

# STAFF REPORT



ITEM NO. 11  
CITY OF OCEANSIDE

DATE: July 18, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **APPROVAL OF A UTILITY CONSTRUCTION AGREEMENT WITH THE COUNTY OF SAN DIEGO FOR THE OSBORNE-HUTCHISON SIGHT DISTANCE IMPROVEMENT PROJECT**

## **SYNOPSIS**

Staff and the Utilities Commission recommend that the City Council approve a utility construction agreement with the County of San Diego for the second and third aqueducts' relocations located at the intersection of Osborne and Hutchinson Streets and authorize the Mayor to execute the agreement.

## **BACKGROUND**

San Diego County is conducting sight alignment improvements to enhance visibility on Osborne Street. At the intersection of Osborne Street and Hutchinson Street, a hillside in the line of sight will be cut down five feet. The City's two 24-inch aqueduct pipelines are in the hill section that is being removed and each must be lowered twelve feet for approximately 450 feet on each line. (Exhibit A)

## **ANALYSIS**

The project is out to bid by San Diego County. In a short period of time the Water Utilities Department has designed the relocation of the second and third aqueducts. The County will notify the Water Utilities Department when a contractor is selected.

On May 16, 2007, City Council approved a purchase order with Southland Pipe Corporation in the amount of \$69,570 for the pre-purchase of the 24-inch aqueduct pipe and materials for the relocation project.

## **FISCAL IMPACT**

The engineer's estimate for the relocation of the aqueducts is \$400,000. In Fiscal Year 2007-2008, Council approved an appropriation of \$1,165,319 plus an estimated carry forward of \$116,960 for a total budget of \$1,282,279 for Miscellaneous Water (712.858240) Capital Improvement Projects. There are budgeted funds available for the request.

**COMMISSION OR COMMITTEE REPORT**

The Utilities Commission approved staff's recommendation at its regular scheduled meeting on June 19, 2007.

**CITY ATTORNEY'S ANALYSIS**

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

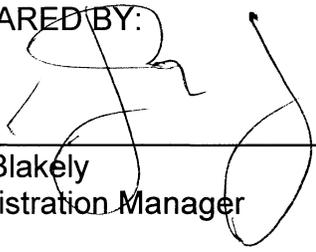
**INSURANCE REQUIREMENTS**

The City's standard insurance requirements will be met.

**RECOMMENDATIONS**

Staff and the Utilities Commission recommend that the City Council approve a utility construction agreement with the County of San Diego for the second and third aqueducts' relocations located at the intersection of Osborne and Hutchinson Streets and authorize the Mayor to execute the agreement.

PREPARED BY:

  
\_\_\_\_\_  
Greg Blakely  
Administration Manager

SUBMITTED BY:

  
\_\_\_\_\_  
Peter A. Weiss  
Interim City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Lonnie Thibodeaux, Water Utilities Director

