

RESOLUTION NO. 2011-363

Adopted by the Sacramento City Council

June 21, 2011

AMENDING THE AGREEMENTS WITH SACRAMENTO MUNICIPAL UTILITY DISTRICT (SMUD), REGIONAL TRANSIT (RT) AND THE INDIVIDUAL PROJECT AGREEMENT (IPA) WITH THE REDEVELOPMENT AGENCY FOR THE NORTH 7TH STREET UTILITY UNDERGROUND PROJECT (B18219400)

BACKGROUND

- A. The relocation or undergrounding of primary voltage overhead power lines is desirable to the City as it improves aesthetics, economic vitality, safety and disabled access along corridors.
- B. The Sacramento Municipal Utility District (SMUD) recognized these benefits and established the System Enhancement Program in order to fund selected distribution system enhancements by relocating or undergrounding existing power lines below 69 kV.
- C. SMUD will fund the cost to relocate or underground its facilities and will fund the costs to construct the utility trench provided that: (i) the City has established the project and determined that it is in the public interest, (ii) the relocation of all telecommunication company facilities with leases and rights to the existing joint pole facilities has been funded and approved by those companies, (iii) the plans and specifications for the relocation of SMUD's facilities has been completed by others, (iv) the underground improvements have been constructed to SMUD's satisfaction, (v) all required building permits have been approved, (vi) all private property right of way requirements and easements and service relocation agreements with all affected property owners have been executed, and (viii) any easements that may be required by SMUD for its above-ground utility boxes have been granted.
- D. On September 7, 2010, in Resolution 2010-532, City Council amended the priority list for the SMUD Enhancement Program to add North 7th Street, between North B Street and Richards Boulevard (the "North 7th Street Utility Underground Project"), so that the work could be funded by SMUD and undertaken as part of RT's construction of the Green Line extension project to Richards Boulevard.
- E. On November 30, 2010, in Resolution 2010-675, City Council authorized the City Manager, or his designee, to establish the North 7th Street Utility Underground Project (B18219400) and the revenue and expenditure budgets.
- F. Resolution 2010-712, adopted on December 14, 2010, authorized the City Manager, or his designee, to execute an IPA with the Redevelopment Agency in the amount of

\$50,000 for the North 7th Street Utility Underground Project for temporary construction easements, permanent easements and hazardous material remediation.

G. SMUD requested a change to the original scope of work, increasing the contract amount by \$12,617 which SMUD agreed to fund.

H. Additionally, hazardous substances exceeding the original allowance in contingency have been discovered and remediation will cost \$19,085, which funds are available in River District Redevelopment Tax Increment funds.

I. The North 7th Street Utility Underground Project is Categorically Exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15302 (d), which exempts conversion of overhead utility lines to underground facilities.

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

- Section 1. After due consideration of the facts presented, the findings, including the foregoing recitals and the environmental findings regarding this action, as stated in this Resolution are approved and adopted. In accordance with Health and Safety Code section 33445, the City of Sacramento finds and determines that:
- (a) The proposed action, allocating \$19,085 of River District Tax Increment in an Individual Project Agreement (IPA) with the City of Sacramento to pay for hazardous substance cleanup and unforeseen site conditions to enhance the current utilities, is of benefit to the River District Redevelopment Project Area.
 - (b) There are no other reasonable financial resources available to the community to finance this portion of the utility enhancement.
 - (c) The proposed action furthers the goals of the River District Redevelopment Area and its Five-Year Implementation Plan, as adopted, by eliminating the blighting influences of inadequate, under capacity, and dilapidated infrastructure inside the Project Area.
- Section 2. The City Manager or his designee is authorized to execute a first amendment to the reimbursement agreement with the Sacramento Regional Transit District for the construction of the North 7th Street Utility Underground Project (City Agreement 2010-1015) to increase the contract amount by \$31,702; the amendment is attached as Exhibit A and is a part of this resolution.
- Section 3. The City Manager or his designee is authorized to execute a first amendment to the agreement with the Sacramento Municipal Utilities District (SMUD) for the North 7th Street Utility Underground Project (City Agreement 2010-0893) to increase the contract amount by \$12,617; the amendment is attached as Exhibit B and is a part of this resolution.

