



City Council Staff Report

DATE: March 15, 2017 CONSENT CALENDAR
SUBJECT: ACCEPTANCE OF MESQUITE AVENUE STREET IMPROVEMENTS,
CITY PROJECT NO. 12-01
FROM: David H. Ready, City Manager
BY: Engineering Services Department

SUMMARY

Formal City Council acceptance of the Mesquite Avenue Street Improvements, City Project No. 12-01, is required to document the completion of the public works improvements, and to allow the City's filing of a Notice of Completion with the Riverside County Recorder in accordance with Section 9200 of the California Civil Code.

RECOMMENDATION:

- 1) Accept the public works improvements identified as the Mesquite Avenue Street Improvements, City Project No. 12-01, as completed in accordance with the plans and specifications; and
- 2) Authorize the City Engineer to execute and file for recordation with the Riverside County Recorder a Notice of Completion for Mesquite Avenue Street Improvements, City Project No. 12-01.

STAFF ANALYSIS:

On August 3, 2016, the City Council awarded a construction contract in the amount of \$344,500 to Match Corporation, a California corporation, for the Mesquite Avenue Street Improvements, City Project No. 12-01, (the "Project").

The scope of the project provided the following improvements on a 1,300-foot segment of Mesquite Avenue west of Belardo Road: road widening on the northerly side of Mesquite Ave. including pulverization and re-compaction of the existing roadway segment; Portland cement concrete (PCC) curb and gutter improvements along the

ITEM NO. 1.F.

northerly side of Mesquite Ave.; PCC sidewalk improvements along the southerly side of Mesquite Ave. from Lykken trailhead to the mobile home park entry; and PCC driveway, ramp, spandrel and cross-gutter improvements. A location map with a 500' influence radius from the project area is provided in **Figure 1**.

