



**CITY OF LOS ALTOS
CITY COUNCIL MEETING
May 12, 2015**

CONSENT CALENDAR

Agenda Item # 6

SUBJECT: Adopt Resolution No. 2015-08, authorizing the City Manager to execute Program Supplement Agreement No. 002-M3 under the Administering Agency-State Master Agreement No 04-5309 for Federal Aid for the Fremont Avenue Bridge Replacement Project

BACKGROUND

On January 9, 2001, the City Council authorized the City Manager to execute Administering Agency-State Agreement No. 04-5309. This agreement covers procedures and conditions for the design, construction and maintenance of Federal Aid project.

On October 8, 2002, City Council authorized the City Manager to execute a Program Supplement Agreement No. 002-M, Fremont Avenue Bridge Rehabilitation, to the Administering Agency-State Agreement.

On February 13, 2007, City Council authorized staff to request approval from California Department of Transportation (Caltrans)/Federal Highway Association (FHWA) to change the current bridge repair status from Rehabilitation to Replacement.

On September 11, 2007, City Council authorized the City Manager to execute a Program Supplemental Agreement No. M002 Revision, Fremont Ave Bridge Replacement, to the Administering Agency-State Agreement.

EXISTING POLICY

None

PREVIOUS COUNCIL CONSIDERATION

January 9, 2001; October 8, 2002; November 23, 2004; February 13, 2007; September 11, 2007; November 10, 2008; March 24, 2009; January 25, 2011 and September 13, 2011

DISCUSSION

A “program supplement” to the Master Agreement provides the administrative mechanism for Caltrans to reimburse expenses for various stages of a project. The City must execute the Program Supplement Agreement No. 002-M3 for the Fremont Avenue Bridge Replacement Project before the City can invoice Caltrans for any reimbursement for the construction of the project. This Program Supplement Agreement covers up to \$1,871,678 of funds for construction.

The program supplement is a “boilerplate” agreement supplied by Caltrans to all jurisdictions that receive various forms of federal aid funding. Staff has reviewed the program supplement and finds the terms acceptable.

The City advertised the Fremont Avenue Bridge Replacement Project on March 24, 2015. Two bids were received and opened in a public session on April 15, 2015. The lowest bid amount is

\$2,000,490.10, which is more than the currently approved funds from Caltrans. Immediately after the bid opening, the City requested additional funding from Caltrans. Caltrans has authorized the City to award the construction and construction management service contracts to the lowest responsible and responsive bidder and the best qualified consultant respectively while processing the funding request. A new Program Supplement Agreement for the additional funds is expected to be sent to the City later.

PUBLIC CONTACT

Posting of the meeting agenda serves as notice to the general public.

FISCAL/RESOURCE IMPACT

Approval of this Program Supplement Agreement will allow the City to seek reimbursements from Caltrans for the construction of the Fremont Avenue Bridge Replacement Project.

ENVIRONMENTAL REVIEW

Not applicable

RECOMMENDATION

Adopt Resolution No. 2015-08, authorizing the City Manager to execute Program Supplement Agreement No. 002-M3 under the Administering Agency-State Master Agreement No 04-5309 for Federal Aid for the Fremont Avenue Bridge Replacement Project

ALTERNATIVES

1. Do not execute the program supplement; however, this would require the City to fund the entire construction with City funds
2. Terminate the project

Prepared by: Victor Chen, Associate Civil Engineer

ATTACHMENTS:

1. Program Supplement Agreement No. 002-M3, dated March 23, 2015
2. Resolution No. 2015-08

May 12, 2015

Adopt Resolution No. 2015-08, authorizing the City Manager to execute Program Supplement Agreement No. 002-M3 under the Administering Agency-State Master Agreement No 04-5309 for Federal Aid for the Fremont Avenue Bridge Replacement Project

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PROGRAM SUPPLEMENT NO. M002 Rev. 3
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 04-5309

Adv Project ID **Date:** March 17, 2015
0400001294 **Location:** 04-SCL-0-LATS
Project Number: BHLS-5309(004)
E.A. Number: 04-923925
Locode: 5309

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 02/07/01 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 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:

Fremont Ave Bridge over Permanente Creek

TYPE OF WORK: Bridge Replacement

LENGTH: 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
			LOCAL	OTHER
\$2,161,000.00	H1C0	\$180,800.00		
	Q100	\$208,000.00		
	MOE1	\$1,482,878.00	\$289,322.00	\$0.00

CITY OF LOS ALTOS

STATE OF CALIFORNIA
Department of Transportation

By _____
Title _____
Date _____
Attest _____

By _____
Chief, Office of Project Implementation
Division of Local Assistance
Date _____

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

Accounting Officer  **Date** 3/18/15 \$1,871,678.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

SPECIAL COVENANTS OR REMARKS

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

B. 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).

C. 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. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. 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 encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future 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.

E. 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

SPECIAL COVENANTS OR REMARKS

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.).

F. 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.

G. 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 Exclusion List. Exclusions can be found at www.sam.gov.

RESOLUTION NO. 2015-08

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROGRAM
SUPPLEMENT NO. 002-M3 TO THE AGENCY-STATE AGREEMENT NO.
04-5309R FOR FEDERAL AID FOR THE FREMONT AVENUE BRIDGE
REPLACEMENT PROJECT**

WHEREAS, the Administering Agency-State Agreement No. 04-5309 between the City of Los Altos and the State of California, executed on February 7, 2001, covers the procedures and conditions for the design, construction and maintenance of federal aid projects; and

WHEREAS, the master Agreement No. 04-5309R was revised on June 26, 2007 to cover new administration mechanisms to reimburse expenses for various stages of a particular project; and

WHEREAS, execution of a separate program supplement is required for a project before federal funds can be released making it necessary to obtain a separate Council resolution for each additional project; and

WHEREAS, the City of Los Altos has been asked to execute Program Supplement No. 002-M3 to the Agency State Agreement No. 04-5309R for the Fremont Avenue Bridge Rehabilitation project. The status of the Fremont Bridge repair has been changed from Rehabilitation to Replacement.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby authorizes the City Manager to execute Program Supplement No. 002-M3 with the State of California

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 12th day of May, 2015 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK