

RESOLUTION NO. 2016-0357

Adopted by the Sacramento City Council

October 25, 2016

RAMONA AVENUE EXTENSION PROJECT (T15018400) – AGREEMENT WITH CALIFORNIA STATE UNIVERSITY BOARD OF TRUSTEES FOR THE DESIGN AND CONSTRUCTION OF FIBER OPTIC CONDUITS AND ACCESS BOXES AND APPROPRIATION OF FUNDS

BACKGROUND

- A. The City is currently designing the Ramona Avenue Extension Project (T15018400) between Folsom Boulevard and Brighton Avenue within the Sacramento Center for Innovation Specific Plan Area. California State University, Sacramento (CSUS) desires four, four inch conduits and access boxes to be designed and constructed along the proposed extension to allow them to install a fiber optic line connecting their main campus to the future Sacramento Center for Innovation.
- B. The City and CSUS have agreed that CSUS shall pay the actual costs incurred by the City for this effort. The City shall keep records of all costs incurred to design and construct the conduit and access boxes and shall provide copies of these records to CSUS. The total cost of this effort shall not exceed \$155,980 without prior written consent from CSUS.
- C. Once CSUS has approved the conduit and access boxes installed pursuant to this Agreement, they shall become the sole and exclusive property of CSUS. Installation of the fiber optic line is not within the scope of this Agreement. CSUS will be responsible for maintaining the conduit, access boxes, and future fiber optic lines. The City agrees to permit access to the conduit if repairs or maintenance needs to be done by CSUS provided that proper encroachment permits are obtained.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager is authorized to execute an agreement with the California State University Board of Trustees to design and construct fiber optic conduits and access boxes as part of the Ramona Avenue Extension Project (T15018400) in an amount not to exceed \$155,980.
- Section 2. The FY2016/17 CIP is amended by appropriating \$155,980 (Fund 3702) to the Ramona Avenue Extension Project (T15018400).

Section 3. Exhibit A is hereby incorporated as part of this Resolution.

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Exhibit A – Agreement for Payment of Ramona CSU Conduit Cost

Adopted by the City of Sacramento City Council on October 25, 2016, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Hansen, Harris, Jennings, Schenirer, and Warren

Noes: None

Abstain: None

Absent: Mayor Johnson

Attest:

Shirley Concolino

Digitally signed by Shirley Concolino
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City
Clerk, email=sconcolino@cityofsacramento.org, c=US
Date: 2016.11.08 13:26:01 -08'00'

Shirley Concolino, City Clerk

AGREEMENT FOR PAYMENT OF RAMONA CSU CONDUIT COSTS

This Agreement is made and entered into on September 7, 2016, by and between the **City of Sacramento**, a charter city (“City”) and the Board of Trustees of the California State University, and in particular its campus at Sacramento (“CSU”).

Recitals

- A. CSU is the owner of the real property located in the Sacramento Center for Innovation Specific Plan Area, and described in **Exhibit A** (the “CSU-Property”). The City is undertaking the Ramona Avenue extension project between Brighton Avenue and Folsom Boulevard (“Ramona Extension”) in the Sacramento Center for Innovation Specific Plan Area. CSU desires four four-inch conduits and access boxes which will allow CSU to install fiber to serve the CSU-Property and the City is willing to design, bid and construct the necessary conduit and access boxes as a bid item of the Ramona Extension (“CSU Conduit”).
- B. The City of Sacramento shall incorporate the CSU Conduit into the CEQA review for the Ramona Extension and is solely responsible for CEQA compliance.

NOW, THEREFORE, in consideration of the facts set forth above, City and CSU agree as follows:

- 1. **Recitals Incorporated.** The above recitals are fully incorporated herein by this reference.
- 2. **Design and Construction of City Project.** The City shall design, bid, award and administer the construction contract for the Ramona Extension, which will include the CSU Conduit, in accordance with the City’s standard procedures and requirements. The CSU Conduit will be designed, bid, awarded and constructed in accordance with the plans and specifications prepared by the City at the CSU’s request, and accepted by CSU. Prior to making any changes to the accepted CSU Conduit plans, City will obtain CSU’s written advance consent.
- 3. **Improvements to be Property of CSU.** Upon CSU’s approval of the CSU Conduit installed pursuant to this Agreement, it shall become the sole and exclusive property of CSU. CSU shall inspect the CSU Conduit during construction and shall accept the CSU Conduit upon its completion. It will be the sole responsibility of CSU to install any fiber into the CSU Conduit and the Parties agree that such installation is not within the scope of the CSU Conduit.
- 4. **CSU Cost.** The parties have agreed that CSU shall pay the actual costs incurred by the City for the design and construction of the CSU Conduit. If the City cannot secure a bid for the completion of the CSU Conduit for an amount less than or equal to the amounts set forth in paragraph 5, or the cost of the CSU Conduit is expected to exceed this amount for any other reason, the City will notify CSU immediately upon learning of the cost increase and secure the consent of CSU prior to accepting the bid item or proceeding with the CSU Conduit.
- 5. **Payment of Costs.** The City shall keep written records of all costs incurred by City to design and construct the CSU Conduit, and shall provide copies of these records to CSU. Upon completion of the CSU Conduit design, the City shall invoice CSU for the full amount of the design cost up to sixteen thousand dollars (\$16,000) plus 10% contingency, unless the City obtains CSU’s consent to increase the cost of the CSU Conduit as set forth in paragraph 4 above.

