

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 ROSA MORADA)
12 ROAD BRIDGE REPLACEMENT OVER)
13 ARROYO DOS PICACHOS CREEK)
14 PROJECT (FEDERAL PROJECT NUMBER)
15 STPLX-5943(057)))
16 _____)

17 **WHEREAS**, the existing Rosa Morada Road Bridge over Arroyo Dos Picachos
18 Creek (Bridge No. 43C0041) does not meet current standards for road/bridge width and
19 is functionally obsolete; 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 should be
22 replaced and developed the Rosa Morada Road Bridge Replacement Over Arroyo Dos
23 Picachos Creek Project (Federal Project Number STPLX-5943(057)) ("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, Biggs Cardosa and
31 Associates, Incorporated ("Consultant"), was selected to perform engineering and other
32 services related to 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 bridge, and prepare the plans and
4 specifications for construction of the Project (collectively, "Construction Documents");
5 and

6 **WHEREAS**, on May 24, 2011, 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 the contract; and

9 **WHEREAS**, as a result of administrative oversight, the contract with Consultant
10 approved by the Board on May 24, 2011 expired on June 30, 2013; 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

27 **WHEREAS**, federal funding guidelines allow for noncompetitive negotiation to
28 procure engineering and design related services on federal-aid participating contracts

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
27 preparation of the Construction Documents for that period between the
28 expiration of the prior contract and the new contract.

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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