

AGENDA ITEM NO.

COUNCIL MEETING 1/08/08

APPROVED BY



DEPARTMENT DIRECTOR

CITY MANAGER

January 8, 2008

FROM: PATRICK N. WIEMILLER, Director 
Public Works Department

BY: SCOTT W. KRAUTER, P.E., Capital Projects Manager 
Public Works Department, Capital Management Division

SUBJECT: APPROVE UTILITY AGREEMENT NO. 06-1209.73 WITH STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR THE RELOCATION OF WATER UTILITIES WITHIN THE FREEWAY ROUTE 180 (EAST) PROJECT

KEY RESULT AREA

Implement General Plan by 2025

RECOMMENDATION

It is recommended that the Council Approve Utility Agreement No. 06-1209.73 allowing Caltrans to install an 8" water main on the City's behalf and; authorize the Public Works Director or Assistant Director to execute the Agreement on behalf of the City.

EXECUTIVE SUMMARY

The State of California Department of Transportation (Caltrans) has issued the City of Fresno a "Notice to Owner" which will enable Caltrans to relocate an 8" water main in Harvey Avenue east of Fowler Avenue on behalf of the City of Fresno.

KEY OBJECTIVE BALANCE

The approval of the agreement balances the Key Objectives of Customer Satisfaction, Financial Management and Employee Satisfaction, with emphasis on Financial Management. Financial Management and Employee Satisfaction objectives are enhanced by approving the State to fund and complete the relocation of the water main.

BACKGROUND

The State of California Department of Transportation (Caltrans) has issued the City of Fresno a "Notice to Owner" which will allow Caltrans to relocate an 8" water main located in Harvey Avenue east of Fowler Avenue.

REPORT TO THE CITY COUNCIL

Approve Utility Agreement No. 06-1209.73 with the State of California

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On October 28, 2003, the Council approved Utility Agreement No. 06-1209.72 between Caltrans and the City of Fresno. This agreement provides for reimbursement to the City for costs associated with relocation of the water main. Caltrans will relocate the City's water main with the upcoming State Route 180 east extension project from Clovis Avenue to Fowler Avenue.

Utility Agreement No. 06-1209.73 makes it possible for Caltrans to relocate the City's water main. After acceptance of the work, the City will own and maintain the water main. Since the main will lie within Caltrans right-of-way, the State and the City will be executing a Joint Use Agreement or Common Use Agreement which will allow the City to enter on State right-of-way for maintenance purposes. This agreement will be brought to the City Council for approval at a later date.

The City Attorney's Office has approved the attached Agreement as to form.

FISCAL IMPACT

None.

PNW/SWK/eam
Caltrans Util Agr Reloc Wtr Main Harvey Av E of Fowler Av 1-8-08

Attachment: Utility Agreement No. 06-1209.73

UTILITY AGREEMENT NO. 06-1209.73

II. LIABILITY FOR WORK

The existing facilities are lawfully maintained in their present location and qualify for relocation at 100% State expense under the provisions of Section 703 of the Streets and Highway Code.

III. PERFORMANCE OF WORK

OWNER agrees to perform the herein described work, excepting that work being performed by the STATE's highway contractor, with its own forces and to provide and furnish all necessary labor, materials, tools, and equipment required therefore, and to prosecute said work diligently to completion.

OWNER shall have access to all phases of the relocation work to be performed by STATE for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

IV. PAYMENT FOR WORK

The STATE will pay its share of the actual cost of the herein described work within 90 days after receipt of OWNER's itemized bill in quintuplicate, signed by a responsible official of OWNER's organization or prepared on OWNER's letterhead, compiled on the basis of the actual cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills or costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills not to exceed the amount of this Agreement may be made under the terms of this agreement. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

UTILITY AGREEMENT NO. 06-1209.73

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a Revised Notice to Owner as provided for in Section I, a copy of said Revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement, shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and/or 18 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

All obligations of State under the terms of this Agreement are subject to the appropriation of funds by the State Legislature and the allocation of those funds by the California Transportation Commission.

V. GENERAL CONDITIONS

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

UTILITY AGREEMENT NO. 06-1209.73

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

UTILITY AGREEMENT NO.
06-1209.73

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 88,320.00.

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
HQ Accounting Officer				Date
ITEM	CHAP	STAT	FY	AMOUNT

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	342434	\$ 84,300.00
RW Funds	342439	\$ 4,020.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE: DEPARTMENT OF TRANSPORTATION

OWNER: CITY OF FRESNO

By Jamie Lupo 9/19/07
 Central Region, Division Chief, Right of Way Date
 JAMIE LUPO

By _____
 Name/Title Date

APPROVAL RECOMMENDED:

for By Barbie Oxley 9/18/07
 District Office Chief, Right of Way Date
 BARBIE OXLEY

By Kent O. Hagen 9-18-07
 Utility Coordinator Date
 KENT O. HAGEN

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED COLUMNS:							UTILITY COMPLETES:					
T CODE	DOCUMENT NUMBER	SUP FIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT

EA FUNDING VERIFIED:
Sign:>
Print> Sandy Hernandez R/W Planning and Management
Date

REVIEW/REQUEST FUNDING:
Sign>
Print> Kent O. Hagen Utility Coordinator
Date

Distribution: 3 originals to R/W Program Accounting & Analysis
 3 originals returned to R/W Planning & Management