



# County of Fresno

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Fresno, California  
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## Legislation Text

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**File #:** 19-0350, **Version:** 1

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**DATE:** June 4, 2019

**TO:** Board of Supervisors

**SUBMITTED BY:** Steven E. White, Director  
Department of Public Works and Planning

**SUBJECT:** Award of Contract No. 18-21-C, Biola Sidewalk and Shoulder Improvement Project,  
Federal Project No. ATPL-5942(276)

RECOMMENDED ACTION(S):

- 1. Adopt plans and specifications for Contract 18-21-C, Biola Sidewalk and Shoulder Improvement Project.**
- 2. Find that Witbro, Inc. dba Seal Rite Paving & Grading, 4237 W Swift Ave, Fresno, CA 93722, is the lowest responsible bidder for Contract 18-21-C, Biola Sidewalk and Shoulder Improvement Project, and that the deviations from strict bidding requirements in Seal Rite Paving & Grading's bid are immaterial and hereby waived, in the discretion of the Board and in furtherance of the best interests of the County.**
- 3. Award Contract 18-21-C, Biola Sidewalk and Shoulder Improvement Project to Seal Rite Paving & Grading as the lowest responsible bidder, in the amount of \$486,403.**

Approval of the recommended actions will authorize the award of a federally funded Active Transportation Program (ATP) project to Seal Rite Paving & Grading (Seal Rite). This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

If the award is not approved, the Biola Sidewalk and Shoulder Improvement Project (Project) will not be constructed, as deadline to award is July 2019, per the ATP Program guidelines, which would not leave time to rebid the Project.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The anticipated maximum construction cost, based on the low bid and including an allowance for contingencies, is \$523,223 [contract (\$486,403) plus change order authorizations (\$36,820)]. The improvements are 100% federally funded through the ATP Program. Sufficient appropriations and estimated revenues are included in the Department of Public Works and Planning's Road Org 4510 FY 2018-19 Adopted Budget.

DISCUSSION:

The purpose of the ATP Program is to fund transportation projects or programs that will contribute to or encourage use of active modes of transportation.

The Project consists, in general, of installing new asphalt shoulders, concrete sidewalk, curb and gutter, drain

inlets, Americans with Disabilities Act (ADA) compliant ramps, and any other miscellaneous items, as included in the plans and specifications, in Biola on G Street between 5<sup>th</sup> and 7<sup>th</sup> Streets.

On March 12, 2019, the Department issued a notice to bidders relating to the Project, using the Department's standard instructions to bidders and construction contract template for a transportation project. On April 18, 2019, the Department received eight bids for the Project. Seal Rite's bid was \$486,403, which is \$14,851 or 3.15% higher than the engineer's estimate of \$471,552.

The bidders, their respective bids, and Disadvantaged Business Enterprise (DBE) Commitments are shown below:

<u>Bidder</u>	<u>Bid</u>	<u>DBE Commitment</u> <u>(Goal 11%)</u>
Seal Rite	\$486,403.00	20.1%
American Paving Co.	\$486,420.00	10.5%
Dawson-Mauldin LLC	\$490,480.00	0.5%
Todd Companies	\$517,882.00	Not Submitted
Bush Engineering	\$523,871.23	Not Submitted
DOD Construction	\$523,991.00	Not Submitted
Avison Construction, Inc.	\$545,597.00	Not Submitted
AJ Excavation	\$575,948.50	Not Submitted

There were two irregularities in the bid package submitted by the low bidder, each of which may be waived, in your Board's discretion, as immaterial deviations from strict bidding requirements.

Seal Rite's bid was not submitted on the appropriate Proposal 2.0A form, having instead submitted its bid on the original Proposal 2.0 form that was contained in the Bid Book for the project. Addendum No. 2 to the project specifications specifically directed the bidders to replace the Proposal 2.0 form with the Proposal 2.0A form. The Addenda are part of the Contract Documents, and the Contractor acknowledged in writing its receipt of both Addenda. The change made by Addendum No. 2 to the Proposal 2.0A form was to list Bid Item No. 13 as a "final pay item," by identifying it with an "F" in the adjacent column immediately left to its description ("Class A Aggregate Base"). Under the California Department of Transportation's 2015 Standard Specifications, which also are part of the Contract Documents for this project, the amount bid for that item, based on the unit price specified by the contractor and the quantity listed on Proposal 2.0A for that bid item (223 cubic yards), is final for purposes of payment. The designation essentially assures that the amount to be paid to Seal Rite for Class A Aggregate Base will be \$23,192. Because issuance of Addendum No. 2 replaced the Proposal 2.0 form with the Proposal 2.0A form, and because the Contractor acknowledged in writing its receipt of that Addendum, it is beyond dispute that Bid Item No. 13 is a final pay item, and thus irrelevant that Seal Rite submitted its bid on the superseded form.

The other irregularity in Seal Rite's bid is the omission of the Department of Industrial Relations issued contractor registration number (DIR Number) for one of its listed subcontractors (Power Design Electric), which is one of the items required to be included with the bid by Section 4104 of the Public Contract Code. However, the contractor license and DIR Number for each prime or subcontractor performing work on every public project must be verified by an agency prior to award. Because the DIR Number can be obtained easily from the DIR website using either the contractor license or firm name, both of which were supplied, the Board may waive such an omission as immaterial.

Pursuant to Board Resolution No. 19-086, dated March 12, 2019, award of the Project to Seal Rite would also authorize the Director of the Department of Public Works and Planning to execute Contract Change Orders up

to the statutory limit of \$36,820. The Contract Change Order authorization does not allow changes to the scope of work.

Plans and specifications were prepared by the Department's Design Division. It is anticipated that construction will begin in July 2019 and will be completed in August 2019.

REFERENCE MATERIAL:

BAI #43, March 12, 2019

ATTACHMENTS INCLUDED AND/OR ON FILE:

Location Map

CAO ANALYST:

Sonia M. De La Rosa