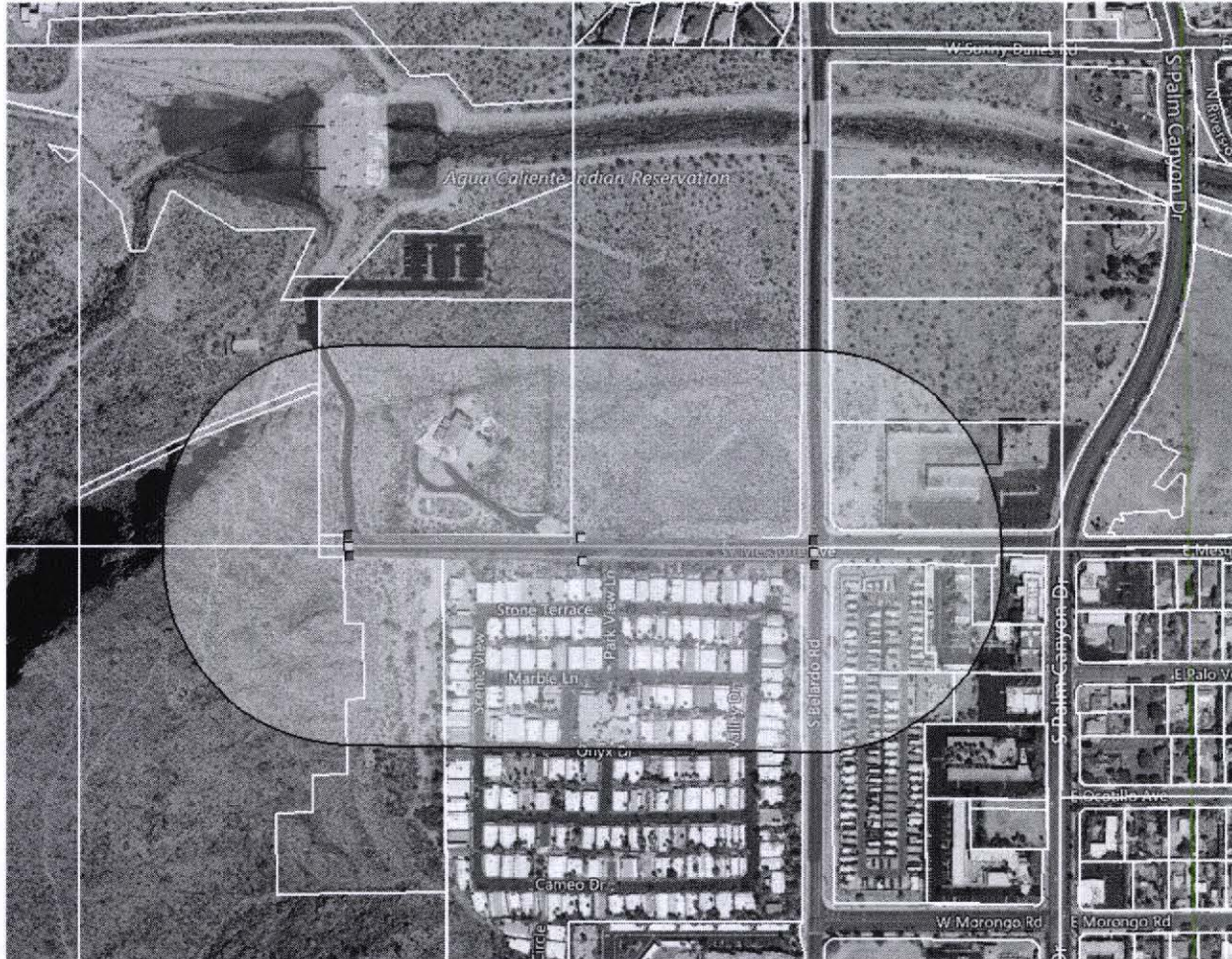


Figure 1 – Location Map

The City Manager administratively approved one construction contract change order (“CCO1”), crediting the City in the amount of \$3,005.85 representing a decrease of approximately 1% to the original contract amount for a final accounting of actual quantities of construction items completed and additional work required for the Project. A copy of CCO1 is included as **Attachment 1**.

The Project was administered by the City’s on-call construction management firm, Interwest Consulting Group, who has acted as the City’s Resident Engineer. Interwest Consulting Group has determined that Match Corporation satisfactorily completed the Project on February 28, 2017, has conducted a final inspection and found the work to be in compliance with the plans, specifications and standards of the City of Palm

Springs as evidenced in the letter from Interwest Consulting Group dated March 7, 2017, and included as **Attachment 2**.

Staff recommends that the City Council accept the Project, as required by Section 9200 of the California Civil Code, and authorize the City Engineer to file and record a Notice of Completion within 15 days of the City Council's action. A copy of the Notice of Completion to be submitted to the County is included as **Attachment 3**.

ENVIRONMENTAL IMPACT:

Section 21084 of the California Public Resources Code requires Guidelines for Implementation of the California Environmental Quality Act ("CEQA"). The Guidelines are required to include a list of classes of projects which have been determined not to have a significant effect on the environment and which are exempt from the provisions of CEQA. In response to that mandate, the Secretary for Resources identified classes of projects that do not have a significant effect on the environment, and are declared to be categorically exempt from the requirement for the preparation of environmental documents. In accordance with Section 15301 "Existing Facilities," Class 1 projects consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities; therefore, the Mesquite Avenue Street Improvements project is considered categorically exempt from CEQA, and a Notice of Exemption has been prepared and filed with the Riverside County Clerk and included as **Attachment 4**.

The Project is funded, in part, by Title 23 funds through the Tribal Transportation Program (TPP), formerly known as the Indian Reservation Roads (IRR) Program. The expenditure of Title 23 funds constitutes a Federal action subject to compliance under the National Environmental Policy Act (NEPA). On October 18, 2013, the Office of Federal Lands Highway, Federal Highway Administration, (FHWA), issued a letter and determined that the project qualifies for a Categorical Exclusion classification, based on the environmental compliance documentation prepared and submitted to FHWA by the Tribe. This letter is included as **Attachment 5** for your reference.

FISCAL IMPACT:

Federal funding was made available through the TPP Program from the Agua Caliente Band of Cahuilla Indians in the amount of \$500,000 to complete the Mesquite Avenue Street Improvements, west of Belardo Road to the Tahquitz Canyon Visitor's Center/Lykken trailhead.

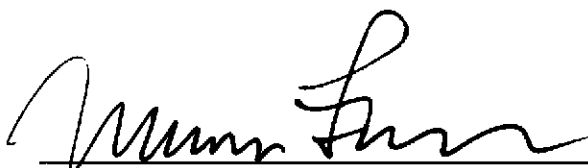
The Project's overall budget and incurred expenditures are identified in Table 1 below.

Table of Project Costs	Amount
TPP (IRR) Funding	\$500,000
Total Budget	\$500,000
Design Services	(\$60,605)
Project Administration (through 3/6/2017)	(\$28,178)
Construction Inspection - Interwest Consulting Group	(\$23,794)
Construction Contract – Match Corporation	(\$344,500)
Contract Change Order No. 1 (Credit)	\$3,005
Total Cost	(\$454,072)
Remaining Balance	\$45,928

Table 1

The Project did not require any General Fund (Fund 001) or Measure J Fund (Fund 260) budget. The City is holding retention of \$17,075 for Match Corporation pending acceptance of the improvements and filing of the Notice of Completion with the County Recorder's office. Since this project is a conversion of a facility that already exists, the Finance Department does not need to add the cost of this project to the City's fixed asset system, as no new assets have been created in compliance with Governmental Accounting Standard Board (GASB) 34 *Standards for Financial Reporting of Infrastructure Assets*.

