

Item No. 16-1

“To Be Delivered” Material

For

City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

Agenda Packet

Submitted: October 8, 2009

For the Meeting of: October 13, 2009

The attached materials were not available at the time the Agenda Packet was prepared.

Title: First Amendment to the 5th & 6th Street Assignment Agreement and Appropriation of Funds (T15098800)

Note – The report recommendation has been revised from that published on the agenda to read as follows: Adopt a Resolution: 1) authorizing the City Manager to execute the First Amendment to the Assignment and Assumption Agreement for the 5th and 6th Street Overpasses with S. Thomas Enterprises of Sacramento, LLC (Thomas) for payment of final design costs in the amount of \$1,132,727; 2) appropriating funds; and 3) authorizing the City Manager to pay Thomas and Kimley Horn Associates for final design plans and project management.

Contact Information: Fran Halbakken, Operations Manager, (916) 808-7194

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REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

CONSENT
October 13, 2009

Honorable Mayor and
Members of the City Council

**Title: First Amendment to the 5th & 6th Street Assignment Agreement and
Appropriation of Funds (T15098800)**

Location/Council District: District 1

Recommendation: Adopt a **Resolution:** 1) authorizing the City Manager to execute the First Amendment to the Assignment and Assumption Agreement for the 5th and 6th Street Overpasses with S. Thomas Enterprises of Sacramento, LLC (Thomas) for payment of final design costs in the amount of \$1,132,727; 2) appropriating funds; and 3) authorizing the City Manager to pay Thomas and Kimley Horn Associates for final design plans and project management..

Contact: Fran Halbakken, Operations Manager, (916) 808-7194

Presenters: Not Applicable

Department: Transportation

Division: Office of Director

Organization No: 15001011

Description/Analysis:

Issue: On November 25, 2008, the Council authorized the City Manager to execute an agreement with the California Transportation Commission and California Department of Transportation to secure Highway-Railroad Crossing Safety Account (HRCSA) state funds (Proposition 1B) for the 6th Street Extension Project (T15098800). These funds are only available for construction work and the City and Thomas are to provide matching funds and pay for project design. Thomas has accumulated costs of \$622,373 for preliminary design of 5th and 6th Street extensions and it is estimated that final design of the 6th Street bridge will cost an additional \$377,628. Final design for 5th Street is to be funded under the City's Proposition 1C Transit Oriented Development (TOD) grant (T15105200), which has been assigned to Thomas under prior Council action on June 23, 2009.

The foregoing costs are net amounts for which Thomas has not or will not be reimbursed under the TOD grant or other funding sources.

The proposed action would appropriate \$1 million in Railyards/Richards/Downtown Impact A fees to fund the final design costs for the 5th and 6th Street extensions. These improvements were included in the original impact fee expenditure plan and will benefit all three areas once the street extensions to Richards Blvd are completed. The City's allocation of impact fees to fund these design costs will be part of the local match for the State HRCSA funds.

In addition to the design costs, the Track Relocation Financing Agreement (TRFA) scope of work included the costs for design and construction of the foundations for the 5th and 6th Street bridge structures over the relocated UPRR tracks. Under the TRFA, the City assumed responsibility for the first \$40 million of costs for the Track Relocation Project (T15029005). Thomas has accumulated costs of \$132,727 for preliminary foundation work for the 5th and 6th Street bridges. Thomas is also seeking City reimbursement of these costs so that it can apply those proceeds towards the final bridge design work in order to meet the City's Track Relocation construction schedule. The City received New Measure A Construction Project funds for the Track Relocation Project (T15029005) which it can apply towards these foundation costs.

The 5th and 6th Street Assignment and Assumption Agreement (City Agreement No. 2009-0905) provides for Thomas to undertake construction of the extension of 5th Street with the Proposition 1C funds, to construct 6th Street per the terms of the Proposition 1B grant agreement, and to construct the bridge portions of 5th and 6th Streets over the UPRR relocated main line tracks in accordance with the term of the UPRR agreements. The First Amendment to the Assignment and Assumption Agreement would provide for payment of \$1,132,727 to Thomas and its consultants to fund the final design of the 5th and 6th Street extensions so that the design of the bridge structures can be included in the Track Relocation Project (T15029005) final design plans. Subsequent approvals will be required to pay Thomas the Proposition 1B funds for the costs of construction of 6th Street.

Policy Considerations: Approval is consistent with the City's Strategic Plan 3-Year Goal to achieve sustainability and enhance livability.

Environmental Considerations:

California Environmental Quality Act (CEQA): The 5th and 6th Street extensions were included as part of the Railyards development project and the environmental impact report was certified in December of 2007. In addition, design work is exempt from environmental review under the CEQA Guidelines.

Sustainability Considerations: The TOD grant funded improvements have been reviewed for consistency with the Sustainability Master Plan and the

2030 General Plan. The improvements comply with many of the goals as 5th and 6th Streets provide new roadway and pedestrian crossings of the relocated Union Pacific Railroad tracks and helps to reduce trip length and encourage pedestrian trips.

Other: None.

Committee/Commission Action: None.

