



DATE: February 13, 2008

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **APPROVAL OF A UTILITY RELOCATION AND REIMBURSEMENT AGREEMENT WITH THE NORTH COUNTY TRANSIT DISTRICT FOR THE OCEANSIDE PASSING TRACK PROJECT**

SYNOPSIS

Staff recommends that the City Council approve a utility relocation and reimbursement agreement in an amount not to exceed \$169,490 with the North County Transit District (NCTD) of Oceanside for the Oceanside Passing Track project located between the Buena Vista Lagoon and Oceanside Boulevard; and authorize the Mayor to execute the agreement.

BACKGROUND

The NCTD is the owner of railroad right-of-way assets extending from the Orange County line to downtown San Diego (hereinafter the "Right-of-Way"). The Right-of-Way is in active use for the operation of freight trains, intercity passenger trains, Metrolink and commuter trains.

Due to the active use of the Right-of-Way, safety of the public and the rail operations and the structures and physical integrity of the Right-of-Way and infrastructure, including the track, track roadbed, signals, drainage facilities, bridges, and the air space over the Right-of-Way, are of paramount concern to NCTD.

The Oceanside Passing Track Project, an additional 1.2 miles of a second track and associated railroad improvements between Buena Vista Lagoon and Oceanside Boulevard, will benefit the region by enhancing efficiencies in the movement of trains along the rail corridor. (Exhibit A)

ANALYSIS

On December 17, 2007, NCTD provided a Utility Relocation and Reimbursement Agreement to the City for the relocation, removal, or protection of eight City-owned utility lines found to be in conflict with the project, including the required excavation and backfill to complete the utility work. The project schedule, funding and agency

obligations require the City's utility lines to be encased, relocated, removed, or protected in-place as soon as possible so as not to adversely affect the project. Our facilities that cross their right-of-way are under license agreements that require us to relocate or protect our facilities at our expense should NCTD perform any improvements where our facilities would impede their work.

FISCAL IMPACT

The NCTD's estimate to relocate, remove or protect the City's utilities is \$169,490. In Fiscal Year 2007-2008, Council approved an appropriation of \$1,227,720 for Miscellaneous Water (712.858240.5701) and \$1,398,990 for Miscellaneous Sewer (722.869780.5701) Capital Improvement Projects. There are budgeted funds available for the request.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

RECOMMENDATIONS

Staff recommends that the City Council approve a utility relocation and reimbursement agreement in an amount not to exceed \$169,490 with the North County Transit District (NCTD) of Oceanside for the Oceanside Passing Track project located between the Buena Vista Lagoon and Oceanside Boulevard; and authorize the Mayor to execute the agreement.

PREPARED BY:



Greg Blakely
Administration Manager

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager



 Lonnie Thibodeaux, Water Utilities Director



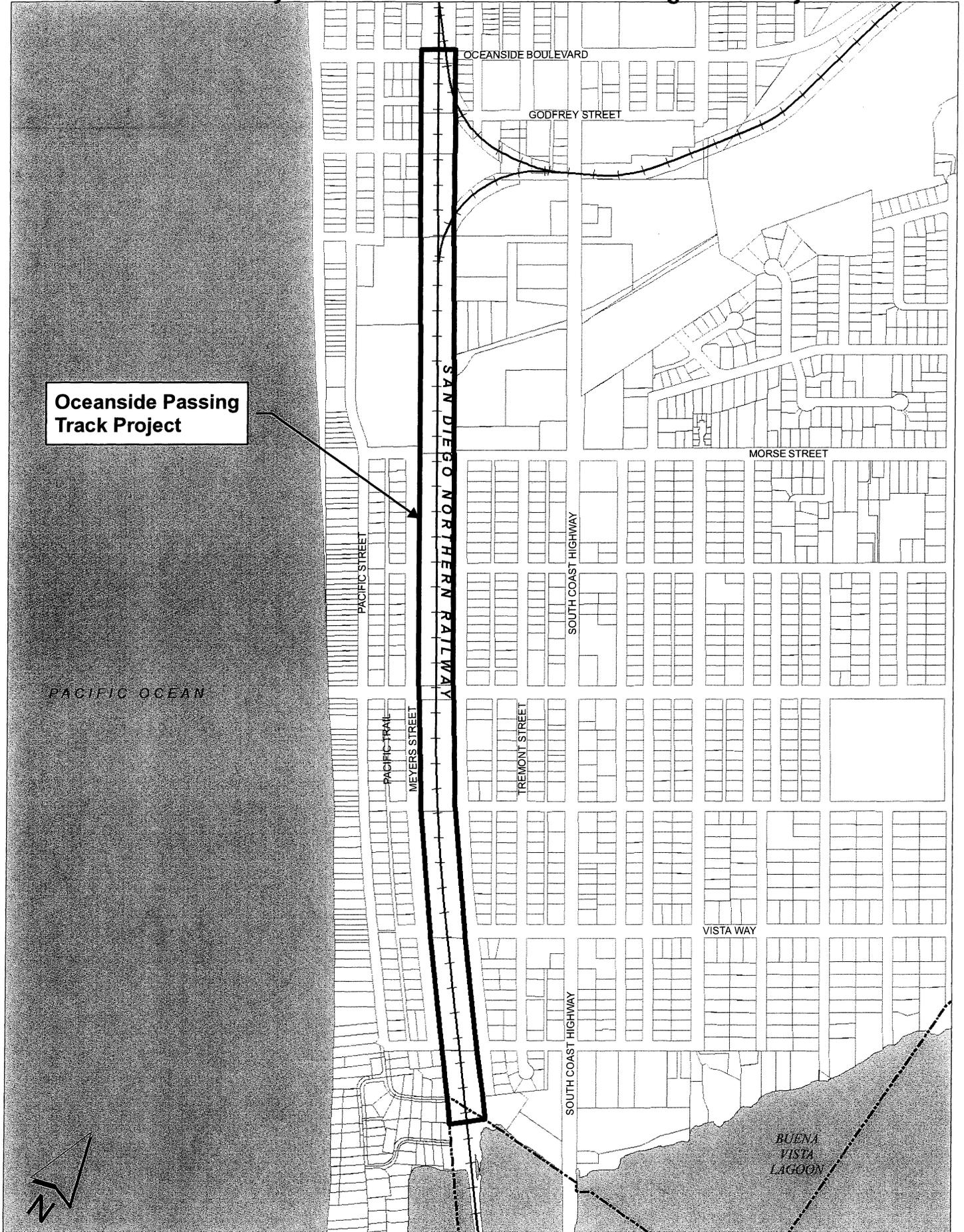
Teri Ferro, Financial Services Director



Exhibit A - Site Map

Exhibit B - Utility Relocation and Reimbursement Agreement

North County Transit District Oceanside Passing Track Project



UTILITY RELOCATION AND REIMBURSEMENT AGREEMENT

This Utility Relocation and Reimbursement Agreement ("Agreement") is made this 17th day of December 2007 by and between NORTH COUNTY TRANSIT DISTRICT ("NCTD") which owns, operates and administers the San Diego Northern Railway ("SDNR") and the CITY OF OCEANSIDE ("CITY") for the purpose of defining the roles and financial responsibilities concerning the protection and/or relocation of CITY utilities within the project area of the Oceanside Passing Track Project ("the Project") lying within NCTD right-of-way.

W H E R E A S

NCTD is a public agency created by Section 12500 et seq. of the Public Utilities Code and is the owner of certain railroad right-of-way assets extending from the Orange County line to downtown San Diego (hereinafter the "Right-of-Way"), and;

The Right-of-Way is in active use for the operation of freight trains (by the Burlington Northern and Santa Fe Railway Company [hereinafter "BNSF"]), intercity passenger trains (by the National Railroad Passenger Corporation [hereinafter "AMTRAK"]), the Southern California Regional Rail Authority ("SCRRA" or "Metrolink"), and commuter trains (by NCTD), and;

