

TO: JAMES L. APP, CITY MANAGER
FROM: JOHN R. McCARTHY, DIRECTOR OF PUBLIC WORKS
SUBJECT: MASTER AGREEMENT FOR STATE-FUNDED PROJECTS
DATE: MAY 18, 1999

Needs: For the City Council to adopt the attached Resolution authorizing execution of a State Master Agreement.

- Facts:**
1. Senate Bill 45 (SB45) was approved in 1997 and made major changes in the State's transportation programming process.
 2. A major change in the process incorporated the various Funding Programs into one, known as the State Transportation Improvement Program (STIP).
 3. As part of the reorganization, one of the requirements is for the City to enter a Master Agreement with the State of California (copy attached).
 4. Once the Master Agreement is signed by the State, Caltrans District 5 Local Assistance could then approve funding allocation on a project-by-project basis.
 5. Execution of the Master Agreement is required for all grants that the City could receive in the future.
 6. Currently, the City has a 1.3 million dollar grant available for Vine Street, North River Road, 24th Street and Charolais Road; and a \$100,000 grant for Phase IV of the North County Transportation Center.

Analysis and

Conclusion: Once the Master Agreement is fully executed, the City could request an Authorization to Proceed with the street work and Phase IV construction for the Transportation Center.

Policy

Reference: None

Fiscal

Impact: None

- Options:**
- A. That the City Council adopt the attached Resolution authorizing the Director of Public Works to execute the Master Agreement for State Funded Program.
 - B. That the City Council amend, modify or reject the above option.

- Attachments: (2)
1) Resolution
2) Master Agreement

RESOLUTION NO. 99-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE A MASTER AGREEMENT
WITH THE STATE OF CALIFORNIA**

WHEREAS, the Legislature of the State of California has enacted legislation by which certain State funds are made available for use on local transportation facilities; and

WHEREAS, the City is required to enter an Agreement with the State in order to receive State funds for projects administered by the City; and

WHEREAS, the Director of Public Works shall sign, on behalf of the City, the Master Agreement with the State of California and all other program supplements that may be required in conjunction with State-funded projects.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the City Council of the City of Paso Robles does hereby authorize the Director of Public Works to sign and execute the Master Agreement between the City and the State of California and all other Program Supplements that may be required for State-funded projects.

PASSED AND ADOPTED by the City Council of the City of Paso Robles, this 18th day of May, 1999, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Madelyn Paasch, City Clerk

DEPARTMENT OF TRANSPORTATION

DESIGN AND LOCAL PROGRAMS

1120 N Street
P. O. Box 942874, MS #1
Sacramento, CA 94274-0001
TDD (916) 654-4014
(916) 654-3151
Fax (916) 654-2409



RECEIVED

MAY 05 1999

April 28, 1999

DEPT. OF PUBLIC WORKS

File: 05-SLO-0-PSRS

Mr. JOHN MC CARTHY
DIRECTOR OF PUBLIC WORKS
City of El Paso De Robles
1000 SPRING STREET
PASO ROBLES, CA 93446

Dear Mr. MC CARTHY:

Enclosed are two originals of the updated Administering Agency-State Master Agreement
No. 000084

Please sign both copies of this Agreement and return them to this office, Office of Local
Programs - MS1. Alterations should not be made to the agreement language or funding. Attach
your local agency's certified authorizing resolution that clearly identifies the project and the
official authorized to execute the agreement. A fully executed copy of the agreement will be
returned to you upon ratification by Caltrans.

Sincerely,

A handwritten signature in cursive script that reads "H. Brady".

HUGH BRADY, Chief
Office of Local Programs
Project Implementation

c: OLP AE project files
DLAE - 05

4. The PROGRAM SUPPLEMENT shall designate the ADMINISTERING AGENCY responsible for implementing the various phases of the PROJECT, the State funding program, and the matching funds to be provided by ADMINISTERING AGENCY and/or STATE. Adoption and execution of the PROGRAM SUPPLEMENT by ADMINISTERING AGENCY and STATE, incorporating the terms and conditions of this AGREEMENT into the PROGRAM SUPPLEMENT as though fully set forth therein, shall be sufficient to bind the ADMINISTERING AGENCY to these terms and conditions when performing the PROJECT. Unless otherwise expressly delegated in a resolution by the ADMINISTERING AGENCY'S governing body and concurred in by STATE, the PROGRAM SUPPLEMENT shall be managed by the ADMINISTERING AGENCY'S governing body.

5. PROJECT shall be acquired, designed, and constructed as required in the *Local Assistance Program Guidelines*, such other STATE procedures as are identified in the PROGRAM SUPPLEMENT, and as is specified in this AGREEMENT.

6. Unless otherwise provided in the PROGRAM SUPPLEMENT, the ADMINISTERING AGENCY shall advertise, award, and administer the PROJECT construction contract or contracts.

7. The estimated cost and scope of PROJECT will be as described in the PROGRAM SUPPLEMENT and State funding participation is limited to the amounts established by STATE. A contract for an amount in excess of said approved estimate may be awarded and expenditures may exceed said estimate provided ADMINISTERING AGENCY provides the necessary additional funding or a PROJECT cost increase in State funding is first requested by ADMINISTERING AGENCY and is approved by STATE in the form of an amended PROGRAM SUPPLEMENT or a STATE approved encumbrance document adding or deleting PROJECT funds.

8. Subsequent to the inclusion of the PROJECT in a plan or program approved by STATE and the ADMINISTERING AGENCY entering into this AGREEMENT and the PROJECT specific PROGRAM SUPPLEMENT, the ADMINISTERING AGENCY may request and receive payment for eligible work as follows:

(a) STATE will reimburse the STATE'S share of eligible participating PROJECT costs monthly in arrears upon ADMINISTERING AGENCY'S submittal of signed acceptable monthly progress pay invoices (in duplicate) for expenditures actually made by ADMINISTERING AGENCY.

(b) If PROJECT involves work on the STATE highway system, that PROJECT shall also be the subject of separate standard forms of STATE issued encroachment permits issued to ADMINISTERING AGENCY and any contractors and, where appropriate, an executed cooperative agreement between STATE and ADMINISTERING AGENCY to determine how PROJECT is to be acquired, designed, or constructed and to establish ownership and future maintenance obligations.

(c) State funds will not participate in any portion of PROJECT work performed in advance of either the effective date of the executed PROGRAM SUPPLEMENT for said PROJECT or the effective date of this AGREEMENT.

9. The total of all ADMINISTERING AGENCY invoices (submitted monthly or quarterly in arrears) for reimbursement of participating PROJECT costs, including all required ADMINISTERING AGENCY matching funds, must not exceed the actual total allowable PROJECT costs, including, but not limited to, all completed preliminary engineering work, right of way acquisition, design and construction included within the PROJECT description contained in the PROGRAM SUPPLEMENT.

10. Invoices shall be submitted on ADMINISTERING AGENCY letterhead and shall reference this AGREEMENT number, PROJECT number, and progress billing number for the PROJECT, and shall be formatted and costs reported in accordance with the current version of Chapter 5, "Accounting/Invoices," of the *Local Assistance Procedures Manual* published by STATE.

11. STATE programmed amounts may be increased to cover PROJECT cost increases only if such funds are available, STATE concurs with that proposed increase, and STATE executes an amending PROGRAM SUPPLEMENT or a STATE approved encumbrance document encumbering those funds.

12. When additional State funds are not available, the ADMINISTERING AGENCY agrees that the payment of State funds will be limited to the amounts approved in the PROGRAM SUPPLEMENT, and agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY funds.

13. The legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain employment practices with respect to contract and other work financed with State funds. ADMINISTERING AGENCY shall ensure that work performed under this AGREEMENT is done in conformance with the rules and regulations embodying such requirements where they are applicable.

14. ADMINISTERING AGENCY and its subcontractors shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support reimbursement payment vouchers or invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching costs, and other expenditures by ADMINISTERING AGENCY.

15. After completion of all work under this AGREEMENT, and after all PROJECT costs are known, ADMINISTERING AGENCY shall contract for a financial audit of PROJECT costs if those costs are in excess of \$300,000. This Audit, to be accomplished at the ADMINISTERING AGENCY'S expense, may be done on an individual PROJECT basis, or PROJECT may be included in the ADMINISTERING AGENCY'S annual Single Audit. If an individual audit of PROJECT is done, the auditor must prepare a Final Audit Report. If ADMINISTERING AGENCY chooses the Single Audit option, an audit report is required for the State funding share. This report should be prepared in accordance with the guidelines set forth in OMB Circular A-133. Compliance testing performed for this audit should determine whether the ADMINISTERING AGENCY has a system that is adequate to accumulate and segregate reasonable, allowable and allocable costs to assure that:

(a) Reimbursement claims submitted to STATE for the PROJECT are supported by payment vouchers and canceled checks.

(b) Charges for the various categories of eligible PROJECT costs incurred by the ADMINISTERING AGENCY are fully supported and recorded in the ADMINISTERING AGENCY'S accounting records in accordance with generally accepted accounting principles.

