



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: February 24, 2009

Subject: Approve Encroachment Permit by County of Alameda Public Works Agency for Vasco Road Overlay Project, Brentwood Area. Project No. 0662-6R4069-09

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a Roadway Encroachment Permit issued by the County of Alameda Public Works Agency as required for the construction of the Vasco Road Overlay Project, and arrange for payment of the \$225 permit fee and reimbursement costs for inspection and related expenses incurred by the County of Alameda Public Works Agency in relation to this project in accordance with said permit.

FISCAL IMPACT:

There will be no impact to County General Fund. The estimated project construction cost is \$2,700,000 and is completely funded by Federal funds authorized through the Economic Stimulus Bill. The \$225 permit fee will be funded by local road funds.

BACKGROUND:

Public Works Department is gearing up for the Vasco Overlay project in anticipation of the Federal Economic Stimulus Bill. The purpose of this project is to improve the pavement condition of Vasco Road by providing an asphalt concrete overlay from the Alameda County Line north for a distance of 3.1 miles. The estimated construction cost of this project

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/24/2009** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor

Gayle B. Uilkema, District II
Supervisor

Mary N. Piepho, District III
Supervisor

Susan A. Bonilla, District IV
Supervisor

Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 24, 2009

David Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

Contact: Larry Theis 313-2166

cc: M.Epps, L. Theis, S. Frances

is \$2,700,000 and

BACKGROUND: (CONT'D)

will be funded by federal funds authorized through the upcoming Economic Stimulus Bill. Temporary construction area signs and portable changeable message boards will need to be placed in the Alameda County right of way. Thus the property owner, Alameda County, requires that the County enter into a Roadway Encroachment Permit to place the necessary construction area warning signs for this project. Furthermore, as a requirement to receive the Federal Funds, the County must obtain this permit in its name and not delegate this solely to its project contractor. To meet the expected tight deadlines to construct the Vasco Road Overlay project this summer, it is necessary to obtain this permit now, prior to the approval of the federal Economic Stimulus Bill. This roadway encroachment permit is an essential part of the county's project submittal package to Caltrans for their review and approval.

The encroachment permit provided by Alameda County requires the County to defend and indemnify Alameda County “from and against all claims, losses, damages, liabilities, or expenses, including reasonable attorney fees incurred in the defense thereof, for the death of or injury to any person or persons (including the permittee’s or the County’s employees) or damage to any property and/or business loss or economic harm that arises out of or is in any way connected with the issuance of this permit or with work performed by permittee or permittee’s contractors, consultants, or agents under this permit (collectively “Liabilities”).”

The effect of this provision is to cause the County to assume liability for any business loss or economic harm that arises out of the County’s use of Alameda’s County right of way. While it would be preferable to revise the provision to eliminate the County’s liability for business loss and economic harm, it is staff’s opinion that the possibility of triggering business loss or economic harm to Alameda County by installing construction signs and portable changeable message boards within their right of way is very remote. For this reason, and because of the limited time available to obtain the permit before the Federal Funding deadline, we are recommending the permit be approved in its present form.

CONSEQUENCE OF NEGATIVE ACTION:

Without this permit, the \$2.7 million in federal funding will be in jeopardy.

ATTACHMENTS

G:\Design\BOARD ORDERS\2009\Roadway Encroachment Permit.pdf