





# Monterey County

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## Board Report

Legistar File Number: 15-1081

October 06, 2015

Introduced: 9/30/2015

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Approve the Second Amendment to the Second Reimbursement and Funding Agreement between the County of Monterey and the Monterey County Water Resources Agency for the Interlake Tunnel Project to extend the term of the agreement from September 30, 2015 to January 31, 2016; and
- b. Amend section "b" of Board Order adopted June 23, 20105 (File ID 15-2019) to read as follows: Approve and authorize the Auditor-Controller to amend the FY 2015-16 Adopted Budget reducing appropriations in the amount of \$520,379.44 from CAO-General Fund Contingencies, 001-1050-8034, Appropriation CAO02 and increasing appropriations in CAO- Contributions-Other Agencies, 001-1050-8029, Appropriation CAO007 (4/5th vote required).

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve the Second Amendment to the Second Reimbursement and Funding Agreement between the County of Monterey and the Monterey County Water Resources Agency for the Interlake Tunnel Project to extend the term of the agreement from September 30, 2015 to January 31, 2016; and
- b. Amend section "b" of Board Order adopted June 23, 20105 (File ID 15-2019) to read as follows: Approve and authorize the Auditor-Controller to amend the FY 2015-16 Adopted Budget reducing appropriations in the amount of \$520,379.44 from CAO-General Fund Contingencies, 001-1050-8034, Appropriation CAO02 and increasing appropriations in CAO- Contributions-Other Agencies, 001-1050-8029, Appropriation CAO007 (4/5th vote required).

### SUMMARY/DISCUSSION:

On December 9, 2014 the Board of Supervisors of the Monterey County Water Resources Agency authorized the Water Resources Agency to proceed with the Interlake Tunnel Project and Spillway Modification Project (Project); and to prepare and issue Requests for Proposal for geotechnical and final design engineering, permitting and environmental approval.

Accordingly, Monterey County Water Resources Agency has progressed with the development of the Project, substantially on schedule. Accomplishments to date in 2015 include the following:

- The Project was presented at a February 26, 2015 evening public meeting at Lake Nacimiento. The Agency also has had meetings with San Luis Obispo County Officials. The Agency has also responded to inquiries about the Project from third parties including property owners and County residents.

- The Second Reimbursement and Funding Agreement in the amount of \$600,000 was negotiated between the Agency and Monterey County and subsequently approved March 16, 2015.
- Addressing the white bass transfer issue from Lake Nacimiento has led to program delays, leading to the need to extend this funding agreement. Meetings have been held with John Laird, Secretary of the California Resources Agency as well as representatives of California Department of Fish and Wildlife (CDFW) to determine the most appropriate methods to address the issue related to potential transfer of white bass from Lake Nacimiento. The WRA, County staff and CDFW are working collaboratively on this issue. At this point, physical design modifications to the project are planned, including a deep water intake and fish screens. Other efforts include a review of Fish and Game code requirements and Project description language which stresses the system wide watershed and ecosystem benefits of the project. A follow-up meeting has been scheduled in Sacramento to finalize an approach to addressing the white bass transfer issue. Supervisors Potter and Salinas, acting as the Board water ad hoc committee, have participated extensively in efforts to address the white bass issue.
- Significant work with Nossaman LLP and CAO staff to identify potential grant funding sources for the Interlake Tunnel.
- RFPs for preliminary engineering and environmental services were prepared and advertised on March 31, 2015; a mandatory pre-proposal meeting was conducted on April 16, 2015 with prospective consultants; and five preliminary engineering proposals and four environmental proposals were received on June 5, 2015.
- On July 8, 2015 two Screening Teams reviewed the proposals and a Selection Committee interviewed proposers on August 6, 2015. An Engineering and Environment firm has been selected for negotiation.
- The First Amendment to the Second Reimbursement Agreement was approved on June 23, 2015 and extended the term until September 30, 2015.

A further extension of time for the Second Reimbursement Agreement is necessary at this time because additional services are necessary and the authorized amount has not yet been expended. In addition, the financing for the First Amendment to the Second Reimbursement Agreement, approved last June, was incorrect in that it appropriated funds from fund balance for FY 2015-16; however, such action was premature prior to the close of FY 2015-16. Accordingly, it is recommended that the Board amend the financing authority to fund the reimbursements from General Fund Operational Contingencies, as more fully described below.