(c) The ADMINISTERING AGENCY complied with CFR 49 Part 18, Uniform Administrative Requirements for State and Local Governments and OMB A-87, Cost Principles for State and Local Governments. Any instances of noncompliance or costs determined ineligible in accordance with these regulations but claimed for reimbursement should be identified and set forth in the auditor's report.

16. ADMINISTERING AGENCY and all subcontractors shall comply with the Uniform Administrative Requirements for State and Local Governments set forth in the Code of Federal Regulations, Title 49, Part 18. In addition, the ADMINISTERING AGENCY agrees to comply with the cost principles and procedures set forth in Office of Management and Budget Circular

A-87. The ADMINISTERING AGENCY agrees that a reference to either Office of Management and Budget Circular A-87 or the Code of Federal Regulations, Title 49, Chapter 1, Part 31, whichever is applicable and the code of Federal Regulations, Title 49, Part 18, will be included in any subcontracts entered into as a result of this AGREEMENT.

17. The "State Report of Expenditures" must be completed by ADMINISTERING AGENCY within one hundred eighty (180) days of PROJECT completion in the format described for State funded projects in Chapter 17, "Project Completion" of the *Local Assistance Procedures Manual*. The Final Invoice must be submitted with the "State Report of Expenditures. The Audit must be completed by the December 30th following the fiscal year of PROJECT completion. PROJECT completion is defined as when all work identified in the approved PROJECT Application and PROGRAM SUPPLEMENT has been completed and final costs are known. The report documents (State Report of Expenditures and Final Audit Report) will be sent to the appropriate STATE office. Failure to comply with these reporting requirements may result in the withholding of future allocations for other projects.

18. STATE reserves the right to conduct technical and financial audits if it is determined to be necessary. After any financial audit, ADMINISTERING AGENCY shall promptly refund any excess State funds erroneously reimbursed to ADMINISTERING AGENCY.

19. Should ADMINISTERING AGENCY fail to refund all moneys due STATE as provided hereunder or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT, then, within thirty (30) days of demand, or within such other period as may be agreed to in writing between the parties hereto, STATE, acting through the State Controller, the State Treasurer, the California Transportation Commission (CTC), or any other public agency, may withhold or demand a transfer of an amount equal to the PROJECT amount paid by STATE from future apportionments or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other funds and/or may withhold approval of future ADMINISTERING AGENCY projects.

20. When PROJECT is not on the STATE highway system but includes work to be performed by a railroad, the contract for such work shall be prepared and administered by ADMINISTERING AGENCY or by STATE, as the parties may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an AGREEMENT with the railroad providing for future maintenance of protective devices or other facilities installed or constructed under that contract.

ARTICLE II - ENGINEERING

1. "Project Development Costs" includes all preliminary work up to contract award for construction and directly related to the PROJECT, including, but not limited to, environmental studies, preliminary surveys and reports, laboratory work, soil investigation, preparation of plans, specifications and estimates, advertising for bids, awarding contract, as well as Project Development Contract Administration.

2. "Construction Engineering" eligible costs include actual inspection and supervision of construction work, construction staking, laboratory and field testing, preparation and processing of field reports, and records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.

3. Unless the parties shall otherwise agree in writing, ADMINISTERING AGENCY'S employees or its subcontractor engineering consultant shall be responsible for all PROJECT engineering work. When construction engineering is performed by STATE, charges by STATE invoiced to ADMINISTERING AGENCY shall include an assessment on direct labor costs in accordance with Section 8755.1 of the *State Administrative Manual*. The portion of such STATE charges not contractually absorbed by STATE shall be paid from PROJECT or other funds of ADMINISTERING AGENCY.

4. No reimbursable or matching costs incurred by ADMINISTERING AGENCY in the period prior to the effective date of this AGREEMENT or a later date specified in a PROGRAM SUPPLEMENT are allowable by STATE.

ARTICLE III - RIGHT-OF-WAY

1. All related rights-of-way as are necessary for the construction of PROJECT shall be acquired by ADMINISTERING AGENCY, and no contract for construction of PROJECT or any portion thereof shall be advertised until those necessary rights-of-way have been secured.

2. The furnishing of rights-of-way as provided for herein includes, and is limited to, the following, unless the PROGRAM SUPPLEMENT provides otherwise:

- (a) expenditures to purchase all real property required for PROJECT free and clear of liens, conflicting easements, obstructions and encumbrances, after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY
- (b) the payment of damages to real property not actually taken but injuriously affected by the proposed improvement
- (c) the cost of relocating owners and occupants pursuant to Government Code Sections 7260-7277
- (d) the cost of demolition and sales of all improvements on the right of way
- (e) the cost of all unavoidable utility relocation, protection or removal
- (f) the cost of all necessary hazardous material and hazardous waste clean up for which ADMINISTERING AGENCY is not responsible and the actual generator cannot be identified or recovery made

3. Should ADMINISTERING AGENCY, in acquiring right-of-way for PROJECT, displace an individual, family, business, farm operation or nonprofit organization, the ADMINISTERING AGENCY shall provide relocation payments and services as required by California Government Code, Sections 7260-7277.

