RESOLUTION - ACTION REQUESTED 2014-375

MEETING: July 22, 2014

TO: The Board of Supervisors

FROM: Peter Rei, Public Works Director

RE: Approve the Darrah Rd Bridge Agreement

RECOMMENDATION AND JUSTIFICATION:
Approve a Program Agreement for the Darrah Road Bridge Over the Chowchilla River Bridge Project No. BRLO 5940(004), and Authorize the Public Works Director to Sign the Agreement; Approve Budget Action Reducing General Fund Contingency by $66,000 for the County Match, and Increasing Revenue and Appropriations in the Bridge Replacement Fund to Account for the Federal Funding and County Match ($239,905).

Staff has prepared the necessary federal documents for the authorization of an additional $330,000 for Preliminary Engineering in Federal Bridge funds for Project Number BRLO 5940(004). Mariposa County has received authorization for the project from Caltrans. A resolution is required to authorize the Public Works Director to execute the Program Agreement.

This project requires a 20% match in the amount of $66,000.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
On June 17, 2014 the Board originally considered this item. During the discussion Board members expressed concern with the approximately $400,000 (20% of $2 million estimated bridge construction cost) in match money that the County will need to identify in order to eventually build the project.

Following the June 17, 2014 meeting staff have worked with California Transportation Commission staff and have identified that there is currently a balance of $1,678,000 in un-programmed County shares shown in the State Highway Improvement Program (STIP) for Mariposa County.

An agenda item will be placed on the August 5, 2014 Local Transportation Commission (LTC) agenda requesting the LTC’s approval of a Regional Transportation Improvement Program (RTIP) Amendment to program $400,000 of the un-programmed balance in the 2016/17 fiscal year to be used as the 20% local match for the Darrah Road Bridge project.

California Transportation Commission (CTC) staff indicated that they have no problem recommending approval of an amendment for $400,000 as there is more than
sufficient capacity in the statewide STIP to accommodate a request of this size. Assuming such an amendment is approved by the CTC that would still leave an un-programmed balance of $1,278,000, which will be available to Mariposa County for programming of future road and/or bridge projects.

The only potential issue we may face is that the CTC normally prefers that the entire project be programmed at the same time. In other words they do not prefer to see only the match programmed but rather would like to see the 80% federal Highway Bridge Program funding be programmed at the same time. Staff contacted Caltrans to inquire about the possibility of getting the approximately $1,600,000 federal share for construction programmed now. The answer we were given is that this is not possible until the environmental document and final engineering are completed. Since the Program Agreement being requested is necessary in order to complete the environmental document and the final design it is not possible to meet the CTC request for concurrent programming at this time.

In order to move forward now staff recommend that the Board:

1. Approve the Program Agreement as originally submitted.

2. Direct staff to bring a contract to the Board for CH2M Hill to complete the environmental document and the final bridge design.

3. Direct staff to prepare an agenda item for the LTC (Board) to consider approval of an RTIP Amendment on August 5, 2014 request programming of the $400,000 match and send that approved RTIP Amendment request to the CTC.

If the CTC approves the RTIP Amendment as requested we are done.

If the CTC does not approve the RTIP Amendment, due to the remainder of the construction funding not being ready to program at this time, staff recommend that the Local Transportation Commission commit to including the $400,000 match for the Darrah Road Bridge in its December 2015 deliberations for the 2016 RTIP. Doing so will give CH2M Hill approximately 19 months to complete the environmental document and the final bridge design which should be sufficient time for them to complete the required work. Once that work is complete staff can then request Caltrans to program the needed construction funding at that time. This should not be a problem as Caltrans normally reserves adequate construction funding for projects that are already in the program and waiting to complete the required environmental document and final project design.

If the LTC includes the $400,000 match for the project in the 2016 RTIP we have been assured by CTC staff that the state will have no issue with approving the request at that time.

On April 22, 2008 (RES 08-161) the Board approved accepting federal revenue in the amount of $167,000 for the Darrah Bridge project with a County match from the General Fund of $41,750.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**
Do not approve; the funds would be unencumbered and the project would not be completed.

FINANCIAL IMPACT:
Federal funding of $173,905 is available with a county match of $66,000 from General Fund Contingency, for a total of $239,905. If approved the match funds of $66,000 will be allocated in the FY 14/15 final budget. The match for construction will be discussed during this agenda item.

