



City Council Staff Report

Date: September 8, 2010

CONSENT CALENDAR

Subject: APPROVAL OF PROGRAM SUPPLEMENT AGREEMENT NO. 033-N, WITH THE STATE OF CALIFORNIA FOR USE OF SAFETEA-LU HIGH PRIORITY PROJECT (HPLUL) FEDERAL-AID FUNDS FOR THE AGUA CALIENTE CULTURAL MUSEUM ROADWAY IMPROVEMENTS, CITY PROJECT NO. 09-04, FEDERAL-AID PROJECT NO. HPLUL-5282(033)

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

Approval of Program Supplement Agreement No. 033-N will formally authorize the reimbursement of up to \$50,000 in federal-aid funds for the preliminary engineering phase of the Agua Caliente Cultural Museum Roadway Improvements (City Project 09-04), Federal Aid Project No. HPLUL-5282(033).

RECOMMENDATION:

- 1) Adopt Resolution No. _____ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING PROGRAM SUPPLEMENT AGREEMENT NO. 033-N TO ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 08-5282R WITH THE STATE OF CALIFORNIA, IN THE AMOUNT OF \$62,500 (\$50,000 FEDERAL FUNDS / \$12,500 LOCAL FUNDS), FOR THE AGUA CALIENTE CULTURAL MUSEUM ROADWAY IMPROVEMENTS, CITY PROJECT NO. 09-04, FEDERAL-AID PROJECT NO. HPLUL-5282(033), AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF PALM SPRINGS;" and
- 2) Authorize the City Manager to execute all necessary documents.

Item No. **2.M.**

STAFF ANALYSIS:

On February 9, 2009, Michael Hammond, Executive Director of the the Agua Caliente Cultural Museum ("ACCM"), submitted a letter to the City Manager requesting that the City help facilitate the ACCM's obligation and use of two federal grants related to the Agua Caliente Band of Cahuilla Indians future cultural museum. The ACCM was successful in lobbying for two separate federal grants that total approximately \$1 Million to be used for design related work, including planning and engineering of roadway and interpretive signage, road and signage improvements, drainage, vehicular parking areas, and appurtenant structures and facilities. The cultural museum will be constructed at the southeast corner of Tahquitz Canyon Way and Hermosa Drive.

Federal grants are distributed to each state via the state's Department of Transportation; in California the funds are distributed to Caltrans. Each recipient of a federal grant must have an agreement with Caltrans related to the use of federal funds. Typical recipients of federal grants are local governments, cities, counties, and metropolitan planning organizations (i.e. RCTC, CVAG, etc.). In attempting to obtain the federal funds allocated to the ACCM, the ACCM was prevented from directly seeking those funds as the ACCM is not a typical agency with which Caltrans directly interacts. Caltrans directed the ACCM to seek the assistance of a public agency that has experience coordinating the use of federal funds, to obligate the federal funds on its behalf.

Therefore, pursuant to the ACCM's request, on April 15, 2009, the City Council approved a Memorandum of Understanding (MOU) between the City and the ACCM related to the City's assistance and administration of the ACCM's federal funds on its behalf. Subsequently, the Public Works and Engineering Department coordinated with Caltrans and successfully obligated the federal funds for one of the two federal earmarks awarded to the ACCM.

The City operates under a "Master Agreement" with the state of California, identified as the "Administering Agency – State Agreement No. 08-5282R" for use of federal funds on City projects. The Master Agreement is amended by each successive use of federal funds on a project, and upon the first "authorization" or obligation of the use of federal funds on a project, the City is provided with a "Program Supplement Agreement", or amendment, to the Master Agreement.

In light of the City's authorization to proceed with the preliminary engineering phase of this project using HPLUL federal funds, Caltrans has submitted to the City for approval Program Supplement Agreement No. 033-N, which will facilitate the City's use of federal funds for this project.

FISCAL IMPACT:

Approval of Program Supplement Agreement No. 033-N with Caltrans will formally authorize the disbursement and use of up to \$50,000 in federal-aid funds for the design phase of the Agua Caliente Cultural Museum Roadway Improvements (City Project 09-04), Federal Aid Project No. HPLUL-5282(033).

