

RESOLUTION NO. 2015-58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING AN AGREEMENT BETWEEN THE CITY OF MARINA AND THE TRANSPORTATION AGENCY OF MONTEREY COUNTY (TAMC) FOR THE 2014 REGIONAL SURFACE TRANSPORTATION PROGRAM ALLOCATION OF FUNDING, AND; AUTHORIZING THE FINANCE DIRECTOR TO MAKE THE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES, AND; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, the Surface Transportation Program is a federal program that provides states and local jurisdictions with funding for highway improvements, street rehabilitation and transportation enhancements. TAMC receives an annual apportionment of Regional Surface Transportation Program (RSTP) funding, passed through the State, and;

WHEREAS, TAMC historically has distributed RSTP funding through fair-share (based on their urbanized populations) and competitive programs. In recent years, RSTP funds have been on hold, as the available funding has been used to complete the construction of the US-101 San Juan Road interchange project. The amount used for this project was \$15.6 million, equivalent to about three years of total Regional Surface Transportation Program funding. TAMC is now beginning a new funding cycle for the jurisdictions, and;

WHEREAS, at the regular meeting of February 26, 2014, the Transportation Agency for Monterey County (TAMC) adopted the Regional Surface Transportation Program 2014 (RSTP) Guidelines and Policies, along with allocation of RSTP funds to the City of Marina. Per the Agreement for the allocation of funding approved by the TAMC Board of Directors (**Exhibit "A"**), Marina has received competitive RSTP funds of \$100,000 for the Beach Road – SR1 to Marina Drive Project & fair-share RSTP funds of \$261,697 for transportation projects, and;

WHEREAS, the City has received competitive RSTP funds for the Beach Road – SR1 to Marina Drive project. The original design improved upon the existing traffic signal intersection of Reservation Road and Beach Road. TAMC has awarded these additional funds to design a roundabout at this intersection to service existing traffic, projected traffic from local development and improve accessibility for pedestrian and bicycle traffic, and;

WHEREAS, the fair-share RSTP funds available to Marina for transportation improvements will support the 2015 Roadway Resurfacing Project through the Pavement Management Program. All Program funds must be encumbered by the dates outlined in Exhibit A of the Agreement.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve an agreement between the City of Marina and the Transportation Agency of Monterey County (TAMC) for the 2014 Regional Surface Transportation Program allocation of funding;
2. Authorize the Finance Director to make the necessary accounting and budgetary entries;
3. Authorize the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney.

Resolution No. 2015-58

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PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 19th day of May 2015, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Brown, Morton, O'Connell, Delgado

NOES: COUNCIL MEMBERS: None.

ABSENT: COUNCIL MEMBERS: None.

ABSTAIN: COUNCIL MEMBERS: None.

Bruce C. Delgado, Mayor

ATTEST:

Anita DeAmaral, Deputy City Clerk

**AGREEMENT BETWEEN THE
TRANSPORTATION AGENCY FOR MONTEREY COUNTY
AND THE CITY OF MARINA
FOR THE ALLOCATION OF FUNDING APPROVED BY
THE TRANSPORTATION AGENCY BOARD OF DIRECTORS**

This agreement is made on _____ by and between the City of Marina, a public body, hereinafter referred to as “Recipient,” and the Transportation Agency for Monterey County, hereinafter referred to as “TAMC.”

WHEREAS, the TAMC is the state-designated Regional Transportation Planning Agency for Monterey County; and

WHEREAS, as authorized by section 182.6(g) of the Streets and Highways Code, the TAMC has entered into a separate agreement with the State of California, through the Department of Transportation (Caltrans), to assign a defined portion of its annual Regional Surface Transportation Program (RSTP) apportionment to Caltrans in exchange for state funds for specified fiscal year(s); and

WHEREAS, the TAMC is authorized to use these exchanged funds (hereinafter RSTP Exchange Funds) to assist local agencies to promote projects which otherwise qualify for RSTP funds; and

WHEREAS, as authorized by Chapter 2, Title 21, Rule 6640 of the Transportation Development Act, one of the duties of the TAMC is to administer the provisions of the Transportation Development Act in apportioning Local Transportation Funds (LTF) for the Transportation Development Act 2% (TDA 2%) program for bicycle and pedestrian projects pursuant to Article 3 of that law, and to the Cities, County, and Monterey-Salinas Transit;

WHEREAS, as authorized by the Joint Powers Agreement for the Monterey County Regional Development Impact Fee Agency, the TAMC is designated to administer and allocate regional development impact fee revenues (RDIF) to projects identified in the approved Strategic Expenditure Plan; and

WHEREAS, the TAMC Board has approved the allocation of funds toward the projects listed in Exhibit A; and

WHEREAS, it is contemplated by TAMC and the Recipient that the amount of funding and the projects designated in Exhibit A may change from time to time as set forth below; and

WHEREAS, the TAMC has requested the Monterey County Auditor-Controller to establish a separate fund for the Federal Apportionment Exchange Program and such a separate fund has been established.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, THE PARTIES HERETO AGREE AS FOLLOWS:

1. RULES FOR RSTP EXCHANGE FUNDS

- A. The TAMC agrees to allocate RSTP Exchange Funds paid by Caltrans under the Federal Apportionment Exchange Program only for projects as authorized under sections 133(b) and 133 (c) of Title 23, United States Code and Article XIX of the California State Constitution.
- B. The Recipient agrees to use RSTP Exchange Funds only for the RSTP Exchange eligible project(s) described in Exhibit A, as approved by the TAMC Board of Directors, for the amounts awarded for each project.

