



MEETING DATE: 10/6/08

ITEM NO: 3

COUNCIL AGENDA REPORT

DATE: OCTOBER 3, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER *GL*

SUBJECT: PPW JOB NO. 05-17 – HIGHWAY 9 SAFETY IMPROVEMENTS PROJECT
411-812-0101

- A. ADOPT RESOLUTION AUTHORIZING TOWN MANAGER TO EXECUTE AN AMENDMENT TO THE CONSTRUCTION AGREEMENT WITH HSR, INC. FROM \$655,720 TO \$772,579.
- B. ADOPT RESOLUTION AUTHORIZING TOWN MANAGER TO EXECUTE AN AMENDMENT TO THE CONSTRUCTION MANAGEMENT AGREEMENT WITH CSG CONSULTANTS FROM \$119,000 TO \$129,000.
- C. ADOPT RESOLUTION ACCEPTING THE WORK OF HSR, INC. AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION FOR RECORDING BY THE CLERK ADMINISTRATOR.

RECOMMENDATION:

1. Adopt resolution authorizing Town Manager to execute an amendment to the construction agreement with HSR, Inc. from \$655,720 to \$772,579.
2. Adopt resolution authorizing Town Manager to execute an amendment to the construction management agreement with CSG Consultants from \$119,000 to \$129,000.
3. Adopt resolution accepting the work of HSR, Inc. and authorizing the Town Manager to execute certificate of acceptance and notice of completion for recording by the Clerk Administrator.

BACKGROUND:

This project is a multi-jurisdictional effort to improve safety for motorists, bicyclists, and pedestrians.

Todd Capurso

PREPARED BY: TODD CAPURSO
Director of Parks and Public Works

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Reviewed by: _____ Assistant Town Manager *OK* Town Attorney
_____ Clerk Administrator *SC* Finance _____ Community Development

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The Town of Los Gatos, City of Saratoga, and City of Monte Sereno applied for and received a Congestion Mitigation and Air Quality (CMAQ) grant for a pedestrian and bicycle safety enhancement project in 2005.

The first phase of the work was designed and constructed by HSR, Inc. and included bicycle safety improvements, shoulder widening, and signing and striping the road.

This project also addressed some of the pedestrian facility needs of Highway 9 route by installing 2 lighted crosswalks systems at intersection of Highway 9 with Massol Avenue in Los Gatos and with Vickery Avenue in Saratoga.

On November 19, 2007, The Town Council awarded the contract for this work to HSR, Inc. The contracted work has been completed by HSR, Inc. and is accepted by the Parks and Public Works Department.

DISCUSSION:

As the project progressed, changes were incorporated to address unforeseen site conditions. The most significant change was the need to increase the amount of excavation as it was discovered that existing pavement on Highway 9 was much thicker than anticipated and that the subgrade was of an inadequate material to fulfill Caltrans requirements. In order to address this issue, the existing subgrade had to be removed, replaced, and compacted to fulfill Caltrans specifications. This resulted in an additional saw cutting, excavation, backfill, and paving cost of \$62,418.59.

In addition, requests were made by the Cities of Saratoga and Monte Sereno that added to the scope of the project. These included:

- Installation of tree protection fencing in the City of Saratoga at a cost of \$824.94.
- Additional surveying, plan changes, and movement of irrigation and electrical lines to accommodate a median change at Highway 9 and Big Basin Way in Saratoga. The intersection was modified after the plans for the Highway 9 Safety Improvement project was finished. The additional work to accommodate the new intersection layout resulted in an additional cost of \$16,325.15.
- Construction of an AC pedestrian walkway and curb cut as requested by the City of Saratoga at a cost of \$3,201.34.
- Additional shoulder widening was requested by the City of Monte Sereno at an additional cost of \$14,171.76.
- Slope grading and erosion control blankets were requested by the City of Monte Sereno at an additional cost of \$12,280.00.

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CSG Consultants, Inc. provided civil construction management and inspection services. As the scope had increased to accommodate the aforementioned changes, CSG's construction management and inspection services also increased. An additional \$10,000 for the additional work has been added to their original \$119,000 contract.

This project is largely funded through the CMAQ grant. The CMAQ grant will cover the additional expenditures for the project. Staff is in the process of preparing documents for reimbursement from Caltrans for the project and final close out.

The phase 2 of Highway 9 improvements that will focus on pedestrian safety elements will be managed by the City of Saratoga as the lead agency with participation from Monte Sereno and Los Gatos.

