

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Public Works *cdm*

BOARD AGENDA # \*C-4

Urgent  Routine

AGENDA DATE January 15, 2008

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of the Joint Powers Agreement with the City of Modesto for the Planning and Construction of the Pelandale Avenue at Sisk Road/State Route 99 Improvement Project

STAFF RECOMMENDATIONS:

1. Approve the joint powers agreement with the City of Modesto for planning and construction of Pelandale Avenue at Sisk Road/State Route 99 Improvement Project.
2. Authorize the Chief Executive Officer to sign the agreement.
3. Authorize the Auditor-Controller to issue a warrant to the City of Modesto in the amount of \$467,250 from the Pelandale/Sisk and Pelandale/Highway 99 Ramps Improvement Fund, Index No. 17156, within thirty (30) days after the City awards a construction contract and issues a Notice to Proceed.

FISCAL IMPACT:

Per the agreement, the County would agree to contribute 25% of all project costs not to exceed the maximum amount of \$509,000. The estimated cost of the improvements for the County is \$467,250. On April 18, 1989, the Board authorized by Resolution No. 89-517 the establishment of a fund for future improvements at the intersection and highway ramps. To date, the County has collected approximately \$1,000,000 from developers to help mitigate traffic impacts to the intersection and highway ramps. In December of 2001, \$509,000 was transferred to the City of Modesto for a project underway at that time in  
(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2008-045

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of the Joint Powers Agreement with the City of Modesto for the Planning and Construction of the Pelandale Avenue at Sisk Road/State Route 99 Improvement Project

the mitigated area. The remaining mitigation funds will be used to pay for the County's share of this proposed improvement project.

**DISCUSSION:**

The City of Modesto is preparing to improve the intersection of Sisk Road at Pelandale Avenue and improve a portion of the State Route 99 northbound on-ramp. This project is mostly within the City, but one leg of the four-legged intersection is in the County. Thus, the County's prorated share is 25% or \$467,250 of the total estimated project cost of \$1,869,000. The agreement specifies that the County agrees to contribute 25% of all project costs, but not to exceed the maximum amount of \$509,000.

This agreement will authorize the City to perform all aspects of project planning, engineering, and construction including the acquisition of right-of-way within the County. The agreement also gives the County the rights to review and comment upon any and all project plans, specifications, and designs, and to inspect the portion of the project within the County. The City Council approved this agreement by Resolution No. 2007-656 during their November 7, 2007 meeting.

**POLICY ISSUES:**

The Board of Supervisors should determine if this action is consistent with its priorities of providing a safe community, a healthy community, and effective partnerships.

**STAFFING IMPACT:**

There is no staffing impact associated with this item.

RC/RM:lc  
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**PELANDALE AVENUE AT SISK/SR99 IMPROVEMENTS  
JOINT POWERS AGREEMENT**

THIS PELANDALE AVENUE AT SISK/SR99 IMPROVEMENTS JOINT  
POWERS AGREEMENT (the "Agreement") is made and entered into by and between the  
County of Stanislaus (the "County") and the City of Modesto (the "City") on this 8 day of  
November, 2007, ("Effective Date").

**INTRODUCTION**

A. The purpose of this Agreement is to facilitate cooperation between the  
City and the County for the improvement of the Pelandale Avenue at Sisk/SR99 (the "Project"),  
which Project area is partially located within the City limits and within the unincorporated area  
of the County, and

B. When completed, the Project will improve the interchange at Pelandale  
Avenue at Sisk Road/SR99 Northbound On-ramp providing a benefit to both the City and the  
County, and

C. The Project will be funded with CEQA Mitigation Fees ("CMF") collected  
by the County and Capital Facility Fees ("CFF") collected and administered by the City, and

D. This Agreement is entered into and performed pursuant to the provisions  
of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code,

NOW, THEREFORE, it is agreed as follows:

1. OBLIGATIONS BY THE CITY

1.1 Project Planning, Implementation and Maintenance. The City or  
its authorized designee shall perform all aspects of Project planning, engineering and  
construction, including, without limitation, the preparation of rights-of-way plans, maps,

documentation and appraisals, preliminary and final project design, environmental analysis reports, plans and specifications, contract bidding and award, construction engineering, administration and inspection, actual construction of the Project, and signing, marking and pavement marking. After the Project construction is complete and the City has recorded a notice of completion, the City shall be responsible for the maintenance and repair of those portions of the Project located within the City boundaries. All work shall be performed and completed in accordance with Project plans and specifications.

1.2 Control of Project. Except as provided in Paragraph 2 of this Agreement, the City, through its designated representative, shall have exclusive control of the work of construction, including inspection services.

1.3 Project Accountability. Pursuant to Government Code Section 6505, the City shall be strictly accountable for all funds used to pay for the Project. Pursuant to Government Code Section 6512, any surplus money on hand after completion of the Project shall be returned in proportion to the contributions made by the City and the County.

1.4 Caltrans permits. City will take the reasonably necessary actions to obtain Caltrans approval of the Project plans and secure the necessary Caltrans encroachment permits.

1.5 Lead Agency. The City shall be the "Lead Agency," as defined and used in Sections 15050 and 15367 of Title 14 of the California Code of Regulations, for purposes of compliance with the California Environmental Quality Act (Pub. Res. Code, ' 21000 et seq.).

