



## City Council Staff Report

Date: September 2, 2009 CONSENT CALENDAR

Subject: APPROVAL OF PROGRAM SUPPLEMENT AGREEMENT NO. 027-N, WITH THE STATE OF CALIFORNIA FOR USE OF AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) FEDERAL-AID FUNDS FOR THE GENE AUTRY TRAIL GATEWAY LANDSCAPE IMPROVEMENT PROJECT, CITY PROJECT NO. 06-03, FEDERAL-AID PROJECT NO. ESPLE-5282(027)

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

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### SUMMARY

Approval of Program Supplement Agreement No. 027-N will formally authorize the reimbursement of up to \$1,850,000 in federal-aid funds for the construction phase of the Gene Autry Trail Gateway Landscape Improvement Project (City Project 06-03), Federal Aid Project No. ESPLE-5282(027).

### RECOMMENDATION:

- 1) Adopt Resolution No. \_\_\_\_\_ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING PROGRAM SUPPLEMENT AGREEMENT NO. 027-N TO ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 08-5282R WITH THE STATE OF CALIFORNIA, IN THE AMOUNT OF \$1,850,000 (\$1,850,000 ARRA FEDERAL FUNDS / \$0 LOCAL FUNDS), FOR THE GENE AUTRY TRAIL GATEWAY LANDSCAPE IMPROVEMENT PROJECT, CITY PROJECT NO. 06-03, FEDERAL-AID PROJECT NO. ESPLE-5282(027), 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.

STAFF ANALYSIS:

The City received \$1,850,000 in American Recovery and Reinvestment Act of 2009 ("ARRA") federal-aid funds to construct the Gene Autry Trail Gateway Landscape Improvement Project.

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 construction of this project, using ARRA federal funds, Caltrans has submitted to the City for approval Program Supplement Agreement No. 027-N, which will facilitate the City's use of federal funds for this project.

FISCAL IMPACT:

Approval of Program Supplement Agreement No. 027-N with Caltrans will formally authorize the disbursement and use of up to \$1,850,000 in federal-aid funds for the Gene Autry Trail Gateway Landscape Improvement Project (City Project 06-03), Federal Aid Project No. ESPLE-5282(027).

Submitted:

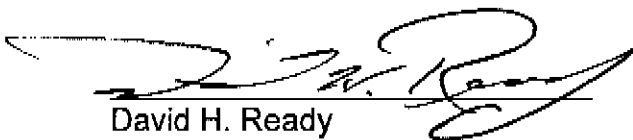


David J. Barakian  
Director of Public Works/City Engineer



Thomas J. Wilson  
Assistant City Manager

Approved:



David H. Ready  
City Manager

ATTACHMENTS:

1. Program Supplement Agreement No. 027-N
2. Resolution

ATTACHMENT 1  
PROGRAM SUPPLEMENT AGREEMENT NO. 027-N

PROGRAM SUPPLEMENT NO. N027  
 to  
 ADMINISTERING AGENCY-STATE AGREEMENT  
 FOR FEDERAL-AID PROJECTS NO. 08-5282R

Date: June 29, 2009  
 Location: 08-RIV-0-PSP  
 Project Number: FSP1.E-5282(027)  
 E.A. Number: 08-0G0214

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:**

Gene Autry Trail from Vista Chino to Via Escuela

**TYPE OF WORK:** Median landscaping and new gateway park

**LENGTH:** 0.3 (MILES)

Estimated Cost	Federal Funds		Matching Funds		
	C220		LOCAL		OTHER
\$1,850,000.00	\$1,850,000.00		\$0.00	\$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 7/3/09 \$1,850,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT
268	2008	2660-603-890	2008-2009	20.30.100.827	F	262042	898-F	1,850,000.00

**SPECIAL COVENANTS OR REMARKS**

1. 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).
2. Any State and Federal funds that may have been encumbered for this project are only available for disbursement for a period of six (6) years and seven (7) years, respectively, from the start of the fiscal year(s) that those funds were appropriated within the State Budget Act. All project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested and is approved by the California Department of Finance per Government Code Section 16304. The exact date of each fund reversion will be reflected in the approved finance letter(s) issued for this project.

Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement that is not submitted to the Department on or before 60 days after that applicable fixed fund reversion date will not be paid from that fiscal year's encumbered funds because all of these unexpended funds will be irrevocably reverted by the Department's Division of Accounting on that date.