SUBMITTED:



Marcus L. Fuller, MPA, P.E., P.L.S.
 Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
 City Manager

Attachments:

1. CCO1
2. Letter from Interwest
3. Notice of Completion (NOC)
4. CEQA – Notice of Exemption
5. NEPA – Categorical Exclusion

ATTACHMENT 1



CITY OF PALM SPRINGS CONTRACT CHANGE ORDER

To: Matich Corporation	Date: March 6, 2017	
P.O. Box 10	City Project No: 12-01	
Highland, CA 92346	Project Name: Mesquite Ave Street Improvements	
P (909)382-7400	Change Order No: 01	
F (909)382-0169	Purchase Order No: 17-0541	
	Account Number(s): 261-4491-50302	

Attn: Jake Reade

CHANGES IN WORK:

Item Adjustments at Contract Unit Prices

This change order provides for contract quantity adjustments for the following contract items:

Bid Item No.	Item Description	Quantity	Unit Price	Total
7	Pulverize Existing AC Surface, Mix with Subgrade (12" min. depth) Recompact and Grade Per Plan	-3,440 SF	\$0.50/SF	-\$1,720.00
8	Construct Type A-3, 6-Inch PCC Curb and Gutter per City of Palm Springs Std. Dwg. 200	-42 LF	\$21.00/LF	-\$882.00
9	Construct 8-Inch PCC Spandrel and Cross Gutter per City of Palm Springs Std. Dwg. 206	-100 SF	\$10.00/SF	-\$1,000.00
10	Construct 6-Inch PCC Commercial Driveway per County of Riverside Std. Dwg. 207A	-56.25 SF	\$16.00/SF	-\$900.00
11	Construct 4-Inch PCC Sidewalk per City of Palm Springs Std. Dwg. 210	-998 SF	\$5.25/SF	-\$5,239.50
12	Construct 4-Inch PCC Ramp per City of Palm Springs Std. Dwg. 213	-17 SF	\$19.00/SF	-\$323.00
13	Construct Type E-1 AC Berm per City of Palm Springs Std. Dwg. 200	-7 LF	\$28.00/SF	-196.00
14	Construct Asphalt Concrete Type III-B2-PG70-10 Base Course (2-Inch Min. Lift)	-65.20 Ton	\$65.00/Ton	-\$4,238.00
15	Construct Asphalt Concrete Type III-C3-PG70-10 Surface Course (2-Inch Min. Lift)	-6.42 Ton	\$69.00/Ton	-\$442.98
			Subtotal	-\$14,941.48

Adjustment of Compensation at Agreed Lump Sum

This change order provides an Adjustment of Compensation at Agreed Lump Sum for unused field orders item.

Bid Item No.	Item Description	Quantity	Unit Price	Total
18	Field Orders	-1 LS	\$1,084.37	-\$1,084.37
			Subtotal	-\$1,084.37

Extra Work at Agreed Unit Price

This change order provides for additional unclassified excavation work required to complete the project:

New Item	Description	Quantity	Unit Price	Total
1-1	Additional Unclassified Excavation	434 CY	\$30.00 / CY	\$13,020.00
			Subtotal	\$13,020.00

Total Change Order Amount - \$3,005.85

CHANGES TO CONTRACT TIME:

This change adds zero (0) working days to complete the additional work.

SOURCE OF FUNDS:

Funds are available from the following account(s):

REASONS FOR CHANGE:

This change order provides for adjustments to some contract quantities per actual field measurements of material placed for the items of work completed to date.

This change order provides an adjustment of compensation for unused field orders on the project.

Lastly, this change order provides compensation for additional unclassified excavation required to complete the project. During the course of work, it was discovered that there were design errors made in the elevations of the existing improvements. These errors resulted in additional unclassified excavation beyond the quantity that was given in the contract documents. In addition, due to the existing soils encountered on the project, over-excavation was required below the new curb and gutter in order to provide a suitable subgrade to complete the work. Both of these items resulted in additional unclassified excavation to be performed on the project.

SUMMARY OF COSTS:

Original Contract Amount:	\$344,500.00	Original Completion	30 Working Days
This Change Order:	\$ (3,005.85)	Days Added	0 Days
Previous Change Order(s):	\$ 0.00	Previous Days Added:	5 Days
Revised Contract Amount:	\$341,494.15	Revised Completion	35 Working Days

[SIGNATURES ON NEXT PAGE]

I have received a copy of this Change Order and the above AGREED PRICES are acceptable to Contractor

Matich Corporation

	_____ Signature	_____ Date
	_____ Printed Name and Title	

Interwest Consulting Group

	_____ Signature	_____ Date
	_____ Printed Name and Title	

City of Palm Springs

Recommended By:

	_____ Marcus Fuller Assistant City Manager / City Engineer	_____ Date
--	--	---------------

Approved By:

	_____ David H. Ready, City Manager	_____ Date
--	---------------------------------------	---------------

Attested By:

	_____ Kathleen D. Hart, Interim City Clerk	_____ Date
--	---	---------------

Distribution:

Original Conformed Copy:
 Contractor (1)
 City Clerk (1)

Conformed - File Copy:
 Engineering Pay File (1)
 City Project File (1)
 Purchasing (1)
 Finance (1)



February 21, 2017

City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: Savat Khamphou

Re: Cost Proposal – Additional Unclassified Excavation
Mesquite Ave Street Improvements - City Project No. 12-01

Dear Mr. Khamphou,

As discussed previously, Interwest Consulting Group has received a request from Match Corporation to issue a change order increasing the quantity for unclassified excavation performed on the above-referenced project. Below is the analysis and recommendation regarding this cost proposal.

