

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

DEPT: Public Works *Alvarez*

BOARD AGENDA # *C-1

Urgent

Routine

AGENDA DATE December 11, 2012

CEO Concurs with Recommendation YES NO

(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of a Contribution Agreement between the County of Stanislaus and the City of Modesto for the Construction Phase of the Sutter Avenue Safe Routes to School Project

STAFF RECOMMENDATIONS:

1. Approve the Contribution Agreement between the County and City for the construction phase of the Sutter Avenue Safe Routes to School (SR2S) project.
2. Authorize the Chairman of the Board to execute the Contribution Agreement between the County and the City for the construction phase of the project.

FISCAL IMPACT:

The anticipated cost of the Sutter Avenue SR2S project is \$470,418. The project will be funded at 90% (\$423,376) with a Safe Routes to School Grant. The remaining 10% (\$47,042) is local match that will be split evenly between the County and City per the Contribution Agreement. The County's portion of the local match (\$23,521) will be funded with Local Transportation Fund non-motorized funding available in the current year's Road Operations budget. The project improvements will have minimal impact on the annual utility expense and maintenance costs.

BOARD ACTION AS FOLLOWS:

No. 2012-598

On motion of Supervisor Withdraw, Seconded by Supervisor Chiesa and approved by the following vote,

Ayes: Supervisors: Chiesa, Withdraw, Monteith, De Martini and Chairman O'Brien

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. C-6-J-8

Approval of a Contribution Agreement between the County of Stanislaus and the City of Modesto for the Construction Phase of the Sutter Avenue Safe Routes to School Project

DISCUSSION:

The purpose of the Contribution Agreement for the construction phase of the SR2S-Sutter Avenue project is to facilitate cooperation between the City and the County for the construction of the improvements of Sutter Avenue. The City will be the lead agency on the project.

The project consists of street improvements on the east side of Sutter Avenue between Rouse Avenue and Elsie Street, which also includes the north and south sides of Rouse Avenue at a point 115 feet from Sutter Avenue and the south side of Elsie Street at a point 100 feet from Sutter Avenue. This project area is partially located within the City limits and partially within the unincorporated area of the County. When completed, the project will improve pedestrian circulation and safety within the City and County. The project includes the installation of sidewalk, curb and gutter, flashing beacons, an in-ground lighted crosswalk and overhead street lighting on the east side of Sutter Avenue near James Marshall Elementary School.

In July 2010, City staff, with County staff input, prepared and submitted the grant applications for the Safe Routes to School Grant program for the Sutter Avenue project.

In October 2010, staff received notification that this project was successful in receiving Safe Routes to School grant funding. The grant will cover 90% of the estimated project cost, and the City and County will be equally responsible for the remaining 10%. Per the Contribution Agreement the City and County will split the 10% local match evenly.

POLICY ISSUES:

This action supports the Board's priorities of Effective Partnerships and A Well Planned Infrastructure System by rehabilitating adjacent infrastructure for the purpose of safety adjacent to an elementary school.

STAFFING IMPACT:

Staff from the Department of Public Works and County Counsel have been involved in the preparation and/or coordination of the development of the Contribution Agreement.

CONTACT PERSON:

Matt Machado, Public Works Director. Telephone: (209) 525-6550.

CONTRIBUTION AGREEMENT FOR THE SUTTER AVENUE SAFE ROUTES TO SCHOOL PROJECT

This Contribution Agreement (the "AGREEMENT") is made and entered into by and between the County of Stanislaus (the "COUNTY") and the City of Modesto (the "CITY") on February 26, 2013

INTRODUCTION

- A. The purpose of this Agreement is to facilitate cooperation between the CITY and the COUNTY for the construction of the improvements of Sutter Avenue; and
- B. The improvements are located on the east side of Sutter Avenue between Rouse Avenue and Elsie Street and include the north and south sides of Rouse Avenue at a point 115 feet from Sutter Avenue and the south side of Elsie Street at a point 100 feet from Sutter Avenue (the "PROJECT"), which project area is partially located within the CITY limits and within the unincorporated area of the COUNTY; and
- C. The PROJECT will be funded at 90% with Safe Routes to School Grant funding and 10% local match funding shall be split evenly between the CITY and COUNTY collected and administered by the CITY; and
- D. The PROJECT will be constructed using State of California, Federal funds, and/or Local funds which will be obtained, collected, and administered by the CITY and are subject to availability.