4. State funds will not participate in any PROJECT costs arising out of delays to construction or demolition contractor's orderly prosecution of the work because utilities have not been timely removed or relocated or due to the unavailability of rights-of-way.

5. If any protection, relocation or removal of utilities is required within STATE'S right-of-way, such work shall be performed in accordance with STATE policy and procedure. ADMINISTERING AGENCY shall require any utility company performing relocation work in the STATE'S right-of-way to obtain a STATE Encroachment Permit prior to the performance of said relocation work. Any relocated utilities shall be correctly located and identified on the PROJECT as-built plans.

ARTICLE IV - MISCELLANEOUS PROVISIONS

1. The cost of security, protection, or maintenance performed by ADMINISTERING AGENCY or contractor forces during any temporary suspension of the work or at any other time may not be charged to the PROJECT.

2. Neither STATE nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority, or jurisdiction delegated to ADMINISTERING AGENCY under this AGREEMENT. It is also understood and agreed that, pursuant to Government Code Section 895.4, ADMINISTERING AGENCY shall fully defend, indemnify and hold STATE, its officers and employees harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority, or jurisdiction delegated to ADMINISTERING AGENCY under this AGREEMENT.

3. Neither ADMINISTERING AGENCY nor any officer or employee thereof, shall be responsible for any damage or liability occurring by reasons of anything done or omitted to be done by STATE under or in connection with any work, authority, or jurisdiction delegated to STATE under this AGREEMENT. It is also understood and agreed that pursuant to Government Code Section 895.4, STATE shall fully defend, indemnify and hold ADMINISTERING AGENCY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority, or jurisdiction delegated to STATE under this AGREEMENT.

4. Auditors of STATE shall be given access to books and records of ADMINISTERING AGENCY and its contractors and subcontractors for the purpose of verifying PROJECT costs and share to be paid. ADMINISTERING AGENCY shall include clauses in its contracts for PROJECT obligating contractors and subcontractors to conform and cooperate in any audit of their PROJECT costs.

5. ADMINISTERING AGENCY will maintain and operate the PROJECT property acquired, developed, rehabilitated, or restored for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the property may transfer this obligation and responsibility to maintain and operate the property to another public entity.

6. Upon ADMINISTERING AGENCY acceptance of the completed PROJECT construction contract or upon contractor being relieved of the responsibility for maintaining and protecting a portion of the work, the ADMINISTERING AGENCY having jurisdiction over the PROJECT shall maintain, repair and restore any damaged portions of the completed work in a manner satisfactory to the authorized representatives of STATE. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, under ADMINISTERING AGENCY'S jurisdiction is not being properly maintained, repaired or restored and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future projects of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition satisfactory to STATE. The provisions of this section shall not apply to a PROJECT which has been vacated, as preapproved by STATE, through due process of law.

7. The ADMINISTERING AGENCY obligation to maintain, referred to in paragraph 6 above, includes not only the physical condition of the PROJECT but its continued operation as well. PROJECT shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as the PROJECT requires. Said maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under an agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

8. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY, either in whole or in part.

9. No alteration or variation of the terms of this AGREEMENT or the PROGRAM SUPPLEMENT shall be valid unless made in writing and signed by the parties hereto, and no

oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

10. This Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of the AGREEMENT in any manner.

11. ADMINISTERING AGENCY agrees to use all PROJECT funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution.

ARTICLE V - CONDITION OF ACCEPTANCE

ADMINISTERING AGENCY shall conform to all State statutes, regulations, and the *Local Assistance Program Guidelines* and *Local Assistance Procedures Manual* including all subsequent approved revisions thereto, hereafter collectively referred to as PROCEDURES, applicable to PROJECT unless otherwise designated in the approved PROGRAM SUPPLEMENT.

This AGREEMENT and any PROGRAM SUPPLEMENT(s) executed under this AGREEMENT shall terminate upon sixty (60) days' prior written notice by STATE.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officers.

STATE OF CALIFORNIA
Department of Transportation

City of El Paso de Robles

By _____
Chief, Office of Local Programs
Project Implementation

By _____
(Authorized Representative)

Date _____

Date _____

SB45_agree_num Agreement No. 000084