you for your patience and understanding during the last year while Caltrans operated under race-neutral measures. If you have any questions regarding this announced change in the DBE program, please contact Robert Padilla, Disparity Study Project Manager, at (916) 324-0552, or by e-mail at [robert\\_padilla@dot.ca.gov](mailto:robert_padilla@dot.ca.gov).

Sincerely,



WILL KEMPTON  
Director

c: Walter Waidelich, Division Administrator, Federal Highway Administration  
Rick Land, Chief Engineer, California Department of Transportation  
Robert Padilla, Disparity Study Project Manager, California Department  
of Transportation