NOW, THEREFORE, it is agreed as follows:

SECTION 1. OBLIGATIONS OF THE CITY

- 1. Project Planning and Implementation. The CITY shall provide plans and specifications for the PROJECT and perform all aspects of PROJECT contract bidding and award, construction engineering, administration and inspection, and construction of the PROJECT and shall be responsible for all expenses incurred by such actions.
- 2. Project Maintenance. After completion and acceptance of the PROJECT, the CITY shall be responsible for the maintenance and repair of the PROJECT. All work shall be performed and completed in accordance with PROJECT plans and specifications.
- 3. Control of Project. Except as provided in Section 2 of this AGREEMENT, the CITY, through its designated representative, shall have exclusive control of the work of construction, including inspection services. Project Plans and Engineering. The COUNTY shall be entitled to review and comment upon any and all PROJECT plans, specifications and designs and the CITY shall incorporate all reasonable requests to modify such plans, specifications and designs for portions of the PROJECT lying within the unincorporated area of the COUNTY.

4. Project Accountability. The CITY shall be strictly accountable for all funds used to pay for the PROJECT. All COUNTY funds not spent for the PROJECT will be considered surplus money. All surplus money on hand after completion of the PROJECT shall be returned in full to the COUNTY.
5. Lead Agency. The CITY shall be the “Lead Agency,” as defined and used in Sections 15050 and 15367 of Title 14 of the California Code of Regulations, for purposes of compliance with the California Environmental Quality Act (Pub. Res. Code Section 21000, et seq.).
6. The CITY shall invoice the COUNTY in the amount of \$23,521.00 for all expenses incurred to construct the PROJECT prior to the issuance of the Notice to Proceed to the awarded contractor.
7. The CITY shall make available to the COUNTY all documents showing all invoiced costs incurred by CITY pertaining to the PROJECT.
8. The CITY will apply for funding commitments for the PROJECT from the Safe Routes to School program to reimburse up to the maximum limits for the participating costs of the PROJECT.

SECTION 2. OBLIGATIONS OF THE COUNTY

1. The COUNTY shall, upon receipt of an invoice, make payment to the CITY in the amount of \$23,521.00 for all expenses incurred to cooperate and facilitate the construction of the PROJECT prior to the issuance of the Notice to Proceed to the awarded contractor.
2. The COUNTY shall fully cooperate with the CITY in providing all requested information or data necessary to apply for funding commitments for the PROJECT for the Safe Routes to School (SR2S) program to reimburse up to the maximum limits for the participating costs of the PROJECT.
3. The COUNTY shall be responsible for all COUNTY staff expenses associated with cooperating and facilitating the construction of the PROJECT.

SECTION 3. MUTUAL OBLIGATIONS OF THE CITY AND THE COUNTY

1. Project Plans and Engineering. The COUNTY shall be entitled to review and comment upon any and all PROJECT plans, specifications and designs and the CITY shall incorporate all reasonable requests to modify such plans, specifications and designs for portions of the PROJECT lying within the unincorporated area of the COUNTY.
2. Project Inspection. The COUNTY may make periodic inspections of all PROJECT work performed in the unincorporated area of the COUNTY and, upon completion of the PROJECT work of construction and prior to acceptance of the completed work, the CITY

and the COUNTY jointly shall make a final inspection of PROJECT work performed in the unincorporated area of the COUNTY.