As you are aware, during the beginning of the project, it was discovered that the contract drawings did not match the elevations obtained by the field surveying. This error resulted in cross sections which did not accurately represent the existing grades encountered on the project site. In addition to the discrepancy found between the field and the contract documents, the existing soil conditions did not allow for construction on compacted native materials. The subgrade below the proposed curb and gutter was over-excavated and replaced with on-site pulverized material.

In reviewing the quantities requested to be paid on this item, I have calculated the quantity of over-excavation under the proposed curb and gutter, which slightly exceeds the 216 CY requested by Match. In regards to the slope excavation required on the project, without accurate cross sections, I cannot perform a calculation of the theoretical quantity. Match has calculated the quantity based upon load counts hauled from the project site. These load counts agree with the inspection reports completed during the course of the project.

This request would result in 434 CY of additional unclassified excavation at \$30.00 per CY, for a total cost of \$13,020. Although this is additional cost beyond the contract value for Bid Item # 5 – Unclassified Excavation, the quantity underruns from other bid items would result in a net decrease of the contract value.

I recommend a CCO be issued for the additional work. A copy of the request from Match Corporation has been attached your reference. Please advise if the City concurs with the recommendation.

If you have any questions, please contact me at (714) 293-0044 or by email, rschultz@interwestgrp.com.

Regards,

A handwritten signature in black ink, appearing to read "Ryan Schultz", with a stylized flourish at the end.

Ryan Schultz
Interwest Consulting Group



Request from Matich Corporation



February 17, 2017

Interwest Consulting Group
Municipal Services
431 South Palm Canyon Drive, Suite 200
Palm Springs, CA 92262

Attn: Ryan Schultz
Project Manager

Re: City of Palm Springs Mesquite Avenue Street Improvements, City Project No. 12-01

Dear Ryan:

Match Corporation respectfully submits this correspondence as a request for adjustment in bid item number 5, "unclassified excavation". The original quantity reflected in the bid schedule was a final item of 700 cubic yards. Match Corporation believes this quantity was substantially underestimated before the project was put out to bid. As was witnessed and documented through the course of the project, the provided plans and cross sections for the project appeared to misrepresent the actual conditions (cross slope drainage, cut near retaining walls, grade bust at project benchmark). Based on this alone, an accurate representation of the roadway excavation prior to bid was not possible.

Match agreed it would continue with the project, but would keep an inventory of the amount of material moved on or removed from the project. On completion, it was determined that 1,134 cubic yards of material was removed from or moved on the project between October 6th, 2017 and October 28th, 2017. A total of 102 semi end dump loads were removed from the project (at an estimated volume of 9 cubic yards each) for a total of 918 cubic yards. A total of 27 scraper (model 613) loads were moved on the project (at an estimated volume of 8 cubic yards each) for a total of 216 cubic yards. The total amount of roadway excavation (as defined in section 300-2 "unclassified excavation" of the Greenbook) removed from or moved on the project was 1,134 cubic yards.

It is important to note as well, that the rock in the existing subgrade created an "unsuitable condition" for the construction of curb and gutter as defined in section 300-2.2 "unsuitable material". The rock had to be removed, and a suitable fill material (pulverized material from the adjacent roadbed) placed in order to drive stakes and even grade the subgrade for new curb and gutter. The existing rock in the road would not allow for the placement of stakes to hold line or forms, and it would not allow for the specified tolerances to be achieved as required by the Greenbook. The quantity for this unsuitable material was moved as well within the quantities in the paragraph above.

Match Corporation is requesting to be compensated for the cubic yards actually moved on the project at the original bid price of \$30.00 per cubic yard. Based on 434 cubic yards at a unit price of \$30.00, the total amount is \$13,020.00. Match Corporation believes this is a fair resolution considering the nature of the project, specifically the roadway excavation.

Please do not hesitate to contact me with questions or to discuss this further.

Respectfully,

Matich Corporation

A handwritten signature in black ink, appearing to read "J. Reade", written in a cursive style.

by Jake Reade

Copy: File
Bcc:
Attachments:

ATTACHMENT 2



March 7, 2017

City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Attn: Savat Khamphou

RE: Final Inspection and Acceptance
Mesquite Ave Street Improvements, City Project No. 12-01

Dear Mr. Khamphou,

As of February 28, 2017, Matich Corporation has completed all work associated with Mesquite Avenue Street Improvements, City Project No. 12-01. To the best of our knowledge, the project has been completed in accordance with the plans, specifications, and City of Palm Springs standards.