Paul Bussey, Interim Financial Services Director

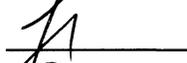
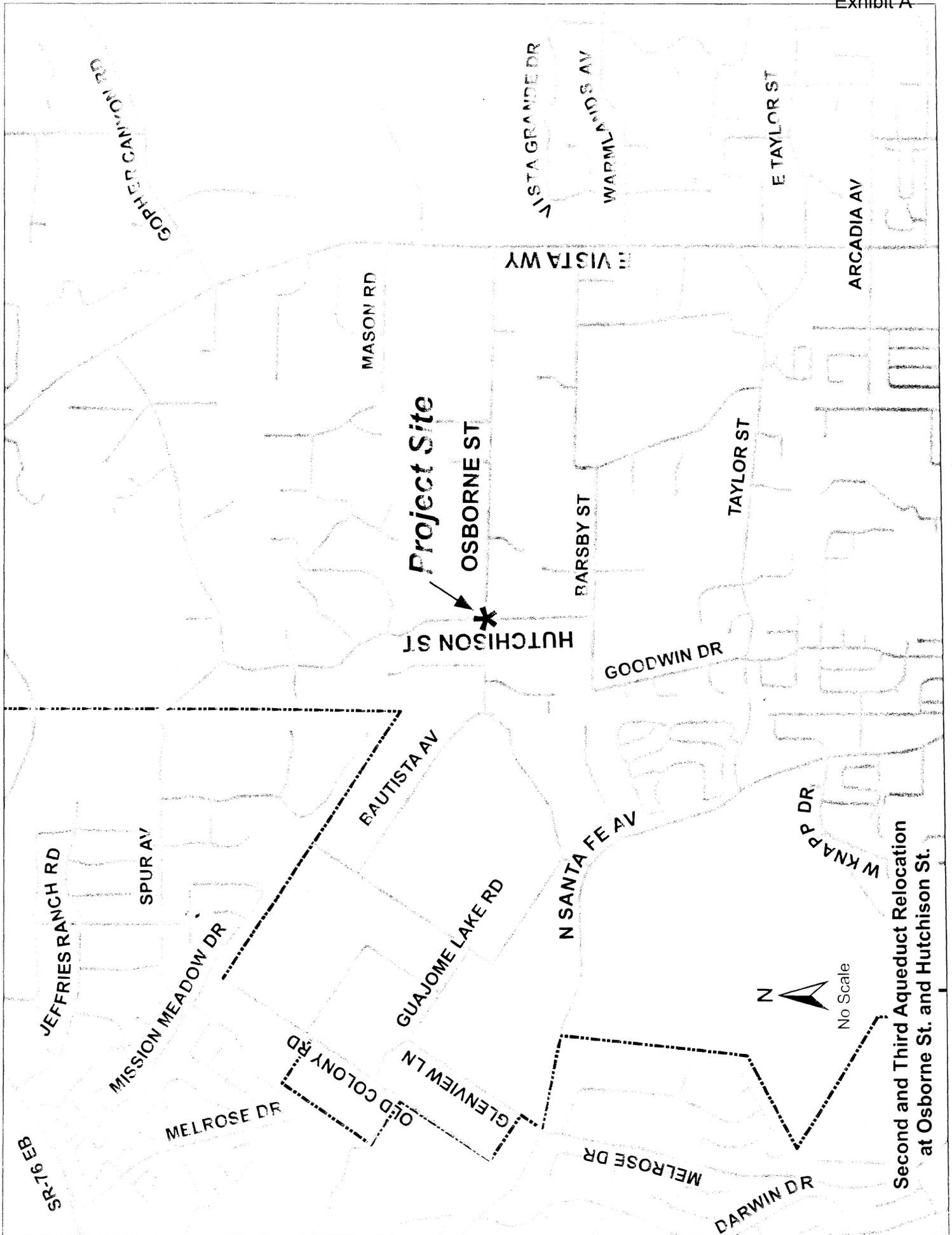
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
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Exhibit A - Site Map



UTILITY CONSTRUCTION AGREEMENT  
BETWEEN THE COUNTY OF SAN DIEGO AND  
CITY OF OCEANSIDE FOR  
OSBORNE-HUTCHISON SIGHT DISTANCE IMPROVEMENT PROJECT

THIS AGREEMENT executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the County of San Diego, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and City of Oceanside, a municipal corporation having its office and principal place of business at 300 North Coast Highway, Oceanside, California, hereinafter referred to as "CITY."

WITNESSETH

WHEREAS, the County of San Diego, Board of Supervisors, in recognition of increased traffic and to ensure the safety of the motoring public on Osborne Street, authorized design and construction to lower the vertical crest on Osborne Street to improve sight distance, between Hutchison Street and Marquez Court in the vicinity of Vista (hereinafter referred to as "Project"); and

WHEREAS, CITY owns and operates two 24" diameter, steel pipelines located within the existing road right-of-way of Osborne Street, and one 12" diameter pipeline located within the existing road right-of-way of Hutchison Street; and

WHEREAS, CITY water facilities must be partially abandoned and relocated to accommodate the lowering of the vertical crest on Osborne Street.

NOW THEREFORE, for mutual and valuable consideration and in consideration of the covenants and agreements contained herein, it is agreed between the Parties hereto as follows:

1. CITY shall furnish to the COUNTY engineering, plans, specifications, and Engineer's Estimate (PS&E) for the partial abandonment and relocation of water pipeline facilities that will be affected by the proposed vertical realignment of Osborne Street. The PS&E supplied by CITY shall provide for the installation of facilities in compliance with all applicable federal, state, local and other standards, codes and regulations.

2. COUNTY shall competitively bid, award, and administer a contract (Contract) to construct the vertical realignment and improvements on Osborne Street.

