



Board Agenda Item 34

DATE: August 7, 2018

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Approval of Settlement Agreement and Mutual Release

RECOMMENDED ACTION(S):

Approval of settlement agreement and mutual release between County of Fresno and Wood Bros., Inc. (WBI) pertaining to Contact No. 16-22-SW, for excavation and construction of the liner system for American Avenue Disposal Site, Modules 7 and 8, providing for a reduction in the assessment of liquidated damages from \$185,000 to \$100,000.

ALTERNATIVE ACTION(S):

No viable alternative action. The Board gave its conceptual approval to the settlement in closed session on July 10, 2018.

FISCAL IMPACT:

The project construction cost will be reduced by \$100,000, which is offset by additional costs incurred by the County on the project, including increased payment to Golder Associates, Inc., the construction management and construction quality assurance consultant on the project, due to the delay in WBI's completion of the project.

DISCUSSION:

The settlement resolves all disputes between the parties regarding the late completion of the project and reduces the assessed amount of liquidated damages from \$185,000 to \$100,000. The settlement agreement includes mutual releases and expressly provides for WBI's retention of its rights to pursue its subcontractors for contribution to WBI's liability for liquidated damages.

REFERENCE MATERIAL:

BAI #38, April 3, 2018
BAI #50, April 25, 2017
BAI #35, February 7, 2017
BAI #42, September 27, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Settlement Agreement and Mutual Release

CAO ANALYST:

Yussel Zalapa