I have attached a copy of the Notice of Completion document for the project. I recommend that the Notice of Completion be accepted by the City and filed and recorded with the Riverside County Recorder.

If you have any questions regarding the above, please feel free to contact me at (714) 293-0044 or by email, rschultz@interwestgrp.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Schultz", with a long horizontal flourish extending to the right.

Ryan Schultz
Interwest Consulting Group

ATTACHMENT 3

Recording Requested By:

City of Palm Springs

When Recorded Mail To:

Name Kathie Hart, Interim City Clerk

Street Address 3200 E. Tahquitz Canyon Way

City & State Palm Springs, CA 92262

SPACE ABOVE THIS LINE FOR RECORDERS USE

NOTICE OF COMPLETION

(CA Civil Code §§ 8180-8190, 8100-8118, 9200-9208)

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is an owner of an interest of estate in the hereinafter described real property, the nature of which interest or estate is:
Fee _____ (e.g. fee, leasehold, joint tenancy, etc.)
2. The full name and address of the undersigned owner or reputed owner and of all co-owners or reputed co-owners are:
Name Street and No. City State
City of Palm Springs 3200 E. Tahquitz Canyon Way Palm Springs CA 92262
3. The name and address of the direct contractor for the work of improvement as a whole is:
Match Corporation, 1596 Harry Sheppard Blvd., San Bernardino, CA 92408
4. This notice is given for (check one):
 Completion of the work of improvement as a whole.
 Completion of a contract for a particular portion of the work of improvement (per CA Civ. Code § 8186).
5. If this notice is given only of completion of a contract for a particular portion of the work of improvement (as provided in CA Civ. Code § 8186), the name and address of the direct contractor under that contract is:
Not Applicable
6. The name and address of the construction lender, if any, is:
Not applicable
7. On the 28th day of February, 2017, there was completed upon the herein described property a work of improvement as a whole (or a particular portion of the work of improvement as provided in CA Civ. Code § 8186) a general description of the work provided:
City Project 12-01, Mesquite Avenue Street Improvements.
8. The real property herein referred to is situated in the City of Palm Springs, County of Riverside State of California, and is described as follows:
Mesquite Avenue, from Belardo Road to the entrance of the Tahquitz Canyon Visitor's Center/South Lykken Trailhead.
9. The street address of said property is:
Not applicable
10. If this Notice of Completion is signed by the owner's successor in interest, the name and address of the successor's transferor is:
Not applicable

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____ By: _____

Signature of Owner or Owner's Authorized Agent - Assistant City Manager/City Engineer for City of Palm Springs
Marcus Fuller

Print Name

VERIFICATION

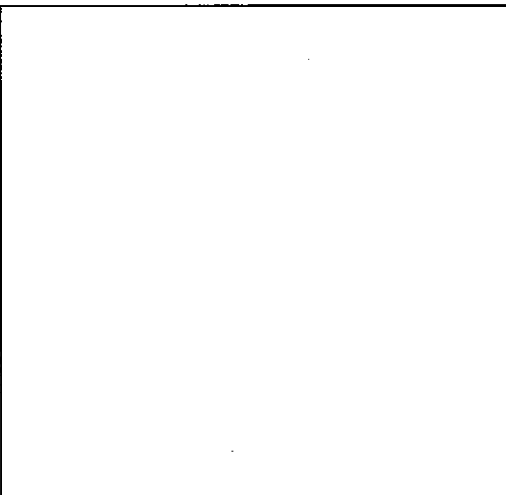
I, Marcus Fuller, state: I am the Assistant City Manager/City Engineer ("Owner", "President", "Authorized Agent", "Partner", etc.) of the Owner identified in the foregoing Notice of Completion. I have read said Notice of Completion and know the contents thereof; the same is true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, _____ (date), at Palm Springs (City), CA (State).

Signature of Owner or Owner's Authorized Agent

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.



STATE OF CALIFORNIA

COUNTY OF _____

On _____ (date), before me, _____, Notary Public (name and title of officer) personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PURJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

ATTACHMENT 4

NOTICE OF EXEMPTION

To: Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

From: City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

County Clerk
County of Riverside
2724 Gateway Drive
Riverside, CA 92507

FILED
RIVERSIDE COUNTY

NOV 27 2013

LARRY W. WARD, CLERK
By *m. meyer* M. Meyer
Deputy

Project Title: Mesquite Avenue Improvements Project

Project Location - Specific: The project is located on Mesquite Avenue, from Belardo Road to the entrance to the Tahquitz Canyon Visitors' Center/South Lykken Trailhead.