Prepared by:

Recommended by:

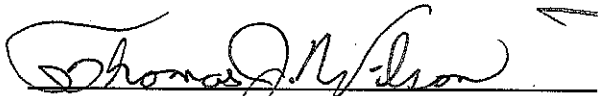


Marcus L. Fuller
Assistant Director of Public Works

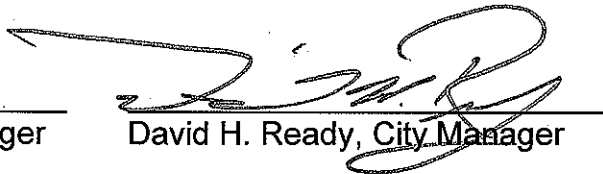


David J. Barakian
Director of Public Works/City Engineer

Approved by:



Thomas J. Wilson, Asst. City Manager



David H. Ready, City Manager

ATTACHMENTS:

1. Program Supplement Agreement No. 033-N
2. Resolution

ATTACHMENT 1

PROGRAM SUPPLEMENT AGREEMENT NO. 033-N

PROGRAM SUPPLEMENT NO. N033
 to
 ADMINISTERING AGENCY-STATE AGREEMENT
 FOR FEDERAL-AID PROJECTS NO. 08-5282R

Date: June 28, 2010
 Location: 08-RIV-0-PSP
 Project Number: HPLUL-5282(033)
 E.A. Number: 08-925153

This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 02/07/07 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. _____, approved by the Administering Agency on _____ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by 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:

On Hermosa Dr @ the southeast corner of Tahquitz Canyon Way & Hermosa Drive

TYPE OF WORK: Road Reconstruction, no added capacity

LENGTH: 0.2 (MILES)

Estimated Cost	Federal Funds		Matching Funds		
	HY20		LOCAL		OTHER
\$62,500.00		\$50,000.00	\$12,500.00	\$0.00	\$0.00

CITY OF PALM SPRINGS

STATE OF CALIFORNIA
 Department of Transportation

By _____

By _____

Date _____

Chief, Office of Project Implementation
 Division of Local Assistance

Attest _____

Date _____

Title _____

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

Accounting Officer *[Signature]* Date 6-30-10 \$50,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT
1	2009	2660-102-890	2009-2010	20.30.010.680	C	262042	892-F	50,000.00

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SPECIAL COVENANTS OR REMARKS

1. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.
2. 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).
3. 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, and invoice payments for any on-going or future federal-aid project by ADMINISTERING AGENCY if 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.

4. 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

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SPECIAL COVENANTS OR REMARKS

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.).

5. 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).
6. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award or with submittal of the ADMINISTERING AGENCY's first invoice for the construction contract, whichever is earlier.

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.

7. 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

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SPECIAL COVENANTS OR REMARKS

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 DistrictLocal 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.

ATTACHMENT 2
RESOLUTION

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING PROGRAM SUPPLEMENT AGREEMENT NO. 033-N TO ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 08-5282R WITH THE STATE OF CALIFORNIA, IN THE AMOUNT OF \$62,500 (\$50,000 FEDERAL FUNDS / \$12,500 LOCAL FUNDS), FOR THE AGUA CALIENTE CULTURAL MUSEUM ROADWAY IMPROVEMENTS, CITY PROJECT NO. 09-04, FEDERAL-AID PROJECT NO. HPLUL-5282(033), AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF PALM SPRINGS

WHEREAS, the City of Palm Springs has submitted to the California Department of Transportation a request for authorization to proceed with the preliminary engineering phase of the Agua Caliente Cultural Museum Roadway Improvements (City Project 09-04), requiring obligation of \$50,000 of SAFETEA-LU High Priority Project ("HPLUL") federal-aid funds; and

WHEREAS, the California Department of Transportation has prepared Program Supplement Agreement No. 033-N to administering Agency-State Agreement No. 08-5282R with the state of California, obligating \$50,000 of HPLUL federal-aid funds for the Agua Caliente Cultural Museum Roadway Improvements (City Project 09-04), Federal Aid Project No. HPLUL-5282(033).

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Program Supplement Agreement No. 033-N to administering Agency-State Agreement No. 08-5282R with the state of California, obligating \$50,000 of HPLUL federal-aid funds for the Agua Caliente Cultural Museum Roadway Improvements (City Project 09-04), Federal Aid Project No. HPLUL-5282(033), is approved.

SECTION 2. The City Manager is authorized to execute and administer the Program Supplement Agreement as may be necessary.

Resolution No.
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ADOPTED THIS 8th day of September, 2010.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on September 8, 2010, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California