OTHER AGENCY INVOLVEMENT:

The County Administrative Office has prepared this report in consultation with the Water Resources Agency and County Counsel.

FINANCING:

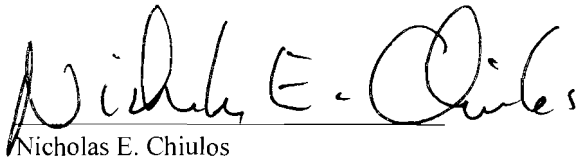
The First Reimbursement and Funding Agreement (July 2014) was in the amount of \$500,000. The Second Reimbursement and Funding Agreement (March 2015) was in the amount of \$600,000. Thus, a total of \$1.1 million has been committed via the process outlined above.

The Interlake Tunnel expenditures to date are approximately \$620,000 as of July 30, 2015. This amendment extends the Second Reimbursement and Funding Agreement timeline to

January 31, 2016 thus enabling the Agency to utilize \$520,000 of the \$600,000 provided for in the Second Reimbursement and Funding Agreement.

General Fund Operational Contingencies are sourced with one-time funding. Any use of General Fund Contingencies may require reductions in other programs to continue the program. The current available amount of General Fund Contingencies is \$1,646,945. With this requested action the remaining General Fund Operational Contingencies would be \$1,126,566. The County Administrative Office is aware of a number of other needs/requests for use of the contingency appropriations, including: the Interlake tunnel project, cash match for the SB 863 grant (mental health and vocational program facility construction), and various other requests. The Contingencies appropriation does not have sufficient remaining funding to cover all known requests.

Prepared by:



Nicholas E. Chiulos  
Assistant County Administrative Officer

Attachments: Second Amendment to Second Reimbursement and Funding Agreement between the County of Monterey and Monterey County Water Resources Agency.

**SECOND AMENDMENT  
TO  
SECOND REIMBURSEMENT AND FUNDING AGREEMENT  
BETWEEN THE COUNTY OF MONTEREY  
AND  
THE MONTEREY COUNTY WATER RESOURCES AGENCY  
FOR  
PRELIMINARY ENGINEERING AND DESIGN; SPILLWAY MODIFICATION  
FEASIBILITY; TECHNICAL SUPPORT; ENVIRONMENTAL CONSULTING; AND  
PROGRAM MANAGEMENT, RELATING TO THE INTERLAKE TUNNEL PROJECT**

**THIS SECOND AMENDMENT TO SECOND REIMBURSEMENT AND FUNDING AGREEMENT** (“Second Amendment, Second Agreement”) between the County of Monterey, a political subdivision of the State of California (hereinafter, “County”) and the Monterey County Water Resources Agency (“Agency”), a public agency created pursuant to the Monterey County Water Resources Agency Act (Cal. Water Code, Appendix Chap. 52.) is hereby entered into (collectively, the County and Agency are referred to as the “Parties”).

1. The County of Monterey entered into a Reimbursement and Funding Agreement with the Agency on July 2, 2014 in an amount not to exceed \$500,000, agreeing to reimburse the necessary funds for such preparatory work on the condition that the County shall be repaid such funds if the Project is financed through an assessment district, grants or other financing mechanism.
2. At a December 9, 2014, Special Joint Meeting, the Board of Supervisors, Board of Supervisors of the Water Resources Agency and the Water Resources Agency Board of Directors authorized the Monterey County Water Resources Agency to proceed with the Interlake Tunnel Project. The direction included work on the Spillway Modification at San Antonio as a key component of the Interlake Tunnel Project. The direction authorized an additional amount not to exceed \$2.5 million to perform geotechnical and final design engineering; permitting and environmental approval; financing plan preparation and implementation; and implementation and program management services, all for the Interlake Tunnel Project.
3. The Spillway Modification Feasibility Study and the technical support to the Agency during design and environmental consulting work were added to Phase 1 of the Preliminary Engineering. The work authorized by the December 9, 2014, direction entailed an increase in the amount for required services from \$500,000 to \$3,000,000.
4. On March 17, 2015, the Board approved the Second Reimbursement and Funding Agreement between the County of Monterey and the Monterey County Water Resources Agency. The Second Reimbursement and Funding Agreement was executed as of April