Upon completion of the CSU Conduit and acceptance by CSU, the City shall invoice CSU for the full amount of the CSU Conduit cost up to one hundred twenty-five thousand, eight hundred dollars (\$125,800.00) plus 10% contingency, unless the City obtains CSU's consent to increase the cost of the CSU Conduit as set forth in paragraph 4 above.

6. **Maintenance and Access.** CSU will be responsible for maintaining the CSU conduit and any fibers it installs into the CSU Conduit. The City agrees to permit access to the CSU Conduit if repairs or maintenance needs to be done by CSU to the conduit and fibers in the CSU Conduit provided that proper encroachment permits are obtained. These obligations regarding maintenance and access shall extend beyond any termination of this Agreement.
7. **CSU's Representations Regarding Ownership.** CSU certifies that it owns full legal title to the CSU Property. Each individual executing this Agreement on behalf of CSU represents and warrants to City that he or she has been authorized to do so by CSU so that CSU will thereby be obligated to fully perform the terms of this Agreement.
8. **Indemnity.** Each party shall indemnify, defend and hold harmless the other party, its officers, trustees, agents and employees, from and against any and all loss, cost, damage, expense, claim, suit, demand, or liability of any kind or character arising from or relating to any negligent or wrongful act or omission of its officers, trustees, agents or employees, which occurs in the performance of, or otherwise in connection with this Agreement. This clause will remain in full force and effect beyond any termination of this Agreement.
9. **No City Obligation.** Notwithstanding any contrary provision of this Agreement, nothing in this Agreement shall be interpreted to require the City to design and construct the Ramona Extension or the CSU Conduit if the City determines for any reason not to design or construct the Ramona Extension.
10. **Notices.** Any and all notices, invoices or payments by or from either party shall be in writing, and shall be served either personally or by certified mail, return receipt requested. Unless otherwise instructed by a party in writing, service shall be addressed as follows:

To City: City of Sacramento William Shunk Public Works Dept. 915 I Street, 2 nd Floor Sacramento, CA 95814	To CSU: California State University, Sacramento Procurement and Contract Services 6000 J Street MS 6008 Sacramento, CA 95819
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11. **Assignment.** CSU may assign this Agreement, subject to the City's consent, which the City shall not withhold unreasonably. The City Manager is authorized to approve any assignment on the City's behalf. To be effective, both an assignment and the City's consent to an assignment must be in writing, approved for legal form by the City Attorney, and approved and executed by the City Manager.
12. **Term and Termination.** This Agreement shall become effective as of the date of execution by both parties and shall continue until the completion of the project and payment of costs. This Agreement may be terminated by mutual written consent of the parties.
13. **Entire Agreement.** This Agreement and the Exhibits attached hereto constitute the entire Agreement between the parties concerning the subject matter thereof. No modification or variation of the terms of this Agreement shall be valid unless made in writing and executed by

both parties. The Exhibits described above and attached hereto are incorporated into this agreement by this reference.

14. **Execution.** IN WITNESS WHEREOF, the parties hereto have executed this Agreement and by signing below represent that they have authority to execute this Agreement and to bind the party on whose behalf their signature is made.

City of Sacramento

California State University, Sacramento

By: _____
JERRY WAY, Director of Public Works
FOR
JOHN SHIREY, City Manager

By: _____
John Guion
Director, Procurement and Contract Services

Date: _____

Date: 9/9/10

Attest
City Clerk

By: _____

Approved as to Form
City Attorney

By: _____
Senior Deputy City Attorney

EXHIBIT A

Legal Description

Assessor Parcel Numbers: 079-0252-003-0000, 079-0270-001-0000, 079-0252-004-0000 079-0260-014-0000 and 079-0251-01