



Legislation Text

File #: 21-0497, **Version:** 1

Department of Transportation recommending the Board approve and authorize the Chair to sign the Fourth Amendment to Agreement for Services 551-S1411, Fenix 989, with T.Y. Lin International updating contract language to the current California Department of Transportation Standards, extending the term for two additional years, revising the scope of work, and increasing the compensation by \$56,824 for a new not-to-exceed of \$1,409,953 for the Bucks Bar Road at the North Fork Cosumnes River - Bridge Replacement Project, Capital Improvement Program project number 36105003.

FUNDING: Highway Bridge Program (88% - Federal), Traffic Impact Fees (10% - Local), Regional Surface Transportation Program (1% - State), and Road Fund (1% - Local).

DISCUSSION / BACKGROUND

On July 15, 2014 (Legistar 14-0071, Item 17), the Board approved Agreement 551-S1411 (Agreement) with T.Y. Lin to provide environmental and engineering services for the Bucks Bar Road at the North Fork Cosumnes River - Bridge Replacement Project (Project). The Agreement's scope and budget presumed that an Initial Study/Mitigated Negative Declaration (IS/MND) would provide adequate documentation necessary for compliance with the California Environmental Quality Act. In November 2015, the Department of Transportation (Transportation) was prepared to submit the IS/MND for Board approval; however, since representatives of local Native American communities were unable to agree with Transportation on how to mitigate the presence of cultural resources, Transportation withdrew the IS/MND and instead moved forward with preparation of an Environmental Impact Report (EIR).

The California Department of Transportation (Caltrans) was consulted regarding the requirements for the EIR and indicated that a professional ethnographer would need to be engaged to interview Tribal members. The addition of the ethnographer, and other services required to complete an EIR and satisfy Caltrans requirements related to the National Environmental Policy Act, required a significant increase to the total budget for the Agreement which caused the Agreement's budget to surpass the threshold that requires a full audit by Caltrans.

On October 25, 2016 (Legistar 14-0071, Item 20), the Board approved Amendment I to the Agreement to allow for subconsultant use of optional task budget, with no increase in the contracted not-to-exceed amount. On December 13, 2016 (Legistar 14-0071, Item 22), the Board approved Amendment II to increase the not-to-exceed amount of the Agreement. On April 25, 2017 (Legistar 14-0071, Item 18), the Board approved Amendment III updating the contract language to the most recent Caltrans verbatim standards and allowing for the reimbursement of travel costs for select subconsultants.

The Fourth Amendment (Amendment) being proposed here will extend the term for two years to July 2023 to allow for the completion of the environmental and design processes, and increase the Agreement's not-to-exceed amount by \$56,824 for a new not-to-exceed amount of \$1,409,953. The funding increase is required to cover work as follows:

- 1) Finding of No Adverse Effect and work related to Section 4F and Section 106 under the National Environmental Policy Act (NEPA)
- 2) Canine forensic survey
- 3) Additional hydraulics and geotechnical work required to evaluate the on-alignment alternative

Additionally, the scope of work is being modified to move the bridge design work from T.Y. Lin to Transportation staff. T.Y. Lin will instead perform independent check of Transportation's bridge design.

As with the third amendment, the Amendment updates contract language per Caltrans federal funding requirements. Caltrans Exhibit 10-R, A&E Boilerplate Agreement Language, was updated in September 2020, and Caltrans recommends that agreements be updated to the most current boilerplate when possible. This is due to current Code of Federal Regulations (CFR) financial reporting requirements, and these minor modifications do not significantly change the intent of the Agreement.

The following articles are being added or amended to address this recommendation:

Article III Progress Reports;
Article IV Performance Period;
Article V Allowable Costs and Payments;
Article VI Termination;
Article VII Cost Principles and Administrative Requirements;
Article VIII Retention of Records/Audit;
Article IX Audit Review Procedures;
Article X Subcontracting;
Article XI Equipment Purchase and Other Capital Expenditures;
Article XII State Prevailing Wage Rates;
Article XIII Conflict of Interest;
Article XVI Non-Discrimination Clause and Statement of Compliance;
Article XVII Debarment and Suspension Certification;
Article XXII Ownership of Data;
Article XXIV Changes to Agreement;
Article XXV Consultant to County;
Article XXVII Independent Contractor;
Article XXXIII Force Majeure;
Article XL Covenant Against Contingent Fees;
Article XLVII Disadvantaged Business Enterprises (DBE) Participation;
Article XLIX Disputes;
Article LII Claims Filed by County's Construction Contractors; and
Article LXIV Waiver

The El Dorado County Employees Association, Local #1, was informed of this proposed Amendment.

ALTERNATIVES

The Board could choose to not approve Amendment IV. The EIR would not be completed and the Project would be halted.

PRIOR BOARD ACTION

See Discussion/Background section above.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel and Risk Management have reviewed and approved the Amendment.

CAO RECOMMENDATION

Approve as recommended.

FINANCIAL IMPACT

The project is included in the adopted 2021 Capital Improvement Program, with funding provided by Highway Bridge Program, Traffic Impact Mitigation Fees, Regional Surface Transportation Program, and Road Fund.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk of the Board will obtain the Chair's signature on two (2) originals of the Amendment.
- 2) The Clerk of the Board will forward one (1) original Amendment to the County's Chief Administrative Office, Procurement and Contracts, for further processing.

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

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