2. RULES FOR LTF

- A. The TAMC agrees to allocate LTF funds under the Transportation Development Act only for projects as authorized under the Transportation Development Act Section 99230.
- B. The Recipient agrees to use LTF funds only for LTF eligible project(s) described in Exhibit A, as approved by the TAMC Board of Directors, for the amounts awarded for each project.

3. RULES FOR TDA 2%

- A. The TAMC agrees to allocate TDA 2% funds under the Transportation Development Act only for projects as authorized under the Transportation Development Act Section 99234 Claims for Pedestrian and Bicycle Facilities.
- B. The Recipient agrees to use TDA 2% funds only for TDA 2% eligible project(s) described in Exhibit A, as approved by the TAMC Board of Directors, for the amounts awarded for each project.

4. RULES FOR RDIF

- A. The TAMC agrees to allocate RDIF funds under the Joint Powers Agreement only for projects as authorized by the TAMC Board of Directors in the approved Strategic Expenditure Plan.
- B. The Recipient agrees to use RDIF funds only for RDIF eligible project(s) described in Exhibit A, as approved by the TAMC Board of Directors, for the amounts awarded for each project.

5. ADMINISTRATIVE POLICIES

- A. The projects described in Exhibit A, and the amounts allocated therefore, may be amended from time to time without changing the rest of this Master Agreement, by means of approval by the TAMC Board of Directors of a revised Exhibit A, which shall be designated by a date and number (e.g., "Exhibit A-1 (DATE)").
- B. The Recipient agrees to submit an annual report to TAMC by April 30 describing the progress towards completion for all projects listed in Exhibit A.
- C. The Recipient agrees to mention TAMC's role in funding the project in any press releases or media events held by the Recipient to promote a funded project.
- D. The TAMC agrees to reimburse the Recipient within 30 days of receipt of a completed claim form (Exhibit B) from the Recipient.
- E. The Recipient agrees to cause the completion of the project(s) within three years from the date funds were awarded by the TAMC Board of Directors, as recorded in Exhibit A. Failure to complete the project(s) in a timely basis shall allow TAMC to refuse reimbursement and to reprogram such funds for other purposes.

6. COST PRINCIPLES

- A. Recipient agrees to comply with Office of Management and Budget Circular A-87, Cost Principles for State and Local Government, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- B. Recipient agrees to:
 - (a) use Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., to determine the allowability of individual project cost items; and
 - (b) comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Every sub-recipient receiving funds as a contractor or sub-contractor under this AGREEMENT shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7. THIRD PARTY CONTRACTING

- A. Recipient shall not award a construction contract over \$10,000 or other contracts over \$25,000 on the basis of a noncompetitive negotiation for work to be performed using Funds without the prior written approval of Caltrans. This provision shall not apply to professional service contracts of the type which are required to be procured in accordance with Government Code Sections 4525 (d), (e), and (f).
- B. Recipient agrees that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as project costs only after those costs are incurred and paid for by the subcontractors and only if consistent with Paragraph 10, below.
- C. In addition to the above, the pre-award requirements of third party contractor/consultants with Recipient shall be consistent with Local Program Procedures as published by Caltrans.

8. ACCOUNTING SYSTEM

Recipient, its contractors and subcontractors, shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item. The accounting system of Recipient, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment claims.

9. RIGHT TO AUDIT

For the purpose of verifying that funds paid hereunder are properly accounted for and proceeds are expended in accordance with the terms of this agreement, the Recipient, its contractors and subcontractors each agrees to grant State of California and/or the TAMC auditors access to the Recipient's books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including but not limited to, the costs of administering those various contracts. All documents shall be made available for inspection by authorized Caltrans or the TAMC agents at any time during project development and for a four-year period from date of completion of project or one year after the audit is completed or waived by Caltrans, whichever is later.

10. TRAVEL AND SUBSISTENCE

Payments to Recipient for travel and subsistence expenses of Recipient forces and/or its contractors or subcontractors, claimed for reimbursement or applied as local match credit, shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced are in excess of those authorized DPA rates, then Recipient is responsible for the cost difference and any overpayments shall be reimbursed to the TAMC on demand.

11. PROJECT COMPLETION

Recipient agrees to provide to the TAMC a short report summarizing total project costs and milestones, including before and after photos of the project, for each project within sixty (60) days of completion.

12. GOVERNING LAWS. This Agreement shall be construed and enforced according to the laws of the State of California, and the parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.

13. CONFLICT OF INTEREST. Recipient warrants that it presently has no interest and shall not acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with its full and complete performance of all services under this Agreement.