Project Location - City: City of Palm Springs **Project Location - County:** Riverside County

Description of Nature, Purpose, and Beneficiaries of Project:

In a joint effort between the City of Palm Springs and the Agua Caliente Band of Cahuilla Indians, the proposed improvements will be constructed:

COUNTY CLERK
Neg Declaration/Ntc. Dis. the
Filed per Resolution 21152
POSTED

NOV 27 2013

Removed: *12/2/13*
By *[Signature]*
County of Riverside

ROADWAY IMPROVEMENTS:

Mesquite Avenue will be widened on the northerly side of the roadway beginning at Belardo Road and ending approximately 1,300 feet west of Belardo Road at the entrance to the Tahquitz Canyon Visitors' Center/South Lykken Trailhead. The proposed widening improvements are to match newly completed improvements at the intersection of Belardo Road and Mesquite Avenue. The roadway width will transition to match the City of Palm Springs' Local Street Standard. To avoid removal and replacement of existing Portland concrete cement (PCC) curb and gutter on the southerly side of Mesquite Avenue, it is assumed that the transition will occur entirely on the northerly side of Mesquite Avenue over a distance of ten (10) to twenty (20) feet. The widening component of the project includes the following:

- Infill PCC curb, gutter, sidewalk, driveway and ADA-compliant access ramps on both sides of Mesquite Avenue;
- Grading and possible construction of retaining structures behind the back of walk;
- Cul-de-sac, traffic round-about or some other design to allow traffic to turn around at the westerly end of Mesquite Avenue;
- Pavement rehabilitation to the existing pavement section of Mesquite Avenue, including, as needed pavement removals, replacements and overlays, and necessary curb, gutter and sidewalk removals and replacements.

P A I D
NOV 21 2013

PARKING IMPROVEMENTS:

Off-road parking improvements on the southerly side of Mesquite Avenue are to be constructed near the entrance to the Tahquitz Canyon Visitors' Center/South Lykken Trailhead. The proposed off-road parking improvements will provide vehicle parking for day users of the Lykken Trail system and will included other associated improvements such as entry driveway, locking gate, drainage, signage, striping and ADA access to the Lykken Trail system.

Name of Public Agency Approving Project: City of Palm Springs
Name of Person or Agency Carrying Out Project: City of Palm Springs

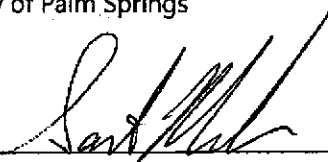
Exemption Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption, State type and section number: 15301(c)
- Statutory Exemptions. State code number:

REASONS WHY THIS PROJECT IS EXEMPT: Section 15301, Class 1 Categorical Exemptions within the California Environmental Quality Act (CEQA) Guidelines consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public or private structures facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Subsection (c) of Section 15301 consists of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities.

The proposed project will construct improvements including pavement rehabilitation, construction of curb, gutter, and sidewalk, the widening of Mesquite Avenue and parking enhancements near the entrance to the Tahquitz Canyon Visitors' Center/South Lykken Trailhead. The section of Mesquite Avenue, beginning at Belardo Road and ending approximately 1,300 feet west of Belardo Road is an existing roadway. The roadway and parking improvements associated with the project are minor in nature and will not expand uses beyond those that currently exist. Therefore, the project has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA under Section 15301(c).

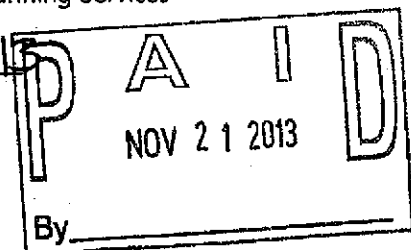
City of Palm Springs

By 
Savat Khamphou, Assistant Director of Public Works/ Assistant City Engineer
Department of Public Works Staff

Date: 11-20-2013

By 
Edward O. Robertson, Principal Planner
Department of Planning Services

Date: 11-20-13



ATTACHMENT 5



October 18, 2013

CATEGORICAL EXCLUSION (CE)
Mesquite Avenue Improvements Project, TTP Route #P140

INTRODUCTION

The Federal Highway Administration (FHWA), in cooperation with the Agua Caliente Band of Cahuilla Indians (Tribe), proposes to make improvements to approximately 1,300 feet of Mesquite Avenue west of its intersection with Belardo Road in Palm Springs, CA. The project is located in Riverside County in Section 22 of Township 4S, Range 4E.

The project is funded, in part, by Title 23 funds through the Tribal Transportation Program (TTP). TTP funds are provided to Agua Caliente in accordance with the *Tribal Transportation Program Agreement between the Agua Caliente Band of Cahuilla Indians and the United States Department of Transportation, December 13, 2012*. In accordance with this agreement, the Tribe is responsible for project development, permit acquisition, contract management, construction, and construction oversight. The Tribe is also required to submit a complete Plans, Specifications, and Estimate (PS&E) package to FHWA prior to construction.

The expenditure of Title 23 funds constitutes a Federal action subject to compliance under the National Environmental Policy Act (NEPA). This NEPA CE is based on environmental compliance documentation prepared and submitted to FHWA by the Tribe.

