



ITEM NO. 4

STAFF REPORT

DATE: JANUARY 17, 2012
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ROD FOSTER, CITY MANAGER
PREPARED BY: AMER JAKHER, PUBLIC WORKS & UTILITY SERVICES DIRECTOR
SUBJECT: I-215 PROJECT UTILITY RELOCATION AGREEMENT

RECOMMENDED ACTION

It is recommended that the City Council approve the Utility Relocation Agreement between City of Colton and San Bernardino Associated Governments (SANBAG) for the relocation of existing sewer line for the I-215 High Occupancy Vehicles (HOV) Project.

GOAL STATEMENT

The proposed action will support the City's goal to improve utility infrastructure and supports inter-agency cooperation.

BACKGROUND

SANBAG proposes to add HOV lanes on both north and south bound lanes of the I-215 freeway, between Spruce Street and Orange Show Road, in the Counties of Riverside and San Bernardino ("Project"). The Project includes freeway widening to accommodate the HOV lanes, and construction of sound walls and retaining walls. Barrier walls will also be added in various locations within the project limits.

ISSUES/ANALYSIS

The City of Colton owns and maintains a sewer line within the limits of the Project that is in conflict with the proposed freeway improvements. In order to resolve the conflict, approximately 150 feet of sewer line, located on South La Cadena Drive (south of Maryknoll Drive), needs to be relocated. The City will be the lead agency in preparing plans and construction of the Project. The cost of the plans and construction is approximately \$60,540. SANBAG will pay for 100% of the cost associated with the relocation that includes engineering plans, estimates, specifications, and construction on a reimbursement basis.

FISCAL IMPACTS

All expenses incurred by the City for this project will be paid for by Wastewater Account No. 522-8200-8206-3890 and are 100% reimbursable by SANBAG.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

Exhibit A – Utility Relocation Agreement between City of Colton and SANBAG

EXHIBIT "A"

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|--|------------------------------------|--|---|--------------|
| DISTRICT 08 | COUNTY Riverside/San Bernardino | ROUTE 90 / I215 | POST MILE RC21.5/21.7,43.2/45.2,SBC0.0/5.1 | EA OM9401 |
| FEDERAL AID NUMBER CML6053(101) | | OWNER'S PLAN NUMBER 2640 | | |
| FEDERAL PARTICIPATION | | | | |
| On the project <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | On the Utilities <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | |

UTILITY AGREEMENT NO. 22464 DATE

San Bernardino County Transportation Commission ("SANBAG"), proposes to add High Occupancy Vehicle lanes on both north- and south-bound lanes of the 90/I-215 freeway between Spruce Street and Orange Show Road in the Counties of Riverside and San Bernardino ("Project"). Sound walls, retaining walls, and barrier walls will be added in various locations within the Project scope. The Union Pacific Rail Road bridge will be removed only, the British-Northern Santa Fe Rail Road bridge will be removed and replaced, and the Newport Avenue Bridge will be removed and replaced.

City of Colton ("OWNER") owns and maintains a sewer line within the limits of the Project, which must be relocated to make way for the Project. The sewer line is located on South La Cadena Drive, South of Maryknoll Drive.

It is hereby mutually agreed that:

I. BY OWNERS OWN FORCES

In accordance with Notice to Owner No. 22464 dated 00/0/00, OWNER shall relocate sewer facilities within South La Cadena. All work shall be performed substantially in accordance with OWNER's Plan # 2640 consisting of 1 sheet, prelim design received on 11/21/2011 a copy of which is on file at the District office of the Department of Transportation, at 464 W. 4th Street, San Bernardino CA 92401-1400.

Deviations from the OWNER's plan described above initiated by either SANBAG or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by SANBAG and agreed to/acknowledged by the OWNER, will constitute an approved revision of the OWNER's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner.

II. LIABILITY FOR WORK

The existing facilities are lawfully maintained in their present location and qualify for relocation at SANBAG expense under the provisions of Section (703) of the Streets and Highways Code.

III PERFORMANCE OF WORK

OWNER agrees to cause the herein described work to be performed by a contract with the lowest qualified bidder, selected pursuant to a valid competitive bidding procedure, and to

UTILITY AGREEMENT NO. 22464

furnish or cause to be furnished all necessary labor, materials, tools, and equipment required therefore, and to prosecute said work diligently to completion.

OWNER shall ensure that the contractor hired to complete the work described herein obtain insurance coverage sufficient to cover the risks involved with such work, and shall require that said contractor add SANBAG as an additional insured under such policies. OWNER's contract with the contractor shall require that the contractor indemnify and defend SANBAG for any claims or liability arising out of the contractor's performance of the work described herein.

Use of out-of-state personnel or personnel requiring lodging and meal ("per diem") expenses will not be allowed without prior written authorization by SANBAG's representative. Requests for such permission must be contained in OWNER's estimate of actual and necessary relocation costs. OWNER shall include an explanation why local employee or contract labor is not considered adequate for the relocation work proposed. Per Diem expenses shall not exceed the per diem expense amounts allowed under the California Department of Transportation's Department of Personnel Administration travel expense guidelines.

Pursuant to Public Works Case No. 2001-059 determination by the California Department of Industrial Relations dated October 25, 2002, work performed by OWNER's contractor is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. OWNER shall verify compliance with this requirement in the administration of its contracts referenced above.

IV. PAYMENT FOR WORK

SANBAG shall pay its share of the actual and necessary cost of the herein described work within 45 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary 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 SANBAG 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 SANBAG 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 for 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 specified below 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 SANBAG of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

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The OWNER shall submit a final bill to SANBAG within 360 days after the completion of the work described in Section I above. If SANBAG 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 SANBAG has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, SANBAG 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 SANBAG 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, SANBAG 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 SANBAG. 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 SANBAG.

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. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse SANBAG upon receipt of SANBAG billing.

V. GENERAL CONDITIONS

All costs accrued by OWNER as a result of SANBAG'S request of August 30, 2011 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

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

All obligations of SANBAG 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.

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| UTILITY AGREEMENT NO. 22464 |
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OWNER shall submit a Notice of Completion to SANBAG within 30 days of the completion of the work described herein.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

THE ESTIMATED COST TO SANBAG FOR THE ABOVE DESCRIBED WORK IS **\$60,540.00**

Signatures on Following Page

UTILITY AGREEMENT NO. 22464

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

SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION

Owner:
City of Colton

APPROVED

APPROVED

By: _____
Larry McCallon
Board President

By: _____
Sarah S. Zamora
Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Penny Alexander-Kelley
General Counsel

By: _____
City Attorney

CONCURRENCE:

By: _____
Kathleen Murphy-Perez
Contracts Manager