Pursuant to a directive from the State Controller's Office and the Department of Finance, the last date to submit invoices for reimbursed work in each fiscal year is May 15th in order for payment to be made out of those then current appropriations. Project work performed and invoiced after May 15th will be reimbursed only out of available funding that might be encumbered in the subsequent fiscal year, and then only when those funds are actually allocated and encumbered as authorized by the California Transportation Commission and the Department's Accounting Office.

3. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.
4. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days after the project contract award. A copy of the award package shall also be included with the submittal of the ADMINISTERING AGENCY's first invoice for the construction contract to:

Department of Transportation  
Division of Accounting  
Local Programs Accounting Branch, MS #33  
P. O. Box 942874  
Sacramento, CA 94274-0001

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

SPECIAL COVENANTS OR REMARKS

Procedures Manual.

5. 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.

6. 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 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.).
7. 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).
8. This project is financed, in whole or in part, with federal funds from the American Recovery and Reinvestment Act of 2009 (Recovery Act). ADMINISTERING AGENCY agrees:

**SPECIAL COVENANTS OR REMARKS**

- 1) Statutory provisions contained in Chapter 1 of Title 23 United States Code (U.S.C.) are applicable to all Recovery Act funded projects,
- 2) Costs incurred prior to the date of authorization are NOT eligible for reimbursement with federal Recovery Act funds,
- 3) Federal Prevailing Wage Rate requirements apply to all Recovery Act funded construction projects regardless of location (including projects on local roads and rural minor collectors, and Transportation Enhancement projects outside the highway right of way). ADMINISTERING AGENCY agrees to include the appropriate wage rate information in the contract and also include a contract provision that overrides the general applicability provisions in form FHWA-1273, Sections IV and V,
- 4) To expend and invoice for all Recovery Act funds prior to using other funds, and
- 5) To comply with the reporting requirements, terms and conditions set forth in Sections 1201 and 1512 of the Recovery Act and as designated by the STATE. Failure to comply will result in retentions from progress payments due ADMINISTERING AGENCY and/or other sanctions,
- 6) Recovery Act funds are available for liquidation only until September 30, 2015 when the remaining balance of Recovery Act funds will expire. ADMINISTERING AGENCY agrees to submit an invoice for the balance of project Recovery Act funds (if any) to the STATE prior to July 1, 2015.
9. This PROJECT is programmed to receive Federal Transportation Enhancement Activities (TEA) fund. The ADMINISTERING AGENCY agrees that any functional or operational change to a TEA PROJECT, before, during or after PROJECT acquisition and/or construction, that does not comply with, or is in conflict with, the TEA program requirements and the original purpose of the project at the time it was programmed may render the PROJECT ineligible for Federal reimbursement and ADMINISTERING AGENCY may be required to reimburse STATE the entire amount of TEA funds contributed to the project or the value of the TEA fund contribution, based upon the fair market value of the acquisition and/or construction, at the time the conflict and/or non-compliance is determined, whichever is greater.

ATTACHMENT 2

RESOLUTION

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING PROGRAM SUPPLEMENT AGREEMENT NO. 027-N TO ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 08-5282R WITH THE STATE OF CALIFORNIA, IN THE AMOUNT OF \$1,850,000 (\$1,850,000 ARRA FEDERAL FUNDS / \$0 LOCAL FUNDS), FOR THE GENE AUTRY TRAIL GATEWAY LANDSCAPE IMPROVEMENT PROJECT, CITY PROJECT NO. 06-03, FEDERAL-AID PROJECT NO. ESPLE-5282(027), 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 construction of new parkway and median landscaping on Gene Autry Trail between Vista Chino and Via Escuela, and construction of a new landscaped gateway entry at the southwest corner of Gene Autry Trail and Vista Chino, requiring obligation of \$1,850,000 of ARRA federal-aid funds; and

WHEREAS, the California Department of Transportation has prepared Program Supplement Agreement No. 027-N, an amendment to administering Agency-State Agreement No. 08-5282R with the state of California, obligating \$1,850,000 of American Recovery and Reinvestment Act of 2009 ("ARRA") federal-aid funds for the Gene Autry Trail Gateway Landscape Improvement Project (City Project 06-03), Federal Aid Project No. ESPLE-5282(027).

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

SECTION 1. Program Supplement Agreement No. 027-N, an amendment to administering Agency-State Agreement No. 08-5282R with the state of California, obligating \$1,850,000 of ARRA federal-aid funds for the Gene Autry Trail Gateway Landscape Improvement Project (City Project 06-03), Federal Aid Project No. ESPLE-5282(027), 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 2nd day of September, 2009.

\_\_\_\_\_  
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 2, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
James Thompson, City Clerk  
City of Palm Springs, California