ATTACHMENTS:
Darrah Bridge Agreement - July 8Th and July 22Nd Meeting  (PDF)
Summary 2014 STIP Proposal - July 22, 2014 Meeting  (PDF)

CAO RECOMMENDATION

Mary Hodson
Mary Hodson, Deputy CAO  6/11/2014

RESULT:  ADOPTED [4 TO 1]
MOVER:  Merlin Jones, District II Supervisor
SECONDER:  Lee Stetson, District I Supervisor
AYES:  Lee Stetson, Merlin Jones, Janet Bibby, Kevin Cann
NAYS:  John Carrier
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

KEVIN CANN, CHAIR
MERLIN JONES, VICE-CHAIR
LEE STETSON
JANET BIBBY
JOHN CARRIER

DISTRICT IV
DISTRICT II
DISTRICT I
DISTRICT III
DISTRICT V

MARIPOSA COUNTY BOARD OF SUPERVISORS
MINUTE ORDER

TO:        DOUG WILSON, Interim Public Works Director
FROM:      RENE` LaROCHE, Clerk of the Board

SUBJECT:   Approve a Program Agreement for the Darrah Road Bridge Over the Chowchilla River Bridge
Project No. BRLO 5940(004), and Authorize the Public Works Director to Sign the Agreement;
Approve Budget Action Reducing General Fund Contingency by $66,000 for the County Match, and
Increasing Revenue and Appropriations in the Bridge Replacement Fund to Account for the Federal
Funding and County Match ($239,905) 4/5ths Vote Required

RES. 14-375

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on July 22, 2014

ACTION AND VOTE:

3. Public Works  RES-2014-375

Approve a Program Agreement for the Darrah Road Bridge Over the Chowchilla River Bridge Project No. BRLO 5940(004), and Authorize the Public Works Director to Sign the Agreement; Approve Budget Action Reducing General Fund Contingency by $66,000 for the County Match, and Increasing Revenue and Appropriations in the Bridge Replacement Fund to Account for the Federal Funding and County Match ($239,905) 4/5ths Vote Required

Chair Cann noted that the action today is only to sign the agreement, and that Public Works has requested elimination of the language regarding approving the budget action as it won’t be necessary.

Peter Rei gave the staff report. He advised that this item was originally brought to the board on June 17, 2014, at which time board members expressed concern about the amount of county matching funds needed for this project, particularly the match for the construction phase; noted that staff has rethought the budget and that they are now proposing that the $66,000 be included in the Public Works 2014-2015 Fiscal Year Engineering budget submittal; and noted that the funds will come from salary savings from a couple of unexpected retirements that are coming up, with at least one of the positions not being rehired. He also noted that the construction phase match will require a separate action of the Local Transportation Commission to resolve; advised that there will be a $400,000 match, as calculated at twenty percent of a two million dollar project; and advised that we will also
have to pay twenty percent towards the construction engineering and testing as well, which will bring the total amount to $432,000. Gary Taylor/Assistant Director of Public Works-Public Works noted that the project was first looked at as being a rehabilitation project, but that Caltrans granted a replacement as their chosen alternative after a feasibility study. Mr. Taylor then gave a PowerPoint overview of the process noting that they have a request for authorization for $315,000 plus another $15,000 for right-of-way; that this project is under a program from the early 1990s that required an 80/20 split; noted that, under this program, the project is supposed to be completed within twenty years but that it has not been completed; noted that, in response to a request from Public Works, Caltrans has granted an extension of the deadline to complete the plans, specifications, and estimates (PS&E) to September 1, 2017; has granted more money for the preliminary engineering; and advised that construction would occur in Fiscal Year 2017-2018, or beyond. Mr. Taylor presented a cash flow forecast, showing what the consultant is expected to charge; and discussed a funding and budget summary, noting that the $66,000 match for the PS&E phase will be coming from the Public Works Fiscal Year 2014-2015 budget with $264,000 coming from Caltrans as their 80% match. Mr. Taylor also noted that there currently is no approval for the E76 right-of-way services, and that Caltrans requested it not be added in with the preliminary engineering; but, that it will be requested in the next year once the design has proceeded far enough, and once the environmental has been completed. Mr. Taylor also advised that a lot of environmental work had previously been done, but that new studies need to be done to update the information on file; and that this contract includes all of the environmental services needed to get permitted. Mr. Rei explained that they will have to request the funding be moved at each phase; that so far they have requested money for the preliminary plans and specifications; explained that one slide shows funds that have been requested, while the other one shows requests that need to be made; noted that this totals $505,000 in additional county resources, with the $434,000 being proposed to come out of the RTIP. Mr. Rei also discussed that 1.678 million dollars has been programmed, but not requested; noted that it would most likely be approved on the state level; noted that a summary of accidents on the bridge, or within a quarter of a mile of it, shows that there were six accidents over the last 5 years, with 3 being injury accidents; remarked that an extension can be obtained if you have one thousand dollars that you can bill; discussed that there is an agenda item prepared for an agreement with CH2MHiIl but that it can't be brought forward until this is approved; and expressed his confidence that we can get this done.

