

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works *al*

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE February 5, 2008

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Make Necessary Budget Adjustments for Federal Aid Project No. STPL-5938(147), Titled "RSTP Roadway Resurfacing Program FY 2006/2007 (Phase 2)"

STAFF RECOMMENDATIONS:

1. Approve the necessary budget adjustments for Federal Aid Project No. STPL-5938(147), Titled "RSTP Roadway Resurfacing Program FY 2006/2007 (Phase 2)".
2. Direct the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet.

FISCAL IMPACT:

Costs associated to assure the delivery of this project in the amount of \$1,730,975 (\$1,545,975 contract, \$20,000 construction quality assurance, \$10,000 material testing, and \$155,000 contingencies and contract change orders) will be satisfied with funds available from the Federal Surface Transportation Program (STP) funds in the amount of \$1,532,432 and local match funds in the amount of \$198,543 available in fund balance and programmed in the Fiscal Year 2007/2008 Public Works Road Project budget. There will be no impact to the Stanislaus County General Fund.

BOARD ACTION AS FOLLOWS:

No. 2008-091

On motion of Supervisor Grover, Seconded by Supervisor DeMartini

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

The RSTP Roadway Resurfacing Program FY 2006/2007 (Phase 2) will consist of the asphalt concrete overlay on road surfaces creating a smooth, durable, water-resistant pavement.

The following roads are included in the program:

- Shiloh Road (Paradise Road to 1.78 Miles South)
- Sierra Road (Wamble Road to City of Oakdale)
- Valley Home Road (San Joaquin County to 2 Miles South)
- Beckwith Road (Dakota Avenue to State Highway 99)
- Carver Road (Kiernan Avenue to 1.39 Miles North)
- McHenry Avenue (800' North of Stewart Road to San Joaquin County)
- Milton Road (0.25 Mile North of Sonora Road to 800' South of Dunton Road)
- Hammett Road (Bacon Road to Kiernan Avenue)
- Toomes Road (Beckwith Road to Bacon Road)

The Board of Supervisors, at its December 11, 2007 meeting, awarded the Federal Aid Project No. STPL-5938(147), Titled "RSTP Roadway Resurfacing Program FY 2006/2007 (Phase 2)" to George Reed, Inc., of Modesto, California. In addition, the Director of Public Works was authorized to execute the agreement with George Reed, Inc., along with other administrative actions necessary to deliver the project. The recommendation pertaining to adjusting the budget as necessary for this project was not approved at that time since a 4/5 vote was not obtained. At that meeting, one member of the Board was absent and another member declared a possible conflict of interest and abstained during the consideration of this item. Department staff was directed to bring the budget adjustment relative to this project back to the Board at a future date for subsequent consideration.

County Counsel has indicated that the recommended action to "Direct the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet," requires approval of 4/5 of the Board members.

County Counsel has further indicated that a Board member conflict related to the contract award does not exist for this proposed increase to appropriations and estimated revenue as the award action occurred in a previous meeting.

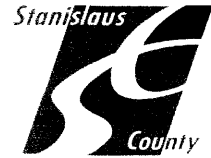
POLICY CHANGES

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community and a well-planned infrastructure system.

STAFFING IMPACT

There is no staffing impact associated with this item.

AUDITOR-CONTROLLER BUDGET JOURNAL



Balance Type	Budget	
Category	Budget - Upload	
Source		
Currency	USD	
Budget Name	LEGAL BUDGET	
Batch Name		BO#
Journal Name		
Journal description	RSTP Road Resurfacing Program FY 2006/2007 (Phase 2)	
Period	JUL-07 to JUN-08	
Organization	Stanislaus Budget Org	

Line	Coding Structure						Debit		Credit		Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6	incr appropriations decr est revenue	decr appropriations incr est revenue			
1	1102	40310	63280	9446	0	0.0	1,730,975.00				
2	1102	40310	65660	0	0	0.0		198,543.00			
3	1102	40310	27600	0	0	0.0	1,532,432.00				
4	1102	40310	27600	9446	0	0.0		1,532,432.00			
5						0					
6						.0					
7						.0					
8						.0					
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24						.0					
25						.0					
Totals							3,263,407.00	1,730,975.00			

RSTP Road Resurfacing Program FY 2006/2007 (Phase 2)

Requesting Department		CEO		Auditors Office Only	
Sharon Andrews				Jan Flinn	
Signature		Signature		Prepared By	Admin Approval (\$75K+)
1/24/08		01/24/08			1/24/08
Date		Date		Date	Date

Contact Person & Phone Number

AGREEMENT

THIS AGREEMENT, dated this 11th day of December, 2007, by and between GEORGE REED, INC., whose place of business is located at 140 EMPIRE AVENUE, MODESTO, CALIFORNIA, 95354 ("Contractor"), and the COUNTY OF STANISLAUS ("County"), acting under and by virtue of the authority vested in the County by the laws of the State of California.

WHEREAS, County, by its Resolution No. 2008-091 adopted on the 11th day of December, 2007 awarded to Contractor the following Contract:

CONTRACT NUMBER 2007-12

RSTP ROAD RESURFACING PROGRAM F.Y. 06/07 (PHASE 2), FEDERAL-AID PROJECT NO. STPL-5938(147)

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Contractor and County agree as follows:

Article 1. Work

- 1.1 Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents.

Article 2. Architect/Engineer and Project Manager

- 2.1 **Engineering Services** designed the Project and furnished the Plans and Specifications. **Engineering Services** shall have the rights assigned to Architect/Engineer in the Contract Documents.
- 2.2 County has designated **Construction Services** as its Project Manager to act as County's Representative in all matters relating to the Contract Documents.
- 2.3 The County may assign all or part of the Project Manager's rights, responsibilities and duties to a Construction Manager.

