

## **RESOLUTION NO. 2009-644**

Adopted by the Sacramento City Council

October 13, 2009

### **APPROVING FIRST AMENDMENT TO ASSIGNMENT AGREEMENT FOR 5<sup>TH</sup> AND 6<sup>TH</sup> 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 5<sup>th</sup> and 6<sup>th</sup> 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 5<sup>th</sup> 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 6<sup>th</sup> 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 5<sup>th</sup> and 6<sup>th</sup> Street overpasses above the relocated UPRR main line tracks.
- B. Thomas has funded the costs for the preliminary design of the 5<sup>th</sup> and 6<sup>th</sup> Street extensions and has received reimbursement for a portion of the design costs for 5<sup>th</sup> Street under the TOD Grant. The net amount of design costs for 5<sup>th</sup> and 6<sup>th</sup> 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 5<sup>th</sup> and 6<sup>th</sup> 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 5<sup>th</sup> and 6<sup>th</sup> 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 5<sup>th</sup> and 6<sup>th</sup> 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 5<sup>th</sup> and 6<sup>th</sup> 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 5<sup>th</sup> and 6<sup>th</sup> Street extensions by allocating \$1,132,727 towards the costs for Thomas' consultants to prepare the final design plans for the 5<sup>th</sup> and 6<sup>th</sup> Street overcrossings.
- Section 2. \$1 million from Railyards/Richards/ Downtown Impact A Contingency (Fund 3202) shall be appropriated to the 6<sup>th</sup> 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 5<sup>th</sup> and 6<sup>th</sup> Street overcrossings and to Thomas in an amount not to exceed \$5,105 for project administration from Track Relocation Project (T15029005) and 6<sup>th</sup> Street Extension Project (T15098800).

Adopted by the City of Sacramento City Council on October 13, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, and Mayor Johnson.

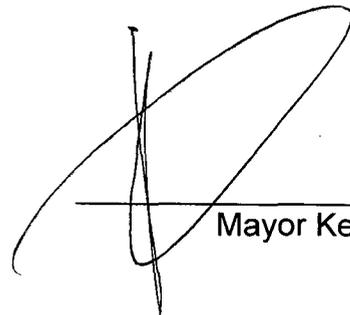
Noes: None.

Abstain: None.

Absent: Councilmember Waters.

Attest:

  
Shirley Concolino, City Clerk

  
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Mayor Kevin Johnson