Supervisor Cann inquired if there was any data regarding the amount of traffic on this road relative to other county roads. Mr. Rei responded that he didn't bring that data, but that he would be surprised if it isn't one of the highest used segments of roadway in the county.

Supervisor Carrier and Mr. Rei discussed whether there were posted speed limits approaching the bridge, what the different colors of sign indicate, and the effects of basic speed laws. Mr. Rei noted that he would need to do a traffic study to determine that the speeds of travel in that area are at least 55 mph before signs could be changed from the yellow advisory signs to white speed limits. Supervisor Carrier inquired if Mr. Rei informed anyone outside of Public Works when they were notified that the project was in jeopardy of not meeting its deadline; and expressed his concerns that Public Works is already overtasked. Mr. Rei responded that they did not notify anyone else because issues that arise on selected projects are typically handled within the department. He also noted that he became alarmed because of the twenty year requirement and that he felt it was his obligation, as the Public Works Director, to do what he could to salvage the project, which is what they did. Regarding the workload issue, Mr. Rei responded that a contract with CH2MHiIl is scheduled for the August 5th meeting and that, if approved, the consultant will take 99 percent of the workload from this point to the conclusion of the environmental document, and the plans and specifications; that very little staff time will be needed until such time as they need to speak to property owners about acquiring right-of-ways which is a good year and a half, to two years, out; noted that the real staff time will be needed when this goes out to bid; remarked that he thinks they are able to manage this project at this time; noted that he is comfortable with this funding source; and stated that he thinks this is a good way to get a huge amount of federal dollars back into the county. Supervisor Carrier remarked on the project needing to be started by September 1, 2017, and inquired when it would need to be completed. Mr. Rei responded that they did not provide a date but, typically, it goes out 10 years. Supervisor Carrier required clarification of whether the extension requested at the end of the twenty year timeline was for another 10 years. Mr. Rei responded that the extension was for 3 years to complete the design, to complete the right-of-way, and to put it out to bid. Supervisor Carrier inquired if another extension
would be requested for the construction part. Mr. Rei explained that the construction has no date on it, and the only reason there would become a date is when you actually program the money. Mr. Rei also noted that if the LTC decides to use the RTIP money, and if the California Transportation Commission (CTC) approved it, it would put it into a particular fiscal year which would be the first time there was a restriction on when construction would have to happen. Mr. Rei further explained that he is proposing asking for that money in either the 2016-17, or 2017-18, fiscal year. Supervisor Carrier remarked on the need to go through a new environmental review and noted that if the CTC doesn't approve this in August, then we'll have to wait another year until December, 2015, to resubmit. Mr. Rei noted that, assuming an LTC action in early August, they would put it on the next available CTC agenda which would probably be September or October which then sets up the match; and that when the preliminary engineering was complete, trips to the CTC and Caltrans would be necessary to turn programming into hard dollars.

Supervisor Cann required clarification of why staff would do the construction inspection rather than contract with a firm. Mr. Rei noted it could be done either way; that Bill McKenzie did one in Tuolumne but is retiring; and noted people expressing interest in providing those services. Supervisor Bibby required clarification that it has not been planned that Mr. McKenzie will retire and be rehired back. Mr. Rei noted that it is only an option being contemplated; but will comply with standard procedures.

Supervisor Bibby inquired if this would jeopardize any other projects on the RTIP. Mr. Rei responded that it will not. Supervisor Bibby discussed with Mr. Rei that this project didn't follow the normal process because the Board never formally approved a replacement versus a rehab. Mr. Rei discussed that an advantage to a replacement is that Fish and Game will look at it favorably as it will remove a pier from the river. Supervisor Bibby reiterated that the Board the choice of a replacement bridge over rehabilitation. Mr. Rei noted that his goal for next year is to have a capital improvement program to show projects and timelines. Supervisor Bibby discussed problems with capital improvement funds, noting that they work fine when there is money; and stressed that anything that is going to commit additional money, or shift RTIP money, needs to go to the board in advance. Supervisor Bibby and Mr. Rei discussed approximate costs. Supervisor Bibby stressed the need for open competition for all projects and jobs.