Due to the active use of the Right-of-Way, safety of the public and the aforesaid rail operations and the structures and physical integrity of the Right-of-Way and infrastructure, including both the track, track roadbed, signals, drainage facilities, bridges, and the support thereto, and the air space over the Right-of-Way, are of paramount concern to NCTD, and;

The Oceanside Passing Track Project, an additional 1.2 miles of a second track and associated railroad improvements between Buena Vista Lagoon and Oceanside Boulevard, will benefit the region by enhancing efficiencies in the movement of trains along the rail corridor, and;

On October 29, 2007 NCTD provided a cost estimate to the CITY (Exhibit "A" attached hereto) for the relocation, removal, or protection in-place of eight (8), CITY owned utility lines found to be in conflict with the Project, including the required excavation and backfill to complete the utility work, and:

The parties recognize that the Project schedule, funding, and agency obligations require the CITY's utility lines to be encased, relocated, removed, or protected in-place as soon as possible so as not to adversely affect the project.

N O W T H E R E F O R E, the parties agree that:

1. Eight (8) CITY utility lines will be removed, protected, or relocated to accommodate the Project.
2. AMTRAK, the contracting authority for the Project, can expedite the work on behalf of the CITY.

Utility Relocation Reimbursement Agreement
North County Transit District and City of Oceanside

3. The CITY, under protection of a railroad flagman, may observe and inspect the work being conducted on its behalf to verify that it is in accordance with the prescribed solution for each utility line.
4. NCTD shall invoice the CITY, and the CITY shall submit payment to NCTD for the work within 30 days of invoice. Charges may include those listed for each utility line as it is relocated, removed, or protected, railroad flagging, required safety class and NCTD staff time directly related to the work being performed.
5. The CITY assumes all responsibility and liability from NCTD, BNSF, AMTRAK, SCRRA, and their respective Boards, officers, directors, employees, and agents as well as the risk to the riding public, for CITY utility lines left unprotected as described on the Utility List. Unprotected shall mean the construction of the PROJECT without any utility that is relocated, removed, or protected.
6. In the event that an unprotected CITY utility line fails in whole or in part, and is found to have contributed to an accident, derailment, delay in train operations, and damages the NCTD's right-of-way and infrastructure, issuance of a slow order or work around, or necessity to rebuild or reconfigure track, track bed, sub-grade or associated train improvements, then CITY shall indemnify NCTD, BNSF, AMTRAK, NCTD's operating contractors, and their respective Boards, officers, directors, employees, and agents, and shall pay for damages as a result of the unprotected utility.
7. Should any of the work require a change in cost, schedule, or condition, prior to execution of said change, NCTD shall submit said changes to CITY for review and comment. Should the CITY's response delay the PROJECT, NCTD shall have the right to continue with the proposed changes at the CITY's expense.

IN WITNESS WHEREOF, the parties have signed below, effective as of the Effective Date, by their duly authorized representatives.

North County Transit District

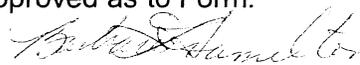
City of Oceanside

By: _____
Karen H. King
Executive Director

By: _____
Its: _____

300 N. Coast Highway
Oceanside, CA 92054

Approved as to Form:



Title: ASSISTANT CITY ATTORNEY

Witness thereof:

EXHIBIT "A"

ESTIMATED COST TO RELOCATE, REMOVE OR PROTECT
CITY OF OCEANSIDE UTILITIES

Project Stationing	Type of Utility Line	Estimated Cost
1988+80, Oceanside Blvd.	12" water line	\$29,475
2022+50, West of Morse Street	10" water line	\$7,950
1988+70, Oceanside Blvd.	10" gravity sewer	\$31,275
1988+60, Oceanside Blvd.	15" gravity sewer	\$36,465
2003+50	24" force main sewer	\$16,075
2003+55	10" force main sewer	\$7,825
2004+15	24" force main sewer	\$16,075
2011+55	12" gravity sewer	\$10,350

Stationing per railroad project plans.

Subtotal	\$155,490
Excavation and Backfill	\$ 10-15,000
Total	\$169,490