14. CONSTRUCTION OF AGREEMENT. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any exhibit or amendment. To that end, it is understood and agreed that this Agreement has been arrived at through negotiation, and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654. Section and paragraph headings appearing herein are for convenience only and shall not be used to interpret the terms of this Agreement.

15. WAIVER. Any waiver of any term or condition hereof must be in writing. No such waiver shall be construed as a waiver of any other term or condition herein.

16. SUCCESSORS AND ASSIGNS. This Agreement and all rights, privileges, duties and obligations hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns and heirs.

17. TIME IS OF THE ESSENCE. The parties mutually acknowledge and agree that time is of the essence with respect to every provision hereof in which time is an element. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act, nor shall any such extension create a precedent for any further or future extension.

18. EXECUTION OF AGREEMENT. Any individual executing this Agreement on behalf of an entity represents and warrants that he or she has the requisite authority to enter into this Agreement on behalf of such entity and to bind the entity to the terms and conditions hereof. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

19. ENTIRE AGREEMENT. This document, including all exhibits hereto, constitutes the entire agreement between the parties, and supersedes any and all prior written or oral negotiations and representations between the parties concerning all matters relating to the subject of this Agreement.
20. TERMINATION DATE. This Agreement shall remain in effect for a period of three (3) years from the date of this Agreement.

IN WITNESS WHEREOF, TAMC and Recipient execute this Agreement as follows:

TRANSPORTATION AGENCY FOR MONTEREY COUNTY

Debra L. Hale
Executive Director

Date

Recipient:
CITY OF MARINA

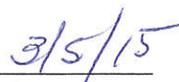
Layne Long
City Manager

Date

Approved as to Form:



Kathryn Reimann
TAMC Counsel



Date

City Attorney
City of Marina

Date

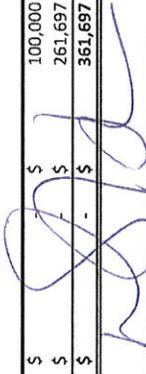
Transportation Agency for Monterey County
 Local Agency Funding Allocation Agreement
 Exhibit A

City of Marina

Agency	Board Approval Date	Fund Expiration Date	Type	Project	Budget	Paid	Balance Outstanding
Marina	8/27/2014	8/27/2017	RSTP Competitive	Beach Road Improvements - SR 1 to Marina Drive	\$ 100,000	\$	\$ 100,000
Marina	3/26/2014	3/26/2017	RSTP Fair Share	2014 Fair Share Reserve	\$ 261,697	\$	\$ 261,697
					\$ 361,697	\$	\$ 361,697

Last Revised: 9/24/2014

Approved by:



Debra L. Hale, Executive Director

May 11, 2015

Item No. **8g(2)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting of
May 21, 2015

RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION NO. 2015-, APPROVING AN AGREEMENT BETWEEN THE CITY OF MARINA AND THE TRANSPORTATION AGENCY OF MONTEREY COUNTY (TAMC) FOR THE 2014 REGIONAL SURFACE TRANSPORTATION PROGRAM ALLOCATION OF FUNDING, AND; AUTHORIZING THE FINANCE DIRECTOR TO MAKE THE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES, AND; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

RECOMMENDATION:

It is recommended that the City Council:

1. Consider adopting Resolution No. 2015-, approving an agreement between the City of Marina and the Transportation Agency of Monterey County (TAMC) for the 2014 Regional Surface Transportation Program allocation of funding, and;
2. Authorizing the Finance Director to make the necessary accounting and budgetary entries, and;
3. Authorizing the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney.

BACKGROUND:

The Surface Transportation Program is a federal program that provides states and local jurisdictions with funding for highway improvements, street rehabilitation and transportation enhancements. TAMC receives an annual apportionment of Regional Surface Transportation Program (RSTP) funding, passed through the State.

TAMC historically has distributed RSTP funding through fair-share (based on their urbanized populations) and competitive programs. In recent years, RSTP funds have been on hold, as the available funding has been used to complete the construction of the US-101 San Juan Road interchange project. The amount used for this project was \$15.6 million, equivalent to about three years of total Regional Surface Transportation Program funding. TAMC is now beginning a new funding cycle for the jurisdictions.

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ANALYSIS:

The City has received competitive RSTP funds for the Beach Road – SR1 to Marina Drive project. The original design improved upon the existing traffic signal intersection of Reservation Road and Beach Road. TAMC has awarded these additional funds to design a roundabout at this intersection to service existing traffic, projected traffic from local development and improve accessibility for pedestrian and bicycle traffic.

The fair-share RSTP funds available to Marina for transportation improvements will support the 2015 Roadway Resurfacing Project through the Pavement Management Program.

All Program funds must be encumbered by the dates outlined in **Exhibit A** of the Agreement.

FISCAL IMPACT:

Should the City Council approve this request, RSTP funding will be reimbursed to the City and City funds will need to be advanced prior to reimbursement.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer, Engineering Division
Community Development Department
City of Marina

REVIEWED/CONCUR:

Nourdin Khayata, P.E.
Acting City Engineer
City of Marina

Theresa Szymanis, AICP CTP
Acting Director
Community Development Department
City of Marina

Layne Long
City Manager
City of Marina