Rationale for Recommendation: The actions are recommended to proceed in the most expeditious manner possible to complete final design of the extension of 5th and 6th Streets over the relocated Union Pacific Railroad tracks in order to meet funding deadlines for the Track Relocation Project (T15029005).

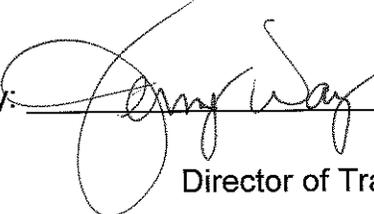
Financial Considerations: On November 25, 2008, City Council approved the establishment of the 6th Street Extension Project (T15098800) (Resolution 2008-771). Approval of the transfer of \$1 million from the Railyards/Richards/ Downtown Impact A Contingency (Fund 3202) will establish a budget of \$1 million which is sufficient to cover the required local match for the State HRCSA funds.

As of October 1, 2009 the Track Relocation Project (T15029005) has a total budget of \$8,275,566 and an unobligated balance of \$3,731,738 which is sufficient to cover the reimbursement in the amount of \$132,727 to Thomas for design of foundations for the 5th and 6th Street bridges that falls outside of the Track Relocation Project (T15029005) right-of-way and associated costs.

There are no general funds planned or allocated for these projects.

Emerging Small Business Development (ESBD): The 5th and 6th Street design work is being undertaken by Thomas' consultant, Kimley Horn Associates which is not currently ESBD certified.

Respectfully Submitted by: 
Francesca L. Halbakken
Operations Manager

Approved by: 
Jerry Way
Director of Transportation

Recommendation Approved:

fw 

Ray Kerridge
CITY MANAGER

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ATTACHMENT 1

RESOLUTION NO.

Adopted by the Sacramento City Council

APPROVING FIRST AMENDMENT TO ASSIGNMENT AGREEMENT FOR 5TH AND 6TH STREET OVERCROSSINGS WITH S. THOMAS ENTERPRISES OF SACRAMENTO, LLC AND APPROPRIATION OF FUNDS

BACKGROUND

- A. On June 23, 2009, the City Council approved the Assignment and Assumption Agreement for the 5th and 6th Street Overpasses (City Agreement No. 2009-0905) with S. Thomas Enterprises of Sacramento, LLC (Thomas) to assign the City's Proposition 1C Transit Oriented Development ("TOD Grant") to: (1) fund the design and construction of the extension of 5th Street (T1505200); (2) require Thomas to comply with the terms of the Highway-Railroad Crossing Safety Account (HRCSA) state grant agreement (Proposition 1B) for the 6th Street Extension Project (T15098800); and (3) require Thomas to comply with the terms of the agreements between the Union Pacific Railroad Company (UPRR) and City for the design and construction of the 5th and 6th Street overpasses above the relocated UPRR main line tracks.
- B. Thomas has funded the costs for the preliminary design of the 5th and 6th Street extensions and has received reimbursement for a portion of the design costs for 5th Street under the TOD Grant. The net amount of design costs for 5th and 6th Street extension which Thomas has incurred and which has not been reimbursed is \$622,373. In addition, Thomas will incur an additional \$377,628 for the cost to prepare the final design plans for the 5th and 6th Street extensions.
- C. In 1998, the City Council adopted an ordinance to establish development impact fees for the Downtown, Railyards and Richards Blvd. (now known as the River District) areas based on the infrastructure and expenditure plan that was prepared after the prior Railyards Specific Plan and Richards Blvd. Area Plan were adopted in December 1994. Included in the infrastructure plan was the extension of 5th and 6th Streets from H Street to Richards Blvd.
- D. On December 13, 2006, the City and Thomas entered into the Track Relocation and Financing Agreement to set out for each party's commitment for the design, construction and financing of the relocation of UPRR's mainline tracks ("Track Relocation Project"). The City committed funding the initial \$40 million in costs for the design and construction of the Track Relocation Project (T15029005). Part of

the scope of the Track Relocation Project (T15029005) included the foundations for the 5th and 6th Street overcrossings above UPRR's relocated tracks. Thomas has undertaken some foundation work in regards to design and soil compaction for the street supports in the amount of \$132,727.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager is authorized to execute the First Amendment to the Assignment and Assumption Agreement for the 5th and 6th Street Overpasses (City Agreement No. 2009-0905) with S. Thomas Enterprises of Sacramento, LLC (Thomas) to provide for reimbursement of design and foundation costs for the 5th and 6th Street extensions by allocating \$1,132,727 towards the costs for Thomas' consultants to prepare the final design plans for the 5th and 6th Street overcrossings.
- Section 2. \$1,million from Railyards/Richards/ Downtown Impact A Contingency (Fund 3202) shall be appropriated to the 6th Street Extension Project (T15098800).
- Section 3. The City Manager is authorized to make payment to Thomas' consultants Kimley Horn Associates in an amount not to exceed \$1,127,622 to prepare final design plans for the 5th and 6th Street overcrossings and to Thomas in an amount not to exceed \$5,105 for project administration from Track Relocation Project (T15029005) and 6th Street Extension Project (T15098800).