

REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT AND RECORD OF ACTION

April 7, 2020

FROM

BRENDON BIGGS, Interim Chief Flood Control Engineer, Flood Control District

SUBJECT

Amendment to Contract with BNSF Railway Company for the West Fontana Channel Flood Control Improvement Project

RECOMMENDATION(S)

Acting as the governing body of the San Bernardino County Flood Control District (District):

1. Approve **Amendment No. 1** to **Contract No. 18-546** with BNSF Railway Company (Construction Agreement No. PF-10012758), increasing the contract amount by \$484,105 (from \$638,207 to \$1,122,312), for additional construction support services for the West Fontana Channel Flood Control Improvement Project (Project).
2. Authorize the Chief Flood Control Engineer and/or the Interim Chief Flood Control Engineer of the District to add and/or delete services and reallocate funding in the amended Contract No. 18-546, as required to complete the work outlined therein.

(Presenter: Brendon Biggs, Interim Chief Flood Control Engineer, 387-7906)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The District is funded by property taxes, fees, and other local, state, and federal funding. The cost of this contract is funded by property tax revenue. The estimated cost for continued construction support services under Construction Agreement No. BF-10012758 (Agreement) is \$484,105. Sufficient appropriation and revenue have been included in the District's 2019-20 budget (1910002518-F01452) and will be included in future recommended budgets.

BACKGROUND INFORMATION

The District is currently reconstructing the West Fontana Channel, which is located in the City of Fontana (City) and an unincorporated area of the County of San Bernardino. The proposed work will impact the BNSF Railway Company's (BNSF) facility at their Muskat Lead Line and at their Kaiser Yard.

Improvements to the West Fontana Channel and reconstruction of BNSF facilities covered under the Agreement include the removal of the existing interim corrugated metal pipe located under the BNSF Muskat Lead Track No. 3, installation of an 18 foot wide by 12 foot high reinforced concrete box culvert, requiring BNSF to temporarily remove and replace 240 feet of the Muskat Lead Track, and relocate five (5) light poles in the BNSF Kaiser Yard and railroad flagging services for District construction activities near BNSF's tracks. BNSF has been

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providing flagmen per safety regulations, engineering and inspection as required in connection with the construction of the Project, and is responsible for procurement of materials, equipment, and supplies necessary to complete the railroad related work.

In accordance with the Agreement, the District is utilizing an existing easement to construct the improvements and purchased an additional temporary use area to facilitate the construction of the box culvert. As between the parties, the District is the lead agency for design and construction of the Project and BNSF is the lead in the reconstruction of the railroad work.

Pursuant to the proposed Amendment No. 1, BNSF will continue to provide additional flagging and inspection support services during the construction phase of the Project. Due to recent rail incidents within the last year, BNSF has required additional flagmen on the Project associated with the construction activities performed by the District's contractor for safety reasons. This additional work is necessary to ensure both BNSF and Federal Railway Administration (FRA) Safety Guidelines & Regulations are met during construction of the Project.

The Project, once constructed, will be an important regional facility that will reduce flood risk to the BNSF Railway, Metrolink Railway and downstream communities, as well as to adjacent property owners, thereby enhancing public safety. The Project will also aid the City by providing a regional drainage facility into which the City can tie its local drainage projects. This Project is consistent with County and Chief Executive Officer's goals to ensure development of a well-planned, balanced, and sustainable County. In order to expedite completion of the work, it is recommended that the Chief Flood Control Engineer and/or Interim Chief Flood Control Engineer be authorized to have the flexibility to reallocate funding between tasks in this Amendment No. 1 as needed during the construction phase, so long as the contract amount is not exceeded.

On July 24, 2018 (Item No. 55) the Board of Supervisors (Board) approved Contract No. 18-546 with BNSF Railway Company (Construction Agreement No. BF-10012758) in the amount of \$638,207 for proposed work related to the reconstruction & improvement of the Muskat Lead Track and associated flagging & inspections services as required for Project construction.

On January 8, 2019 (Item No. 47) the Board approved Contract No. 19-13 with Sukut Construction, LLC in the amount of \$59,849,214 for the West Fontana Channel Project, from Banana Basin to 2,020 feet west of Sierra Avenue, in the City of Fontana, which includes the work to construct the box culvert underneath the musket lead and approximately 1.75 miles of channel alongside BNSF track requiring the above mentioned flagging and inspection services.

Construction of the Project is anticipated to be complete in Fall of 2020.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Sophie A. Akins, Deputy County Counsel, 387-5455) on March 4, 2020; Finance (Jessica Trillo, Administrative Analyst, 387-4222) on March 16, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on March 23, 2020.

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Record of Action of the Board of Supervisors
San Bernardino County Flood Control District

APPROVED (CONSENT CALENDAR)

Moved: Robert A. Lovingood Seconded: Josie Gonzales

Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY _____
DATED: April 7, 2020



cc: Flood- Drake w/agree for sign
Contractor- C/O Flood w/agree
File- w/agree w/map
la 04/20/2020