PURPOSE AND NEED

Mesquite Avenue provides the only vehicular and pedestrian access route to Tahquitz Canyon, which is a popular tourist destination. The road is narrow in sections and is in poor condition, exhibiting alligator cracking and potholes. With continued deterioration, the roadway would eventually become impassable to automobiles. The roadway also lacks sidewalks and bike paths for pedestrians/bicyclists, which currently have to walk/ride in the roadway along the north side of Mesquite Avenue.

PROPOSED ACTION

Mesquite Avenue will be widened on the northerly side of the roadway, beginning at Belardo Road and ending approximately 1,300 feet west of Belardo Road at the entrance to the Tahquitz Canyon Visitor Center/South Lykken Trailhead. The proposed widening improvements will

match newly completed improvements at the intersection of Belardo Road and Mesquite Avenue. The roadway width will transition to match the City of Palm Springs' Local Street Standard (36 feet) and will include concrete curbs, sidewalks, bike paths, and landscaping.

Also, a small parking lot will be constructed on the southerly side of Mesquite Avenue near the entrance to the Tahquitz Canyon Visitor Center/South Lykken Trailhead. The proposed parking improvements will provide vehicle and bicycle parking for day users of the Lykken Trail system, and will include other associated improvements such as entry driveway, locking gate, drainage, signage, striping and ADA access to the Lykken Trail system.

ENVIRONMENTAL COMPLIANCE

A summary of key findings and approvals is provided below and was compiled from information provided by the Tribe.

Cultural Resources

The project is located within the boundaries of the Tahquitz Canyon National Register Site, which was previously determined eligible for listing on the National Register of Historic Places (NRHP) in 1972. In coordination with the Tribe, FHWA has determined the project will result in "no adverse effect" to the Tahquitz Canyon site, pursuant to 36CFR§800. This determination is based on the minor scope of the proposed project as well as the following recommended environmental commitments:

1. Agua Caliente Band of Cahuilla Indians will provide a Tribal monitor and a professional archaeologist to be present during all ground disturbing activities related to the project.
2. If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until the archaeologist can assess the nature and significance of the find. The archaeologist would consult with culturally affiliated Native Americans, where appropriate, depending on the type and specifics related to the artifacts that are unearthed.
3. If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to Public Resources Code Section 5097.98, if the remains are thought to be Native American, the coroner will notify the Native American Heritage Commission (NAHC) who will then notify the Most Likely Descendent (MLD).
4. The Agua Caliente Band of Cahuilla Indians Tribal Historic Preservation Officer will be immediately notified of any discovery of cultural or human remains.

Through consultation with the Agua Caliente Tribal Historic Preservation Officer (THPO) and in compliance with Section 106 of the National Historic Preservation Act, FHWA determined that the project will result in "no adverse effect" to any historic properties. The THPO concurred with this determination on October 9, 2013.

Additionally, as a historic property, the Tahquitz Canyon National Register Site is considered a Section 4(f) resource under the Department of Transportation Act of 1966. To make a *de minimis* impacts finding on a historic property, it must have a determination of either "no adverse effect" or "no historic properties affected" in compliance with Section 106 regulations. Therefore, based on the "no adverse effect" determination, FHWA finds that the project would have a *de minimis* impact on this Section 4(f) resource. The THPO concurred with this finding on October 9, 2013 as well.

Threatened and Endangered Species

The entire project lies within the boundaries of the Tribal Habitat Conservation Plan (THCP) for the Agua Caliente Indian Reservation and specifically within the THCP Valley Floor Conservation Area. The Plan provides the means to protect and contribute to the conservation of Federally-listed as well as other species within the Tribe's jurisdictional territory.

The only federally-listed species with potential to occur in the project area is the desert tortoise (threatened). Only low quality potential habitat for desert tortoise occurs within the project site, and the species is not expected to use the project study area to a meaningful level (i.e. rarely). The THCP requires no direct mortality for desert tortoise, and to ensure this, full avoidance measures will be conducted.

Full avoidance measures consist of:

- Prior to any ground disturbance, the Tribe will provide a qualified biologist to conduct a pre-disturbance presence/absence survey of the project area and adjacent areas within 200 feet of the project (or to the property boundary if less than 200 feet and permission from the adjacent landowner cannot be obtained to determine if the desert tortoise occupies the site). The qualified biologist will survey for fresh sign of desert tortoise, including live tortoises, tortoise remains, burrows, tracks, scat, or egg shells. The presence/absence survey must be conducted during the clearance window between February 15 and October 31. Presence/absence surveys require 100 percent coverage of the survey area. If no sign is found, no further surveys are required. A presence/absence survey is valid for 90 days or indefinitely if tortoise-proof fencing is installed around the project area following negative survey results.
- If fresh signs are located, the project area must be fenced with tortoise-proof fencing and a presence/absence clearance survey conducted during the clearance window in order to find tortoises within the impact area for monitoring and potential relocation. Presence/absence clearance surveys must cover 100 percent of the project area. A presence/absence clearance survey must be conducted during different tortoise activity periods (morning and afternoon).
- All surveys, construction monitoring, and relocation (if necessary) will follow the Guidelines for Handling Desert Tortoises During Construction Projects prepared by The Desert Tortoise Council (1999), or other protocol accepted by USFWS at that time. If tortoises are found, they shall be relocated to a destination selected by the Tribe on a case-by-case basis to provide the greatest long-term conservation potential for the species (regardless of whether it is within the Action Area), considering factors such as habitat

characteristics, long-term viability, and the presence/status of existing populations of this species on the available sites. Then-current protocols shall be used in handling individuals.

