



Legislation Text

File #: 12-1508, **Version:** 1

Department of Transportation recommending the Board authorize the Chair to sign the Memorandum of Agreement with the United States Army Corps of Engineers and the California State Historic Preservation Officer, Clarksville Region Historical Society, and Lincoln Highway Association, pursuant to Section 404 of the Clean Water Act, as necessary for the construction of the U.S. 50/Silva Valley Parkway Interchange - Phase 1 Project, CIP No. 71328, subject to minor modification and County Counsel approval.

FUNDING: El Dorado Hills Traffic Impact Mitigation Fees - Silva Valley Interchange Set Aside Fund, 2004GP TIM-Silva Valley Set Aside, Developer Advanced Funds, and State-Local Partnership Program Grant Funds.

Fiscal Impact/Change to Net County Cost

There is no fiscal impact associated with this agenda item. Funding for the construction phase of the U.S. 50/Silva Valley Parkway Interchange - Phase 1 Project (Project) will be provided by El Dorado Hills Traffic Impact Mitigation Fees - Silva Valley Interchange Set Aside Fund, 2004GP TIM-Silva Valley Set Aside, Developer advanced funds, and a State-Local Partnership Program grant. The implementation of the Memorandum of Agreement (MOA) is incorporated into the total cost for construction and construction engineering for this Project, currently estimate to be \$39,526,000.

Background

On June 28, 2011, the Board certified a Supplemental Environmental Impact Report and authorized the ordering of title reports, certified appraisals, and the commencement of the acquisition process for the Project. Subsequently, the Department of Transportation (Department) and project partners have been working to secure resource agency permits necessary for the construction of the Project.

The Project will impact portions of existing wetlands under the jurisdiction of the United States Army Corps of Engineers (Corps). This impact necessitates consultation with the Corps, and issuance of a permit under Section 404 of the Clean Water Act. As the Corps is a federal agency, implementation of the permit requires review under the federal National Environmental Policy Act (NEPA). This review includes evaluation of cultural resources. Under this review, the Corps, in consultation with the California State Historic Preservation Officer (SHPO), has determined the implementation of the subject MOA is necessary to resolve potential adverse effects of the Project relative to area historical properties.

The MOA defines the terms and conditions by which certain historic properties will be addressed during the construction of the Project, including the implementation of the Project Historic Properties Treatment Plan (HPTP). The HPTP includes pre-construction surveys to identify certain resources whose locations are not accurately known, oversight of certain activities by a certified Archaeologist, and protocols for addressing certain cultural resources and artifacts which may be discovered during construction. These protocols include consultation with the Corps, SHPO and other agencies depending upon the nature of the items found. While preliminary studies indicate the discovery of currently unidentified cultural resources or artifacts is unlikely, in the event some are found during

construction, there is an expectation that delays will occur.

This MOA includes the Clarksville Region Historical Society as "Signatory Party" and the Lincoln Highway Association as a "Concurring Party" at the invitation of the Corps pursuant to Section 404 of the Clean Water Act. These organizations may be involved in the review and comment of Project related reports and sensitive cultural resource operations.

Reason for Recommendation

The Project team has performed extensive research and studies to identify cultural resources within the Project limits. This effort includes consultation with federal, state and local organizations. A HPTP has been prepared to mitigate impacts construction may otherwise have on existing known cultural resources, as well as address any currently unknown resources or artifacts which may be encountered during construction. The Department, Corps and SHPO are in agreement that the implementation of the HPTP under the terms of the MOA will mitigate impacts to any Project area cultural resources. The execution of this MOA will meet the requirements of Section 404 of the Clean Water Act and allow the Corps to issue a permit required for the construction of the Project.

It is the collective opinion of the Department and County Counsel that inclusion of the Clarksville Region Historical Society and Lincoln Highway Association in such an agreement is unusual and may present some disadvantages to the Department during the construction of this project. The Project team has met with the Army Corps to discuss this issue and has been informed that the decision to include the invited parties is at the Army Corps' discretion. As the right-of-way for this Project has not yet been fully acquired and this item may not be on the current project delivery critical path, the Board may chose to continue further negotiations on this issue, or approve the agreement provided.

Action(s) to be taken following Board approval

1. The Chair will sign four originals of the MOA, subject to minor modifications and County Counsel approval.
2. The Clerk of the Board will forward the four originals of the partially executed MOA to the Department to send to the Corps and SHPO.
3. Upon receipt from the Agencies, the Department will forward one fully executed original MOA to the Clerk of the Board for its files.
4. The Department will work with Project partners to finalize Project delivery requirements and will make every effort to return to the Board in December 2012 requesting approval of the Project and authorization to advertise for construction.

Contact

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Concurrences

Pending