



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Ristow

SUBJECT: SEE BELOW

DATE: May 29, 2023

Approved

Date

6/7/23

COUNCIL DISTRICT: 3

SUBJECT: APPROVAL OF RETROACTIVITY IN THE AGREEMENT FOR SANTA CLARA BRIDGE AT COYOTE CREEK REPLACEMENT PROJECT AND TY LIN INTERNATIONAL

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute the Third Amendment to the Consultant Agreement with TYLin International to retroactively extend the term of the agreement and increase the compensation in the amount of \$130,828 for a total maximum compensation of \$1,425,926.

SUMMARY AND OUTCOME

Retroactively renew and amend the Consultant Agreement with TYLin International (TYLI), extend the term, and increase the maximum compensation amount by \$130,828. Approval of this amendment will enable staff to pay the final invoice, fully compensate TYLI for completing the environmental documents and 65% design plans, and close out the Consultant Agreement.

BACKGROUND

Santa Clara Street is a major arterial and transit corridor, including the Bus Rapid Transit line and the future alignment for Bay Area Rapid Transit (BART). The Santa Clara Street Bridge is 43 feet wide, 150 feet long, and located on Santa Clara Street between 17th Street and 19th Street. The existing bridge has two traffic lanes on each direction that carries more than 17,000 vehicles per day.

On January 11, 2017, City of San José, Department of Transportation (DOT) staff issued a Request for Proposal seeking a bridge design consultant to provide engineering services to

replace the Santa Clara Street Bridge over Coyote Creek. DOT received only two proposals. Since at least three proposals were needed to meet federal procurement requirements, DOT rejected all proposals and re-advertised the Request for Proposal for a second time on March 7, 2017. This time the Request for Proposal also only received two proposals. Staff documented the two procurement processes to meet the federal requirements and proceeded with the procurement process to award the contract.

On April 30, 2018, DOT entered into a Standard Consultant Agreement with the highest-ranked qualified consultant, TYLI, to provide consultant services for the project. City Council approved this Standard Consultant Agreement on March 16, 2018. The scope of the services included engineering design, right-of-way and environmental document preparation services, outreach support, project support during construction, and any other necessary work needed to replace the Santa Clara Street Bridge at Coyote Creek. The Standard Consultant Agreement was for a maximum compensation of \$1,295,098 for a three-year term, with three one-year options to extend. DOT executed two amendments to the Standard Consultant Agreement.

Amendment One

Approved on September 5, 2018, the Standard Consultant Agreement amended Section 13 in Attachment A of the amendment. The Basis of Compensation for the work done by TYLI was changed from “Fixed Fee” to “Time & Materials” This amendment was authorized by the City Manager’s Office.

Amendment Two

Approved on June 14, 2021, the Standard Consultant Agreement was retroactively amended to extend the term of the contract for TYLI due to delays caused by BART Phase II single-bore tunnel project that runs directly under the Santa Clara bridge. DOT staff and TYLI coordinated extensively with the Santa Clara Valley Transportation Authority (VTA) to accommodate the BART Phase II project. The agreement term was extended from May 5, 2021 to May 5, 2022. This amendment was authorized by the City Manager’s Office.

TYLI proceeded to design of the bridge based on VTA’s BART Phase II design criteria; however, VTA changed the BART Phase II design criteria multiple times, requiring TYLI to revise the bridge design plans two times. Unfortunately, the bridge’s redesign depleted TYLI’s original contract amount at an accelerated rate and it spent \$181,155.85 over the original amount.

To date, TYLI has completed the environmental documents (National Environmental Policy Act and California Environmental Quality Act), 35% and 65% design plans and estimates, and received Caltrans approval of the 65% bridge type selection design plans and reports.

ANALYSIS

The multiple changes in the design criteria of the BART Phase II project significantly impacted the Santa Clara Bridge Project budget and schedule. In addition, the City had to advance design to meet the federal funding timeline. TYLI completed 65% design plans and estimates and obtained a Caltrans-approved bridge-type selection report for the project.

With revisions to the BART project tunnel design still anticipated, potentially impacting the Santa Clara Street Bridge design, DOT staff is temporarily pausing the Santa Clara Street Bridge Project and will be working with VTA to clarify and coordinate the BART tunnel design criteria impacting the Santa Clara Bridge Project.

The TYLI contract expired on May 5, 2022. Since the expiration of the contract, DOT staff and TYLI have been negotiating a fair payment to account for the work completed and, on June 6, 2022, TYLI submitted 65% design plans and estimates.

TYLI exceeded the project budget by \$181,155.85. City staff negotiated a reduced payment of \$130,828 for this work, roughly 72% of the full cost overrun. DOT staff believe this to be fair, given that TYLI completed the work required to get to a 65% design level and obtain Caltrans approval, despite the multiple changes in structures and additional engineering and coordination required by the changes to the BART Phase II tunnel. As such, DOT staff requests a retroactive extension to the Consultant Agreement term for AC # 663324-000 and an increase in the maximum compensation in the amount of \$130,828 to release payment for TYLI's reduced, final invoice.

EVALUATION AND FOLLOW-UP

No additional follow-up action is expected at this time.

COST SUMMARY/IMPLICATIONS

The additional consultant amount of \$130,828 would pay for work to reach the 65% project design milestone. This 65% project design milestone allows the City to use the completed environmental documents, plans, specifications, estimates, Caltrans-approved type selection report, and right-of-way documents for the Santa Clara Street Bridge Project.

1. AMOUNT OF RECOMMENDATION: \$130,828

2. SOURCE OF FUNDING: 429 - Building & Structure Construction Tax Fund

3. **FISCAL IMPACT:** The East Santa Clara Street Bridge at Coyote Creek Appropriation has a sufficient budget to fund the incurred contractual service costs.

BUDGET REFERENCE

The table below identifies the appropriation and funds proposed to fund the agreement recommended as part of this memorandum.

Fund #	Appn #	Appn Name	Total Appn	Contract Amendment	2022-2023 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
429	7133	East Santa Clara Bridge at Coyote Creek	\$1,648,000	\$130,828	748	10/18/2022 Ord No. 30833

COORDINATION

This project and memorandum have been coordinated with the City Attorney’s Office and the City Manager’s Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City’s Council Agenda website for the June 20, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Categorically exempt, File No. ER21-091, CEQA Guidelines Section 15302, Replacement or Reconstruction.

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

JOHN RISTOW

Director, Department of Transportation

For questions, please contact Zahir Gulzadah, Division Manager, Department of Transportation, at zahir.gulzadah@sanjoseca.gov or (408) 759-2129.