



Legislation Text

File #: 2021-0154, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Transportation and Public Works

Staff Name and Phone Number: Johannes J. Hoevertsz 707-565-2231

Vote Requirement: Majority

Supervisory District(s): Fourth, Fifth

Title:

Performance Security Deposit for the Wohler Road Bridge Replacement over Mark West Creek.

Recommended Action:

- A) Authorize the Director of the Department of Transportation and Public Works to make all monetary deposits and pledges and take all other similar actions necessary to satisfy and comply with the \$256,402.50 performance security deposit requirement under the County's Incidental Take Permit from the California Department of Fish and Wildlife for the Wohler Road Bridge Replacement over Mark West Creek (County Project Number C011135).
- B) Authorize Auditor Controller Treasurer Tax Collector to execute all required financial documents associated with a letter of credit and other instruments as may be used as security for the Incidental Take Permit.

(Fourth and Fifth Districts)

Executive Summary:

The Incidental Take Permit (ITP) issued by the California Department of Fish and Wildlife (CDFW) for the Wohler Road Bridge Replacement over Mark West Creek (the "Project") requires certain habitat restoration, enhancement and long-term management as mitigation for Project-related impacts. CDFW estimates that this work will cost the County \$256,402.50 to complete. In order to secure the County's faithful performance of this work, the ITP requires a performance security deposit equal to the estimated cost of the work. Upon completion of each component of the work, the performance security deposit will be returned to the County. The Department of Transportation and Public Works (TPW) requests authorization to pay \$256,402.50 through cash deposit to CDFW or a third party escrow, letter of credit, or other form permitted by CDFW and approved by County Counsel.

Discussion:

The existing two-lane bridge on Wohler Road Bridge over Mark West Creek (Bridge Number 20C0139) has been found to be functionally obsolete. The Wohler Road Bridge Replacement over Mark West Creek will include improvements to the roadway approaches and appurtenant facilities. The new replacement bridge will comply with current roadway, drainage and bridge standards; however, the site remains in a flood-prone area and a design exception was obtained from the California Department of Transportation (Caltrans) to have the bridge be overtopped with flood waters. Building the new bridge above the 100-year flood event with freeboard would make the Project financially infeasible. The Project does not increase vehicular capacity but

will provide a shoulder.

The Project is receiving federal funds and must satisfy all requirements of the Federal Highway Bridge Program, including approval by Caltrans. The County also had to acquire environmental permits from Regional Water Quality Control Board, US Army Corps of Engineers and CDFW for this project. CDFW required an ITP to cover any incidental take(s) of species during construction.

The performance security requirement of the ITP includes three components, \$55,000 for habitat improvement costs for restoration of 30 square feet of creek channel, \$56,902.50 for habitat restoration and enhancement costs for a total of 37,500 square feet of riparian habitat and habitat creation costs for a large rootwad habitat feature, and \$144,500 for long term management funding, for a total of \$256,402.50. TPW anticipates that approximately \$110,000 will be returned by December 31, 2022 and the remaining \$144,500 will be returned following management of the habitat for approximately 10 years.

TPW has engaged in multiple meetings/discussions with CDFW to minimize the financial impact of the security deposit, however, there are currently only three methods acceptable to CDFW. They are: (1) cash deposit with CDFW; (2) cash deposit into a third-party escrow account, and/or (3) through a letter of credit. TPW may also use a combination of these available methods to cover the performance security requirement. Upon meeting the obligations required under each component of the restoration work, the security deposit will be returned to the County.

TPW is requesting that the Board authorizes the Director of TPW to pay up to \$256,402.50 for the performance security required by the Incidental Take Permit, which will be returned upon faithful performance of the work. In the event TPW utilizes a letter of credit rather than a cash deposit for all or some of the performance security, there will be costs associated with such instrument that will not be returned. Without the performance security, the project cannot work in flowing waters of Mark West Creek and the Project cannot finish construction.

Prior Board Actions:

5/12/2020: Board awarded the construction management services contract to Prescience Corporation.

5/12/2020: Board approved Third Amendment to the agreement with Biggs Cardosa Associates for additional budget, engineering services, and design services in the construction phase, which extended the term of the agreement to December 2024.

4/21/2020: Board awarded construction contract for the Wohler Road Bridge Replacement Project over Mark West Creek to Steelhead Constructors, Inc.

8/9/2016: Board approved Second Amendment to the agreement with Biggs Cardosa Associates for additional engineering, design, surveying services.

11/10/2015: Board approved First Amendment to agreement with Biggs Cardosa Associates, extending the term of the agreement to December 2020 at no additional cost.

8/20/2013: Board approved agreement with Biggs Cardosa Associates for engineering design work for Wohler

Road Bridge over Mark West Creek.

FISCAL SUMMARY

Expenditures	FY 20-21 Adopted	FY21-22 Projected	FY 22-23 Projected
Budgeted Expenses	\$256,042.50		
Additional Appropriation Requested			
Total Expenditures	\$256,042.50		
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance	\$256,042.50		
Contingencies			
Total Sources	\$256,042.50		

Narrative Explanation of Fiscal Impacts:

Should TPW move forward with the cash deposit option, funds for this security deposit and any transaction fees will be drawn from the Capital Division of the Roads Fund (11051-34010103). The Roads Capital Division receives funding from multiple sources including SB1, Measure M, certain construction/building permit fees, as well as state and federal grants. Bank/transaction fees associated with this security deposit may be reimbursed through the current Federal Highway Administration grant for the Wohler Road Bridge project, however, money used for the security deposit (\$256,042.50) will be drawn from existing fund balance. Per ITP Section 10.7, part or all of the performance security will be released back to the County, as required habitat and riparian restoration improvements are completed to the satisfaction of CDFW. Conversely, in the event the County fails to complete the required environmental mitigation work in a timely manner, CDFW retains sole discretion to use the security deposit to complete all outstanding work with only the remaining balance returned to the County.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

None

Attachments:

Location Map

Related Items “On File” with the Clerk of the Board:

Incidental Take Permit (Fish and Wildlife)