Supervisor Cann noted that every bridge he has ever done escalated in cost, and inquired if the RTIP can be modified if the amount grows. Mr. Rei responded affirmatively, providing that it is done in the fiscal year prior to the work being done.

Supervisor Stetson inquired if it would have been extended if the $1,000 was expended. Mr. Rei responded that it possibly would have, but that they had already billed and there hasn't been enough done since then.

Supervisor Cann remarked that we can live with the program that was proposed. Mr. Rei responded, noting that it needs to be approved, and that it will go inactive if it is not approved.

Supervisor Bibby required clarification that the right-of-way amount is not going to be more than $5,000. Mr. Rei noted that, typically, that it is further out and gets defined as the project gets designed, but that he has had preliminary discussions with the landowner and there were no indications that there would be a problem. Supervisor Bibby discussed issues with the Mt. Bullion Road. Supervisor Jones inquired if there was anything budgeted for right-of-way. Mr. Rei responded that the federal process requires a preliminary design first, so we don't budget it. Supervisor Jones and Mr. Rei discussed the right-of-way acquisition process.

Supervisor Carrier urged Mr. Rei to check with HR and County Counsel regarding hiring a retired annuitant, as offers cannot be made before retirement. Mr. Rei responded that it hasn't been discussed with him, and no deal has been made; that it was an example.

Public comment opened.

Marshall Long wondered how he knows the employee is interested in coming back without having discussed it; and urged following all laws and doing it right.

Public comment closed.

Supervisor Jones moved the item as presented. Supervisor Stetson seconded the motion and requested clarification that the budget action is not part of the action. Chair Cann affirmed, and inquired if that was also recognized by the motion maker. Supervisor Jones affirmed.

Supervisor Bibby noted that she would be against this if Mr. Rei hadn't already gotten the
extension; stressed the need for Board approval in the future when changing projects from a rehab to a replacement; and voiced her concerns with using retiring employees, noting that it has to come through County Counsel.

Chair Cann called the vote. The Motion passed 4-1; Supervisor Carrier opposed.

**RESULT:** ADOPTED [4 TO 1]

**MOVER:** Merlin Jones, District II Supervisor

**SECONDER:** Lee Stetson, District I Supervisor

**AYES:** Lee Stetson, Merlin Jones, Janet Bibby, Kevin Cann

**NAYS:** John Carrier

Cc: Bill Davis, Auditor

File
This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 08/21/79 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. 2014-375 approved by the Administering Agency on 7/22/14 (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

**PROJECT LOCATION:**
Darrah Rd. @ Chowchilla Rvr. BR # 40C-0033

**TYPE OF WORK:** Replace existing two-lane bridge with a standard two-lane bridge

**LENGTH:** 0.0 (MILES)

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**COUNTY OF MARIPOSA**

By [Signature]

Title DIRECTOR PUBLIC WORKS

Date JUNE 17, 2014

**STATE OF CALIFORNIA**

Department of Transportation

By [Signature] Chief, Office of Project Implementation
Division of Local Assistance

Date 8/1/2014

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

**Accounting Officer** [Signature] Date 3/23/14 $476,600.00

**AMOUNT**
TO: STATE CONTROLLER'S OFFICE  
Claims Audits  
3301 "C" Street, Rm 404  
Sacramento, CA 95816  

DATE PREPARED: 5/23/2014  
PROJECT NUMBER: 10-0000-0366  
REQUISITION NUMBER / CONTRACT NUMBER: CT# 105940014R1  

FROM:  
Department of Transportation  

SUBJECT:  
Encumbrance Document  

COUNTY OF MARIPOSA  

CONTRACT AMOUNT: $476,600.00  

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For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 654-5410 of TDD (916)-3860 or write Records and Forms Management, 1120 N. Street, MS-89, Sacramento, CA 95814.
SPECIAL COVENANTS OR REMARKS

1. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

2. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

3. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

4. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY’S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

5. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumberances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if
SPECIAL COVENANTS OR REMARKS

PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

6. The Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

7. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Excluded Parties List System (EPLS).

8. In the event that right of way acquisition for or construction of this project of the initial federal authorization for preliminary engineering is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the ADMINISTERING AGENCY shall repay the Federal Highway Administration through Caltrans the sum of Federal funds paid under the terms of this agreement.