## 2. OBLIGATIONS OF THE COUNTY

2.1 Project Plans and Engineering. The County shall be entitled to review and comment upon any and all Project plans, specifications and designs and the City shall incorporate all reasonable requests to modify such plans, specifications and designs for portions of the Project lying within the unincorporated area of the County. In addition, for portions of the Project lying within the unincorporated area of the County, the County shall be entitled to review and comment upon any and all Change Orders. The City shall incorporate all reasonable requests to modify such changes in the Project plans, specifications, and design.

2.2 Project Inspection. The County may make periodic inspections of all Project work performed in the unincorporated area of the County and, upon completion of the Project work of construction and prior to acceptance of the completed work, the City and the County jointly shall make a final inspection of the Project work performed in the unincorporated area of the County.

The County shall notify the City of any and all deficiencies or defects that are discovered by County during any inspection performed by County, including, but not limited to, the periodic inspections and final inspection set forth in the preceding paragraph. Upon notification by County of any deficiency(ies) or defects, City will notify the Contractor and direct the Contractor to remedy or correct the same.

2.3 Project Maintenance. After Project construction is complete and City has recorded a notice of completion, the County shall be responsible for the maintenance and repair of those portions of the Project within the unincorporated area of the County.

2.4 Encroachment Permit. To issue, at no cost to City and/or City's contractor, the necessary encroachment permits for work required within the unincorporated area of the County.

3. MUTUAL OBLIGATIONS OF THE CITY AND THE COUNTY

3.1 Project Costs. Unless otherwise specified in this Agreement, the City and County shall share proportionally any and all direct and indirect costs of the project, including but not limited to, planning and implementation, including without limitation, right-of-way acquisition, legal costs, project planning, engineering and construction, including, without limitation, the preparation of rights-of-way plans, maps, documentation and appraisals, preliminary and final project design, environmental analysis reports, plans and specifications and modifications or changes thereto, contract bidding and award, construction management, engineering contingencies, change orders, claims, including without limitation, claims for extra work, differing site condition, latent subsurface conditions, and statutory claims, construction engineering, administration and inspection, actual construction of the project, and signing, marking, and pavement marking, utility relocation and any and all other direct or indirect costs related to the project.

County agrees to contribute 25% of all Project costs not to exceed the maximum amount of \$509,000. The estimated costs of improvements in the respective jurisdictional boundaries are as follows:

City Share (75%)	\$1,401,750.00
County Share (25%)	<u>\$ 467,250.00</u>
Total Estimated Project Costs	\$1,869,000.00

The County shall deposit with the City, the County's estimated share of Project costs, as set forth above, within thirty (30) days after the City awards a construction contract and issues a Notice to Proceed.

After the Project construction is completed and the City has recorded a Notice of Completion, the City will provide the County with a final project cost accounting of the actual Project costs, including the cost of any and all change order work, for those portions of the Project lying within the unincorporated area of the County. If the actual Projects costs for the portion of the Project lying within the unincorporated area of the County exceeds the estimated Project costs, as set forth above, the County shall, within thirty (30) days of receiving the final accounting of actual Project costs pay the City the difference between the estimated Project costs and the actual Project costs, provided it does not exceed the county's maximum amount.

3.2 Termination. Prior to advertising the notice inviting bids for the Project, any party may terminate this Agreement upon thirty (30) days written notice to the other party, provided that the party requesting termination bears all costs incurred by the other party prior to the date of the notice of termination. After advertising the notice inviting bids for the Project, this Agreement may not be terminated except by written mutual agreement of the parties.

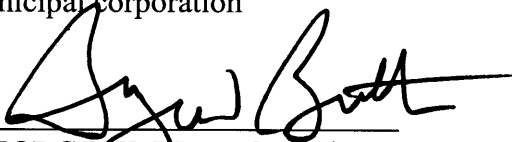
3.3 Indemnity. Neither party, nor any of its officers or employees, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the other party under or in connection with any work delegated to that party under this Agreement. The parties further agree, pursuant to Government Code Section 895.4, that each party shall fully indemnify and hold harmless the other party and its agents, officers,

employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this Agreement.




IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2007-656, adopted by the Council of the City of Modesto on the 7 day of November, 2007 and the County has caused this Agreement to be executed in duplicate as of the Effective Date.

CITY OF MODESTO,  
a municipal corporation

By   
GEORGE W. BRITTON, City Manager

COUNTY OF STANISLAUS

By   
Richard W. Robinson  
Chief Executive Officer

ATTEST:

By   
JEAN MORRIS, City Clerk

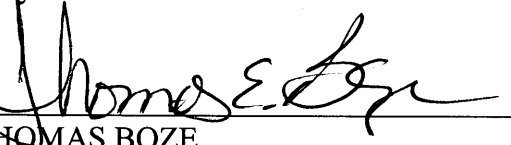
ATTEST:

By   
CHRISTINE FERRARO TALLMAN  
Clerk of the Board of Supervisors

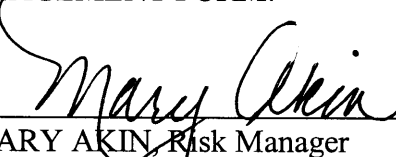
APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

By   
ROLAND R. STEVENS  
Assistant City Attorney

APPROVED AS TO FORM:  
MICHAEL H. KRAUSNICK  
County Counsel

By   
THOMAS BOZE  
Deputy County Counsel

APPROVE AS TO RISK  
MANAGEMENT FORM:

By   
MARY AKIN, Risk Manager