

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 SHORE ROAD)**
12 **BRIDGE AND SAN FELIPE ROAD BRIDGE)**
13 **GUARDRAIL REPLACEMENT PROJECT)**
14 **(FEDERAL PROJECT NUMBER)**
15 **BRLO-5943(043)))**
16 _____)

17 **WHEREAS**, the existing bridge railings for the Shore Road Bridge over
18 Tequisquita Slough Overflow (Bridge No. 43C0012), and San Felipe Road Bridge over
19 Santa Ana Creek (Bridge No. 43C0051), do not meet current safety standards; and

20 **WHEREAS**, the Board of Supervisors ("Board") for the County of San Benito
21 ("County") determined that in the interest of public safety that the bridge rails should be
22 replaced and developed the Shore Road Bridge and San Felipe Road Bridge Guardrail
23 Replacement Project (Federal Project Number BRLO-5943(043)) ("Project"); and

24 **WHEREAS**, the Project is funded by the Federal Highway Administration, which
25 as a condition of funding requires recipients of said funding adhere to federal funding
26 guidelines, which requires selection of engineering consultant based on qualifications
27 through public advertisement for such services and competitive negotiation
28 (23 CFR 172.5); and

29 **WHEREAS**, following a public advertisement for consulting engineering services
30 and competitive negotiation, in accordance with 23 CFR 172.5, Cornerstone Structural
31 Engineering Group, Incorporated ("Consultant"), was selected to perform engineering
32 and other services regarding the Project; and

1 **WHEREAS**, these services included preparation of all environmental documents
2 required under the California Environmental Quality Act, performance of all
3 investigations necessary to design the replacement guardrails, and preparation of the
4 plans and specifications for construction of the Project (collectively, "Construction
5 Documents"); and

6 **WHEREAS**, on August 19, 2014 the Board approved a contract with Consultant,
7 retaining them to perform engineering and related services, and authorized the Chair of
8 the Board to execute, a contract; and

9 **WHEREAS**, as a result of administrative oversight, the contract with Consultant
10 approved by the Board on August 19, 2014 expired on June 30, 2015; and

11 **WHEREAS**, the preparation of the Construction Documents for construction of
12 the Project are approximately ninety-five percent (95%) complete; and

13 **WHEREAS**, public interest and necessity require the proposed Project to be
14 constructed; therefore, requiring completion of the Construction Documents by a
15 professional engineer licensed in the State of California; and

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

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

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

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

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

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

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

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4. The new agreement shall consider and ratify work performed by Consultant and the Consultant's subconsultants involved in the preparation of the Construction Documents for that period between the expiration of the prior contract and the new contract.

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

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

Ayes: Supervisor(s):
Noes: Supervisor(s):
Absent: Supervisor(s):
Abstain: Supervisor(s):

By: _____
Jaime De La Cruz, Chair

ATTEST:
Chase Graves, Clerk of the Board

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

By: _____

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