Article 3. Contract Time and Liquidated Damages

3.1 Contract Time

Contractor shall commence Work on the date established in the Notice to Proceed. County reserves the right to modify or alter the Commencement Date of the Work.

Contractor shall achieve Final Completion of the entire Work and be ready for Final Payment in accordance with Contract Closeout Forty-Five (45) Working Days from the date when the Contract Time commences to run as provided in General Conditions.

3.2 Liquidated Damages

County and Contractor recognize that time is of the essence of this Agreement and that County will suffer financial loss in the form of Contract administration expenses (such as Project management and consultant expenses), if all or any part of the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the Contract Documents. Contractor and County agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by County because of a delay in completion of all or any part of the Work. Accordingly, County and Contractor agree that as liquidated damages for delay Contractor shall pay the County:

- 3.2.1 Two thousand five hundred dollars (\$ 2,500.00) for each Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

Liquidated damages shall apply cumulatively and except as provided below, shall be presumed to be the damages suffered by County resulting from delay in completion of the Work.

- 3.3 Liquidated damages for delay shall only cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by County as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from County (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof.

Article 4. Contract Sum

- 4.1 County shall pay Contractor the Contract Sum for completion of Work in accordance with Contract Documents as set forth in Contractor's Bid.

Article 5. Contractor's Representations

In order to induce County to enter into this Agreement, Contractor makes the following representations and warranties:

- 5.1 Contractor has visited the Site and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- 5.2 Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, as-built drawings, drawings, products specifications or reports, available for Bidding purposes, of physical conditions, including Underground Facilities, which have been made available for Bidders or which may appear in the Drawings. Contractor accepts the determination set forth in these Documents and Document 00700 (General Conditions) of the limited extent of the information contained in such materials upon which Contractor may be entitled to rely. Contractor agrees that except for the information so identified, Contractor does not and shall not rely on any other information contained in such reports and drawings.
- 5.3 Contractor has conducted or obtained and has understood all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in Section 5.2 of this Document that pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the Site or otherwise that may affect the cost, progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.
- 5.4 Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

Article 6. Contract Documents

6.1 Contract Documents consist of the following documents, including all changes, Addenda, and Modifications thereto:

Notice of Award
Agreement
Notice to Proceed
Construction Performance Bond
Construction Labor and Material Payment Bond
General Conditions
Supplementary General Conditions
Addenda
Construction Details
Drawings
Encroachment Permit **[If applicable]**

6.2 There are no Contract Documents other than those listed in this Document, Article 6. The Contract Documents may only be amended, modified or supplemented as provided in General Conditions.

Article 7. Miscellaneous

7.1 Terms and abbreviations used in this Agreement are defined in General Conditions and Section (References and Definitions) and will have the meaning indicated therein.

7.2 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of County or acting as an employee, agent, or representative of County, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of the County is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

7.3 Contractor shall not assign any portion of the Contract Documents, and may subcontract portions of the Contract Documents only in compliance with the Subcontractor Listing Law, California Public Contract Code §4100 *et seq.*

7.4 The Contract Sum includes all allowances (if any).

7.5 In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code),

arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time County tenders final payment to Contractor, without further acknowledgment by the parties.

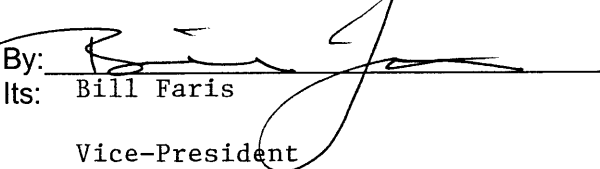
- 7.6 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at County's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §1861, Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.
- 7.7 Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).
- 7.8 This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Stanislaus, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in Stanislaus County Superior Court. Contractor accepts the Claims Procedure in General Conditions, as a claims procedure by agreement under the California Government Code, Title 1, Division 3.6, Part 3, Chapter 5.

IN WITNESS WHEREOF the parties have executed this Agreement in quadruplicate the day and year first above written.

COUNTY OF STANISLAUS

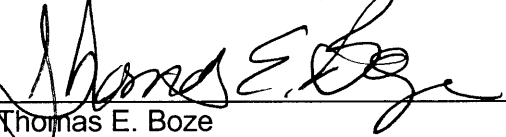
GEORGE REED, INC.

By: 
Matthew Machado, Director
Public Works Department

By: 
Its: Bill Faris
Vice-President

APPROVED AS TO FORM AND LEGALITY
Michael H. Krausnick, County Counsel

Title (If Corporation: Chairman, President or Vice President)

By: 
Thomas E. Boze
Deputy County Counsel

By: _____
Its: _____

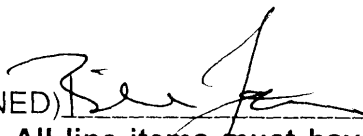
Title (If Corporation: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer)

COUNTY RESOLUTION NO. 2008-091

END OF DOCUMENT

**CONTRACTOR'S BID SHEET
FOR
RSTP ROAD RESURFACING PROGRAM FY 06/07 (PHASE 2),
FEDERAL-AID PROJECT NO. STPL-5938(147)**

NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	TOTAL
1	MOBILIZATION	1	L.S.	20,000.00	20,000.00
2	TRAFFIC CONTROL	1	L.S.	35,500.00	35,500.00
3	RUBBERIZED ASPHALT CONCRETE (TYPE G)	19,873	TONS	75.00	1,490,475.00
TOTAL					1,545,975.00

(SIGNED)  Bill Faris
Vice-President Date: 11/07/07

Note: All line items must have an entry placed in its appropriate box, and this form must be signed for the bid to be accepted as complete.