



Legislation Text

File #: 20-0588, **Version:** 1

Department of Transportation recommending the Board:

- 1) Approve and authorize the Chair ~~Purchasing Agent, or designee~~, to sign Amendment 1 to Agreement 461-S1711 with Bender Rosenthal, Inc., for as needed right of way services to extend the term from May 8, 2020 to May 8, 2021, with no change to compensation; and
- 2) Approve and authorize the Chair ~~Purchasing Agent, or designee~~, to sign Amendment 1 to Agreement 462-S1711 with Pattison & Associates, Inc., for as needed right of way services to extend the term from May 8, 2020 to May 8, 2021 with no change to compensation.

FUNDING: For various Capital Improvement Program and Environmental Improvement Program projects, funding will be provided by associated Federal, State, and Local funding sources.

DISCUSSION / BACKGROUND

In October 2016, County Procurement and Contracts conducted a Request for Qualifications process for the Community Development Agency. Statements of Qualifications were evaluated and ranked and a list of acceptable right of way service vendors was established. For real property appraisals, acquisition services, and relocation services, Bender Rosenthal, Inc. (Bender Rosenthal) and Pattison & Associates, Inc. (Pattison) were ranked the top two of a field of nine participants.

On May 9, 2017, the Board approved Agreement 461-S1711 with Bender Rosenthal, (Item 25) and Agreement 462-S1711 with Pattison, (Item 26).

Transportation is required to use outside consultant appraisers for right of way valuations to ensure independent and unbiased findings, and where with such property acquisitions, the possibility of eminent domain proceedings exist. The use of independent appraisers is mandated by regulations associated with the requirements imposed by the use of federal and state funding on virtually all of Transportation's construction projects. In the event that an acquisition becomes the subject of an eminent domain proceeding, the testimony of the independent appraiser, as well as the documented parcel diaries of the contacts while negotiating with the property owners, are essential to the successful outcome of the acquisition.

For real property acquisitions on projects utilizing federal dollars and federally assisted programs, Transportation's processes are governed by the Federal and State Relocation Assistance and Real Property Acquisition Policies Act, as set forth in the California Department of Transportation (Caltrans) Right of Way Manual. Caltrans requires that there be a separation of acquisition and appraisal functions (§7.05.00 of the Caltrans Right of Way Manual). Government Code §7267 and the Code of Civil Procedure §1263.010 also dictate procedures to be followed in order to acquire right of way for various projects. All of these regulations require professionally trained and experienced right of way professionals to maintain standards of ethics and impartiality in negotiations for the acquisition of real property for public project purposes.

Under current regulations, Transportation can and has been preparing valuations for easement acquisitions. In acquisitions that require both fee title and easements, however, Transportation has

been utilizing the services of outside contractors, as it is more fiscally efficient to have the same entity performing both.

Transportation staff provides contract negotiation and administration oversight, prepares and reviews waiver valuations for easement acquisitions, negotiates acquisitions based on consultant provided valuations and works with the title company to close escrows and transfer title. Transportation reviewed its right of way acquisitions based on the approved Capital Improvement Program (CIP) and Environmental Improvement Program (EIP) and determined that it does not currently have sufficient staff to handle all of the projected right of way needs for the programs. Consultant services will be required to cover fluctuations in future workload. Included in these services may be valuations for easement acquisitions.

These amendments are needed to maintain continuity of service and to avoid delays in project delivery.

ALTERNATIVES

The Board could choose to not approve these Amendments. If the Amendments are not approved, delays would be expected in project delivery. Also, right of way for many projects is ultimately transferred to Caltrans. Without outside contractors, projects may not meet Caltrans requirements, in which case, Caltrans would not accept those projects at their completion.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Procurement and Contracts

County Counsel and Risk Management have approved these proposed amendments.

CAO RECOMMENDATION

It is recommended that the Board approve this item.

FINANCIAL IMPACT

This is an as-needed contract. Funding for work performed pursuant to the Agreement will be provided by various Capital and Environmental Improvement Program project budgets, including federal, state, and local funding sources.

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 Bender Rosenthal Amendment.
- 2) The Clerk of the Board will forward one (1) fully executed Bender Rosenthal Amendment to Chief Administrative Office, Procurement and Contracts Division, attention Matt Potter, for further processing.
- 3) The Clerk of the Board will obtain the Chair's signature on two (2) originals of the Pattison Amendment.
- 4) The Clerk of the Board will forward one (1) fully executed Pattison Amendment to Chief Administrative Office, Procurement and Contracts Division, attention Matt Potter, for further processing.

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

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