Ten percent of the faithful performance bond will remain in effect for a period of two years to guarantee any needed repair and/or replacement caused by defective materials and workmanship. The execution and recordation of the Certificate of Acceptance is now required to finalize the Town's acceptance of the project. Staff recommends that the Certificate of Acceptance and Notice of Completion be executed and recorded.

CONCLUSION:

Staff recommends that Council approve the amendments to HSR, Inc. and CSG Construction agreements. In addition, staff recommends that Council approve the Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator.

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is Categorical Exempt (Section 15301c). A Notice of Exemption will not be filed.

FISCAL IMPACT:

The original contract for HSR, Inc. approved by Council was for \$655,720, with a contingency budget of \$100,000, for a total project budget of \$755,720. This project was completed by HSR Inc. for \$772,579, which was over the project budget by \$16,859.

The original agreement with CSG Consultants, Inc. was for \$119,000. This project was completed for \$129,000, which was over the budget by \$10,000.

The overall adjustment for the project for both construction and inspection is \$26,859. There are sufficient funds in the project to cover the project budget adjustment.

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The Cities of Saratoga and Monte Sereno will pay their appropriate share of improvements as previously agreed upon by the three municipalities.

Sufficient funds are available in this project's budget to accommodate the changes to the original agreement amounts as noted in the total project budget table below.

HIGHWAY 9 SAFETY IMPROVEMENTS PROJECT 411-812-0101						
	Original Contract	Expenditures to Date	Contingency	Change Orders 1-8	Change Orders 9-11	Over Contract
HSR, Inc	655,720	(655,720)	100,000	(77,469)	(39,390)	(16,859)
CSG Consultants	119,000	(129,000)	-	-	-	(10,000)
TOTALS	774,720	(784,720)	100,000	(77,469)	(39,390)	(26,859)

TOTAL PROJECT BUDGET TABLE

HIGHWAY 9 SAFETY IMPROVEMENTS PROJECT 411-812-0101	
Approved Project Budget	
FY 2007/08	894,677
FY 2008/09	705,834
Total	1,600,511
Expenditures	
FY 2007/08	894,677
FY 2008/09	2,176
Total	896,853
Encumbrances	
FY 2008/09	36,433
Requested Additions to Agreements	26,859
Available Balance	640,366

Attachments:

1. Resolution authorizing Town Manager to execute an amendment to the construction agreement with HSR, Inc.
2. Resolution authorizing Town Manager to execute an amendment to the construction management agreement with CSG Consultants.
3. Resolution accepting the work of HSR, Inc. (with Exhibit A) Certificate of Acceptance and Notice of Completion.

RESOLUTION

RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AUTHORIZING THE TOWN MANAGER
TO EXECUTE AN AMENDMENT
TO THE CONSTRUCTION AGREEMENT WITH HSR, INC.
FROM \$655,720 to \$772,579 FOR
PPW JOB NO. 05-17 - HIGHWAY 9 SAFETY IMPROVEMENT PROJECT

WHEREAS, In November, 2007 the Town Council awarded a contract for the Highway 9 Safety Improvement Project - PPW Job No. 05-17 to HSR, Inc. as the lowest responsible bidder; and

WHEREAS, an amendment to the construction agreement with HSR, Inc. is necessary to increase the amount from \$655,720 to \$772,579 to address unforeseen site conditions.

NOW THEREFORE BE IT RESOLVED, that the Town Manager is authorized and directed to execute an amendment to the construction agreement with HSR, Inc. to increase the amount from \$655,720 to \$772,579.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of October, 2008 by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AUTHORIZING THE TOWN MANAGER
TO EXECUTE AN AMENDMENT
TO THE CONSTRUCTION MANAGEMENT AGREEMENT
WITH CSG CONSULTANTS
FROM \$119,000 to \$129,000 FOR
PPW JOB NO. 05-17 - HIGHWAY 9 SAFETY IMPROVEMENT PROJECT**

WHEREAS, In November, 2007 the Town Council awarded a contract for the Highway 9 Safety Improvement Project - PPW Job No. 05-17 to CSG Consultants as the lowest responsible bidder; and

WHEREAS, an amendment to the construction management agreement with CSG Consultants is necessary to increase the amount from \$119,000 to \$129,000 due to increased construction management and inspection services to accommodate unforeseen project changes.