Second Amendment To Second Reimbursement And  
Funding Agreement

9, 2015, and effective as of February 1, 2015. The Second Agreement authorized Preliminary Engineering and Design; Further Water Rights Analysis; Spillway Modification Feasibility; Technical Support to the Monterey County Water Resources Agency during design; Environmental Consulting Services; and Program Management, relating to the Interlake Tunnel Project. The March 17, 2015, action increased the amount reimbursable to the Agency by an additional \$600,000 for FY 2015 to include the additional scope of work.

5. On June 23, 2015 the WRA Board of Supervisors approved the First Amendment to the Second Agreement, amending the Second Agreement to make available in the First Quarter of FY 2015-2016, unexpended funds that were authorized under the Second Reimbursement and Funding Agreement but that were not expended in FY 2014-2015.
6. The Parties desire to extend the term of the Second Agreement (as amended) from September 30, 2015 to January 31, 2016.

**NOW, THEREFORE**, the Parties agree to amend the SECOND REIMBURSEMENT AND FUNDING AGREEMENT as follows:

1. Amend Section 1 “Reimbursement and Funding” by deleting the current text thereof and substituting in its place the follow text:

Subject to all other terms of this Second Reimbursement and Funding Agreement (“Agreement”) for expenses incurred during FY 2015 through January 31, 2016, the County shall reimburse to the Agency up to the sum of \$600,000 (The “Reimbursement”) for the purpose of funding to perform an updated scope of work, that would include the Spillway Modification at San Antonio, and to perform geotechnical and final design engineering, permitting and environmental approval; financing plan, preparation and implementation; technical support to the Agency, and implementation and program management services. (This sum is in addition to the sum of \$500,000 that was to be reimbursed under the Reimbursement and Funding Agreement with the Agency of July 2, 2014 (“First Reimbursement”).) The Reimbursement shall be used to pay for third-party consultant work on these tasks only, and shall not be used to fund Agency staff work on the Project.

The sum of \$600,000 shall be available for expenditures incurred through January 31, 2016. (This sum is in addition to the sum of \$500,000 that was to be reimbursed under the First Reimbursement.) Funding for services after the award of Engineering Services and Environmental Consulting Contracts will be provided in a Third Reimbursement and Funding Agreement subject to appropriations being approved in the Fiscal Year 2015-2016.

The Reimbursement shall be provided to the Agency within 30 working days of the receipt of Agency documentation verifying covered expenditures. Reimbursements for expenditures incurred during FY 2014-2015 and FY 2015-2016 under this Agreement shall be provided for 60 calendar days following January 31, 2016.

2. Amend Section 3 "Repayment" by deleting the second sentence thereof and substituting the following text in its place:

Notwithstanding the foregoing, the County shall have no obligation to provide any Reimbursement beyond June 30, 2016 for any expenses incurred by the Agency under the First Reimbursement and Funding Agreement, dated July 2, 2014.

3. Except as set forth in this Second Amendment, Second Agreement (as amended), the Second Reimbursement and Funding Agreement, dated April 9, 2015 remains in full force and effect.

4. This Second Amendment, Second Agreement shall be attached to the Second Reimbursement and Funding Agreement (as amended) and incorporated therein as if fully set forth in the Second Reimbursement and Funding Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment, Second Agreement as of the day and year written below:

**COUNTY OF MONTEREY**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Lew C. Bauman, County Administrative Officer

**WATER RESOURCES AGENCY**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
David E. Chardavoyne, General Manager

**APPROVED AS TO FORM AND LEGALITY  
FOR THE COUNTY:**

Charles J. McKee, County Counsel

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Leslie J. Girard, Chief Assistant County Counsel

**APPROVED AS TO FORM AND LEGALITY  
FOR THE AGENCY:**

Charles J. McKee, County Counsel

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jesse J. Avila, Deputy County Counsel