The Contract shall incorporate the partial abandonment and removal of the existing Third Aqueduct as well as construction of approximately 951 lineal feet of 24-inch diameter steel pipeline and 35 lineal feet of 12-inch diameter steel pipeline and appurtenant valves in accordance with the PS&E.

3. COUNTY shall require a separate bid for construction of the water pipeline relocation to clearly distinguish same from the road realignment and improvement project.

4. CITY will inspect the contractor's work and shall approve all change orders. All communication between the contractor and the CITY will be coordinated through the COUNTY Resident Engineer.

5. CITY shall reimburse the COUNTY in full for all costs incurred by the COUNTY to provide the required construction for the water pipeline relocation within the Project area within thirty (30) days after receipt of an invoice from the COUNTY. Reimbursement in full shall be deemed to include the Contractor's bid amount for the construction of the water pipeline relocation in the Project area plus the actual cost of any related field change orders and/or any other costs authorized by the CITY.

6. CITY retains the right to terminate this Agreement and exclude from the Contract the construction of the water pipeline relocation if the bid for construction of the water pipeline relocation incorporated in the apparent low bid proposed to be awarded by the COUNTY exceeds by 5% the Engineer's Estimate.

7. CITY shall have no obligation to pay any amounts above those pursuant to this Agreement, unless a court makes a determination that the CITY has a legal obligation to make payment of the additional amount.

8. Detailed records, which form the basis of the COUNTY invoice(s), shall be retained by the COUNTY for a period of four (4) years from the date of the final statement and shall be available for verification by CITY auditors.

9. CITY agrees to indemnify and save COUNTY harmless from and against all demands, claims, suits, cost of defense, attorney's fees, witness fees, liabilities, or other expenses for damage or damages to property or for injury or injuries to, or death of any person, or persons, including but not limited to any employee, statutory employee, agent or servant of COUNTY in any way arising from CITY obligation created by this agreement, except liability for personal injury, death or property damage

arising from sole negligence or willful act of COUNTY, or the agents, employees or dependent contractors of COUNTY.

10. COUNTY agrees, to the extent allowed by law, to indemnify and save CITY harmless from and against all demands, claims, suits, cost of defense, attorney's fees, witness fees, liabilities, or other expenses for damage or damages to property or for injury or injuries to, or death of any person, or persons, including but not limited to any employee, statutory employee, agent or servant of the CITY in any way arising from COUNTY obligations created by this agreement, except liability for personal injury, death, or property damage arising from the sole negligence or willful act of the CITY, its agents, employees or independent contractors.

11. This Agreement contains the entire understanding of the parties. No party is relying on any other representation or promises not contained in this written Agreement. This Agreement may be changed only by a written amendment signed by both parties.

12. All notices to be given pursuant to this Agreement shall be in writing and either: i) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States mail, ii) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with this courier, or iii) by facsimile (fax) or similar means, if a copy of the notice is also sent by United States Certified Mail, in which case notice shall be deemed delivered on transmittal by facsimile (fax) or other similar means provided that a transmission report is generated reflecting the accurate transmissions of the notices, as follows:

CITY OF OCEANSIDE

300 North Coast Highway  
Oceanside, CA 92054  
Attn: Greg Blakely  
Administration Manager

Telephone: (760) 435-5812

Fax: (760) 435-5814

COUNTY OF SAN DIEGO

5555 Overland Avenue (MS 0340)  
San Diego, California 92123  
Attn: Lawrence Hirsch  
Utilities Coordinator

Telephone: (858) 694-2215

Fax: (858) 694-2499

These addresses and telephone numbers may be changed by written notice to the other Party. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

IN WITNESS WHEREOF, the Parties hereto have read and understand this Agreement and have caused this Agreement to be executed on the date first written above.

CITY OF OCEANSIDE

By \_\_\_\_\_  
\_\_\_\_\_  
(Name, Executive Group Title)

Date \_\_\_\_\_

APPROVED AS TO FORM:  
OCEANSIDE CITY ATTORNEY  
By *Paulina J. Smith*  
ASST. CITY ATTORNEY  
(Name, Management Group Title)

Date \_\_\_\_\_

COUNTY OF SAN DIEGO

By \_\_\_\_\_  
Clerk of the Board of Supervisors

Date \_\_\_\_\_