NOW THEREFORE BE IT RESOLVED, that the Town Manager is authorized and directed to execute an amendment to the construction management agreement with CSG Consultants to increase the amount from \$119,000 to \$129,000.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of October, 2008 by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
ACCEPTING WORK OF HSR, INC. FOR PPW JOB NO. 05-17
HIGHWAY 9 SAFETY IMPROVEMENT PROGRAM
AND AUTHORIZING THE TOWN MANAGER TO EXECUTE
CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION
FOR RECORDING BY CLERK ADMINISTRATOR**

WHEREAS, on November the Town Council awarded a contract for the Highway 9 Safety Improvement Project - PPW Job No. 05-17 to HSR, Inc. as the lowest responsible bidder; and

WHEREAS, HSR, Inc. substantially completed the project in conformance with the Town's bid process and pursuant to Council approval; and

WHEREAS, ten percent of the performance bond provided by HSR, Inc. shall remain in place for two years until October 6, 2010 to guarantee the work; and

WHEREAS, the work on PPW Job No. 05-17 – Highway 9 Safety Improvements is hereby accepted as complete pursuant to the plans and specifications for the project.

NOW, THEREFORE BE IT RESOLVED, that the Town Manager is authorized and directed to execute the Certificate of Acceptance and Notice of Completion attached as (Exhibit A) hereto.

BE IT FURTHER RESOLVED, that the Clerk Administrator is directed to transmit this Certificate of Acceptance and Notice of Completion to the Recorder of Santa Clara County for recording.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of October, 2008 by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

RECORDING REQUESTED BY:

TOWN OF LOS GATOS

PLEASE RECORD AND RETURN TO:

Clerk Administrator
P.O. Box 949
Los Gatos, CA 95031

CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION
PPW JOB NO. 05-17 – HIGHWAY 9 SAFETY IMPROVEMENT PROJECT

TO WHOM IT MAY CONCERN:

We do hereby certify that **HSR, Inc.** substantially completed the work on August 1, 2008 called for in the agreement with the Town of Los Gatos dated December 3, 2007. The work is outlined in the Town's bid process prepared by the Town of Los Gatos and generally consisted of furnishing all labor, materials, tools, equipment, and services required for completion of the PPW Job No. 05-17 – Highway 9 Safety Improvement Project in the TOWN OF LOS GATOS, County of Santa Clara, State of California and was completed, approved and accepted **October 6, 2008.**

The Surety accompanying the contract/agreement is the First National Insurance Company of America.

Bond No.: 6500519
Date: November 28, 2007

TOWN OF LOS GATOS

By: _____
Director of Parks and Public Works

By: _____
Town Manager

Acknowledgement Required

AFFIDAVIT
To Accompany Certificate of Acceptance and Notice of Completion
PPW Job No. 05-17
Highway 9 Safety Improvements

I, **GREG LARSON**, the Town Manager of the Town of Los Gatos, have read the foregoing CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION and know the contents thereof. The same is true of my own knowledge, except as to the matters which are therein alleged on information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on _____, 2008 at Los Gatos, California.

GREG LARSON, TOWN MANAGER
Town of Los Gatos

RECOMMENDED BY:

Director of Parks and Public Works

Date: _____

APPROVED AS TO FORM:

Town Attorney

Date: _____

Notary Jurat Required

ACKNOWLEDGEMENT

State of California
County of Santa Clara

On _____ before me, **JACKIE ROSE, NOTARY PUBLIC**, personally appeared **TODD CAPURSO** and **GREG LARSON**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the within instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal:

Notary Public

(seal)

----- - OPTIONAL - -----

CAPACITY CLAIMED BY SIGNER:

Municipal Officers of the Town of Los Gatos

DESCRIPTION OF ATTACHED DOCUMENT:

Title of Document: Certificate of Acceptance and Notice of Completion
PPW Job No. 05-17 – Highway 9 Safety Improvements

No. of Pages: 1

Date of Document: _____

Signer(s) Other than Named Above: Orry Korb

JURAT

State of California

County of Santa Clara

Subscribed and sworn to (or affirmed) before me, **Jackie Rose, Notary Public**, on this _____ day of _____, 2008
by _____, personally
known to me or proved to me on the basis of satisfactory evidence to be
the person(s) who appeared before me.

Notary Public

(SEAL)

----- OPTIONAL -----

DESCRIPTION OF ATTACHED DOCUMENT:

Title of Document: Affidavit to Accompany Certificate of Acceptance and Notice of Completion - PPW Job No. 05-17 – Highway 9 Safety Improvements

Number of Pages: 1

Date of Document: _____

Signers Other than Named Above: Todd Capurso and Orry Korb