Given the low potential for presence of desert tortoise in the project area and the avoidance measures to be undertaken, FHWA determined the project would have no effect on any threatened or endangered species in compliance with the Endangered Species Act.

Wetlands and Floodplains

There are no wetlands or floodplains located in the project area, therefore the proposed action will have no impacts on either resource.

Air Quality

The proposed project fully conforms to the regional air quality implementation plan's purpose of attaining and maintaining national ambient air quality standards. No violations of state or national air quality standards are predicted to occur from the long term operation of the project, so no mitigation is required for operational impacts.

Construction of the project may result in short-term impacts to air quality, specifically related to fugitive dust generation, mobile source emissions, and blowsand disturbances. Because the project site is located in a nonattainment area for PM₁₀, all of the particulate control measures related to construction activities as outlined below, will be implemented.

AQ1. An approved dust emissions control plan will be obtained as outlined in the South Coast Air Quality Management District (SCAQMD) subparagraph (e) of Rule 403.1.

AQ2. The contractor will meet all applicable fugitive dust control measures as outlined by SCAQMD under Rule 403.1, General Requirements, Section (d). As outlined under Rule 403.1 (SCAQMD, April 2, 2004):

A person who conducts or authorizes the conducting of an active operation shall implement at least one of the control actions specified in Rule 403, Table 2 for the source category "Inactive Disturbed Surface Areas" to minimize wind driven fugitive dust from disturbed surface areas at such time when active operations have ceased for a period of at least 20 days (SCAQMD, 2004).

AQ3. Furthermore, the following BMPs will be implemented:

- Drive only on existing roads outside construction areas
- Limit speed on dirt roads to 32 kph (20 mph)
- Limit disturbance to vegetation when possible

AQ4. To limit trackout (i.e., trucks and equipment tracking out dirt from construction staging areas and access roadways onto paved surfaces), a minimum of 10 centimeters (4 inches) of gravel will be maintained at all site entrances and exits.

AQ5. Dust abatement measures will conform with Section 10 (Dust Control), Section 7-1.01F (Air Pollution Control), Section 17 (Watering), and Section 18 (Dust Palliative) of Caltrans *Standard Specifications* (Caltrans, July 1999). In addition, all requirements outlined in SCAQMD's Rules 401, 402, 403, and 403.1 will be met, along with the provisions outlined in Chapter 8.50 (Fugitive Dust Control) of the Palm Springs Municipal Code.

CONCLUSION

Consistent with the FHWA regulations and based upon the above considerations, FHWA has determined this project: 1) will not have a significant effect on the human environment, and 2) falls within the categories of actions covered by FHWA's CE regulations, and therefore meets the CE definition contained in 40 CFR 1508.4. FHWA finds this work constitutes an action listed under 23 CFR 771.117(a) because: 1) the action will not induce significant impacts to planned growth or land use for the area; 2) the action will not require the relocation of any people; 3) the action will not have a significant impact on any natural, cultural, recreational, historic, or other resource; 4) the action will not involve significant air, noise, or water quality impacts; 5) the action will not have significant impacts on travel; and 6) the action will not otherwise either individually or cumulatively, have any significant environmental impacts. Further, FHWA finds this work to constitute an action listed within the national listing of CEs, 23 CFR 771.117(d) (1) modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing). The proposed action does not include unusual circumstances as listed in 23 CFR 771.117(b) that would make the CE classification improper.

RECOMMENDED BY:

Terry Schumann

Digitally signed by Terry Schumann
DN: cn=Terry Schumann, o, ou,
email=terry.schumann@dot.gov, c=US
Date: 2013.10.18 15:08:57 -07'00'

10-18-13

Date

Terry Schumann
Environmental Protection Specialist
Tribal Transportation Program
Federal Highway Administration

APPROVED BY:

ROBERT W SPARROW

Digitally signed by ROBERT W SPARROW
DN: c=US, ou=U.S. Government, ou=DOT Headquarters,
ou=FHWAD, cn=ROBERT W SPARROW
Date: 2013.10.21 08:28:01 -04'00'

10/21/13

Date

JAC Joyce A. Curtis,
Associate Administrator for
Office of Federal Lands Highway,
Federal Highway Administration