3. The cost of any work referred to in this AGREEMENT shall include all direct and indirect costs (functional and administrative overhead assessment) attributable to the PROJECT, applied in accordance with CITY and COUNTY standard accounting practice.
4. The PROJECT shall be funded at a rate of 90% by Safe Routes to School at an amount not to exceed \$423,376.00, and
5. 5% by the CITY at an amount not to exceed \$23,521.00, and
6. 5% by the COUNTY at an amount not to exceed \$23,521.00, and
7. All funds are subject to availability.
8. As may become necessary for PROJECT development and delivery, through CITY and COUNTY cooperation, the City Engineer and Director of Public Works for the CITY and COUNTY respectively, are authorized to administer and execute, by mutual written consent, various administrative documents necessary to engineer and construct the PROJECT, provide that such actions do not exceed the authority of this AGREEMENT.
9. Payment. The CITY's total spending authority for PROJECT contract is approved by the City Council and includes the cost of the contracted services plus a contingency amount designated for any additions or changes to the contract if needed. CITY will provide written notice to COUNTY when the sum of all the task orders or contract change orders executed for PROJECT contract reaches 75% of the City Council-approved contingency. CITY will provide written notice to COUNTY prior to increasing the total spending authority for PROJECT contract that has been considered and approved by the City of Modesto City Council.
10. Amendments. Any amendments to this agreement including, but not limited to, changes in scope, responsibility, and/or cost, shall be mutually agreed upon and executed by agents of the CITY and COUNTY, and approved by CITY Council and the COUNTY Board of Supervisors.
11. Early Termination. Either party may terminate this AGREEMENT upon 30 days written notice to the other party.
12. Termination Date. This AGREEMENT, except as stated in Section 3, Paragraph 11, shall be terminated at the time the improvements have been implemented and accepted by both the CITY and the COUNTY and the construction warranty period has commenced.
13. Indemnity. Neither party, nor any of its officers or employees, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the other party under or in connection with any work delegated to that party under this Agreement. The parties further agree, pursuant to Government Code Section 895.4, that

each party shall fully indemnify and hold harmless the other party and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken, or omitted to be taken by such party under this Agreement.

SECTION 4. CORRESPONDENCE

1. Any notice which may be required under this AGREEMENT shall be in writing and shall be given by personal service, first-class mail, certified or registered mail return receipt requested, or overnight delivery to the addresses set forth below:

CITY

David Eshoo
Assistant Engineer
City of Modesto
1010 10th Street, Suite 4200
Modesto, CA 95354

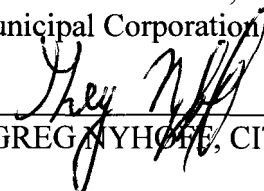
COUNTY

Andrew Malizia, PE
Assistant Engineer
Stanislaus County Public Works
1716 Morgan Road
Modesto, CA 95358

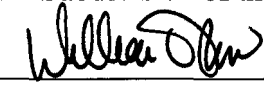
2. Any notice which may be required under this AGREEMENT shall be in writing and shall be given by personal service, first-class mail, certified or registered mail return receipt.

IN WITNESS WHEREOF, the CITY of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its CITY Manager and attestation by its CITY Clerk under authority of Resolution No. 2013- 68 , adopted by the Council of the CITY of Modesto on the 26th day of February , 2013 and the COUNTY of Stanislaus, a Political Subdivision of the State of California, has authorized the execution of this Agreement in duplicate under authority of Resolution No. 2012-598 , adopted by the Board of Supervisors of Stanislaus COUNTY on the 11th of December 2012 .

CITY OF MODESTO,
a Municipal Corporation

By 
GREG NYHOFF, CITY Manager

COUNTY OF STANISLAUS, a
Political Subdivision of the State of California

By 
WILLIAM O'BRIEN,
Chairman Board of Supervisors

SECTION 5.

ATTEST:


By 
STEPHANIE LOPEZ, CITY Clerk

(SEAL)

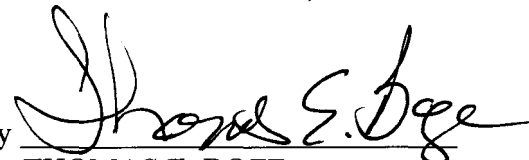
ATTEST:

By 
CHRISTINE FERRARO TALLMAN,
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, CITY Attorney
Counsel

By 
ROLAND R. STEVENS,
~~Assistant CITY Attorney~~
Special Counsel

APPROVED AS TO FORM:
JOHN DOERING, COUNTY

By 
THOMAS E. BOZE,
Deputy COUNTY Counsel