

1 **BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO**

2 **A RESOLUTION OF THE SAN BENITO) Resolution No. 2017-_____**
3 **COUNTY BOARD OF SUPERVISORS,)**
4 **MAKING CERTAIN PUBLIC INTEREST)**
5 **FINDINGS AND DETERMINATIONS AND)**
6 **DECLARING ITS INTENTION TO ORDER)**
7 **THE PREPARATION AND EXECUTION OF)**
8 **A CONSULTANT SERVICES CONTRACT)**
9 **WITH THE CONSULTING ENGINEERING)**
10 **FIRM OF RECORD TO COMPLETE THE)**
11 **ENGINEERING OF THE ROCKS ROAD)**
12 **BRIDGE REPLACEMENT OVER PINACOTE)**
13 **ROCK CREEK PROJECT (FEDERAL)**
14 **PROJECT NUMBER BRLO-5943(053)))**

15 **WHEREAS**, the existing Rocks Road Bridge over Pinacate Creek (Bridge No.
16 43C0053) does not meet current standards for road/bridge width or has insufficient
17 hydraulic capacity for high flow conditions within Pinacate Creek; and

18 **WHEREAS**, the Board of Supervisors ("Board") for the County of San Benito
19 ("County") determined that in the interest of public safety that the bridge should be
20 replaced and developed the Rocks Road Bridge Replacement Over Pinacote Rock
21 Creek Project (Federal Project Number BRLO-5943(053)) ("Project"); and

22 **WHEREAS**, the Project is funded by the Federal Highway Administration, which
23 as a condition of funding requires recipients of said funding adhere to federal funding
24 guidelines, which requires selection of engineering consultants based on qualifications
25 through public advertisement for such services and competitive negotiation
26 (23 CFR 172.5); and

27 **WHEREAS**, following a public advertisement for consulting engineering services
28 and competitive negotiation, in accordance with 23 CFR 172.5, NV5, Incorporated,
formerly Nolte Associates, ("Consultant") was selected to perform engineering and
other services regarding the Project; and

WHEREAS, these services included preparation of all environmental documents
required under the California Environmental Quality Act, performance of all

1 investigations necessary to design the replacement bridge, and preparation of the plans
2 and specifications for construction of the Project (collectively, "Construction
3 Documents"); and

4 **WHEREAS**, on February 8, 2011 the Board approved a contract with Consultant,
5 retaining them to perform engineering and related services, and authorized the Chair of
6 the Board to execute the contract; and

7 **WHEREAS**, as a result of administrative oversight, the contract with Consultant
8 approved by the Board on February 8, 2011 expired on June 30, 2014; and

9 **WHEREAS**, the preparation of the Construction Documents for construction of
10 the Project are greater than sixty-five percent (65%) complete; and

11 **WHEREAS**, public interest and necessity require the proposed Project to be
12 constructed; therefore, requiring completion of the construction documents by a
13 professional engineer licensed in the State of California; and

14 **WHEREAS**, the California Code of Regulations ("CCR") requires that any
15 professional engineer may assume responsible charge of a project (successor licensee)
16 as long as the successor licensee exercises the requisite extent of control and assumes
17 responsibility for all the engineering decisions involved in the design (16 CCR 404.1(c));
18 and

19 **WHEREAS**, any successor licensee or consulting engineering firm would be
20 compelled to re-evaluate or re-create the entire design to satisfy requisite responsible
21 charge for the Project; and

22 **WHEREAS**, Consultant remains qualified to complete the Construction
23 Documents and has the base of knowledge in the Project design to maintain status as
24 the responsible charge/engineer of record as defined in 16 CCR 404.1; and

25 **WHEREAS**, federal funding guidelines allow for noncompetitive negotiation to
26 procure engineering and design related services on federal-aid participating contracts
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1 when it is not feasible to award the contract using competitive negotiation, equivalent
2 State qualifications-based procedures, or small purchase procedures: and

3 **WHEREAS**, in the interest of public safety and economy, the Board desires that
4 the Construction Documents for the Project be completed by Consultant under a new
5 contract through noncompetitive negotiation.

6 **NOW, THEREFORE, BE IT RESOLVED** that the San Benito County Board of
7 Supervisors hereby finds, determines, declares and resolves as follows:

- 8 1. The above recitals are all true and correct.
- 9 2. Based upon the evidence and alternatives presented, this Board finds,
10 determines, declares, and resolves each of the following:
 - 11 a. Public interest and necessity require the proposed completion of
12 the Project;
 - 13 b. Public safety would be better served through continuity in design
14 effort;
 - 15 c. Retaining the current Consultant in responsible charge of the work
16 is in the best interest of the public;
 - 17 d. Entering into a contract with Consultant is the best solution to
18 finishing the preparation of the Construction Documents; and
 - 19 e. It is appropriate to adopt a Public Interest Finding and a new
20 contract with Consultant should be negotiated.
- 21 3. The Board directs the Resource Management Agency's Public Works
22 Division (PW) to prepare and negotiate a new contract with Consultant,
23 the terms of which shall be consistent with the prior agreement, and that
24 no additional compensation will be allowed therefor.
- 25 4. The new agreement shall consider and ratify work performed by
26 Consultant and the Consultant's subconsultants involved in the
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1 preparation of the Construction Documents for that period between the
2 expiration of the prior contract and the new contract.

- 3 5. In the event a new contract cannot be negotiated in accordance with
4 Section 3 and Section 4 of this Resolution, PW is directed and authorized
5 to advertise for consultant services in accordance with 23 CFR 172.5 for
6 the completion of the Project's Construction Documents.

7 PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF
8 SAN BENITO THIS 11TH DAY OF APRIL, 2017, BY THE FOLLOWING VOTE:

9 Ayes: Supervisor(s):
10 Noes: Supervisor(s):
11 Absent: Supervisor(s):
Abstain: Supervisor(s):

12
13 By: _____
Jaime De La Cruz, Chair

14 ATTEST:
15 Chase Graves, Clerk of the Board

APPROVED AS TO LEGAL FORM:
San Benito County Counsel's Office

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17 By: _____

By: Shirley L. Murphy 4/5/17
Shirley L. Murphy, Deputy County Counsel