Section 4. The City Manager or his designee is authorized to execute a first amendment to the Individual Project Agreement (IPA) with the Redevelopment Agency for the North 7th Street Underground Project to increase the contract amount by \$19,085 in River District Tax Increment funds and \$12,617 in funds from SMUD; the amendment is attached as Exhibit C and is a part of this resolution.

Section 5. The City Manager or his designee is authorized to increase the North 7th Street Utility Underground Project (B18219400) revenue and expenditure budgets by \$19,085 in River District Tax Increment Funds (Fund 3701) and \$12,617 in funds from SMUD.

Table of Contents:

- Exhibit A – Amendment to Regional Transit District Agreement
- Exhibit B – Amendment to Sacramento Municipal Utilities District Agreement
- Exhibit C – IPA with the Redevelopment Agency

Adopted by the City of Sacramento City Council on June 21, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

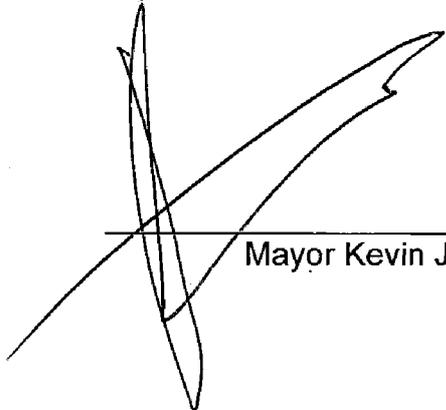
Noes: None.

Abstain: None.

Absent: None.

Attest:


Shirley Concolino, City Clerk



Mayor Kevin Johnson

FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT FOR NORTH 7TH STREET ELECTRICAL UNDERGROUNDING PROJECT

This first amendment to reimbursement agreement for North 7th Street electrical undergrounding project is dated June _____, 2011, and is between the SACRAMENTO REGIONAL TRANSIT DISTRICT, a public corporation ("RT"), and the CITY OF SACRAMENTO, a municipal corporation ("CITY"). CITY and RT may be referred to collectively as the "Parties" or in the singular as "Party," as the context requires.

Background

CITY and RT are parties to a reimbursement agreement for North 7th Street electrical undergrounding project designated as City Agreement 2010-1015 (the "**Agreement**").

Under the Agreement, CITY must pay RT for the actual costs incurred for work performed by RT (including RT staff time and the cost of RT's contractor) for CITY's project to underground the existing electrical and communication lines that are on poles along the west side of North 7th Street between North B Street and Richards Boulevard (the "**Undergrounding Project**").

At the time the Parties entered into the Agreement, the estimated cost of the construction of the Undergrounding Project was \$884,771.00. Since that time, there has been a change in the scope of the Undergrounding Project, which increased the estimated construction costs by \$12,617. The change in the scope of the Undergrounding Project is described in the document attached to this first amendment to reimbursement agreement as **Exhibit 1**. The new estimated cost to construct the Undergrounding Project is \$897,388.00.

During the course of constructing the Undergrounding Project, RT encountered a greater quantity of hazardous materials than the Parties anticipated would be encountered. This resulted in \$19,085 more in contingency costs than the \$42,000 that had been agreed upon in the Agreement.

With these background facts in mind, the Parties agree as follows:

- 1. Modification of Exhibit A.** The document attached to this first amendment to reimbursement agreement as **Exhibit 1** is hereby made a part of the document attached to the Agreement as **Exhibit A**.
- 2. Modification of Paragraph 3.** The first paragraph in Paragraph 3 is hereby modified to read in its entirety as follows:

RT's contractor has prepared a cost estimate for the Undergrounding Project, a copy of which is attached as Exhibit A. CITY must pay RT for the actual costs incurred for work performed by RT (including RT staff time and the cost of RT's contractor) for the Undergrounding Project, as set out herein and based on the amounts set forth in Exhibit A. CITY anticipates utilizing the SD-14

funding provided to CITY by SMUD, which has been estimated at an amount not to exceed \$716,855, and with the amount AT&T is to pay to CITY, which is estimated at an amount not to exceed \$167,467, for a total of \$884,322. In addition, SMUD will fund an additional 15% of its total estimate for contingency costs for unforeseen site conditions in an amount not to exceed approximately \$105,636. CITY has agreed to fund up to \$61,085 for AT&T's share of the contingency costs related to encountering hazardous materials and other unforeseen site conditions, contingent on approval by the Redevelopment Agency of the City of Sacramento. RT acknowledges that SMUD and AT&T will pay CITY for all performed by RT or its contractor on a reimbursement basis, subject to the foregoing not to exceed amounts. Progress payments may be made as permitted under CITY's agreements with SMUD and AT&T, for work performed by RT's contractor. The Parties acknowledge that neither RT nor CITY has responsibility for Undergrounding Project costs which exceed the funding provided to CITY by SMUD or AT&T, and the amount of AT&T's contingency costs CITY has agreed to pay RT as set forth above.

3. All Other Terms Remain in Force. Except as modified by sections 1 and 2 above, the Agreement remains in full force.

4. Interpretation. The Agreement is to be interpreted and applied consistently with the modifications in sections 1 and 2 above as if all necessary changes have been made.

5. Entire Agreement. This first amendment to the Agreement sets forth the Parties' entire understanding regarding the matters set forth and is intended to be their final, complete, and exclusive expression of those matters. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both Parties.

6. Counterparts. The Parties may execute this first amendment to the Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.

CITY OF SACRAMENTO,
a charter city and municipal corporation

By: _____
William H. Edgar, Interim City Manager

Date: June ____, 2011

Attest:

CITY CLERK

Approved As To Form:

Michael T. Sparks, Senior Deputy City Attorney

SACRAMENTO REGIONAL TRANSIT DISTRICT,
a public corporation

By: _____
MICHAEL R. WILEY, General Manager/CEO

Date: June ____, 2011

Approved as to Content:

By: _____
DIANE NAKANO, AGM Engineering & Construction

Approved as to Legal Form:

By: _____
BRUCE A. BEHRENS, Chief Legal Counsel

FIRST AMENDMENT TO SD-14 SYSTEM ENHANCEMENT AGREEMENT FOR NORTH 7TH STREET UTILITY UNDERGROUND PROJECT (North B STREET TO RICHARDS BLVD)

This first amendment to the SD-14 system enhancement agreement for North 7th Street utility underground project (North B Street to Richards Blvd) is dated June _____, 2011, and is between the SACRAMENTO MUNICIPAL UTILITY DISTRICT, a political subdivision of the State of California, formed and operating under the California Municipal Utility District Act ("SMUD"), and the City of Sacramento, a charter city and municipal corporation ("CITY"). CITY and SMUD may be referred to collectively as the "Parties" or in the singular as "Party," as the context requires.

Background

CITY and SMUD are parties to a SD-14 system enhancement agreement for North 7th Street utility underground project (North B Street to Richards Blvd) designated as City Agreement 2010-0893 (the "Agreement").

At the time the Parties entered into the Agreement, the estimated cost of the construction of CITY's North 7th Street utility underground project (the "Project") was \$884,771.00. SMUD has since requested a change to the scope of the Project, which increased the estimated cost to construct the Project by \$12,617. The new estimated cost to construct the Project is \$897,388.00.

With these background facts in mind, the Parties agree as follows:

1. **Modification of Paragraph 4.A.** Paragraph 4.A. of the Agreement is hereby modified to read in its entirety as follows:
 - A. **Actual Costs Billable Jobs.** CITY has estimated the costs for the construction of the Project at \$897,388.00. This value represents SMUD's gross SD-14 expenditures, including SMUD's portion of the underground sub-structure and trenching, totaling \$641,401.00, plus \$75,454.00 overhead differential which equates to the total dollar amount for SMUD's share of the Project cost of \$716,855.00. This figure represents only an estimation of known expenditures and does not include any unknown additional costs that may be incurred. SMUD shall remit \$352,119.00 to CITY within 60 days after execution of this Agreement.
2. **All Other Terms Remain in Force.** Except as modified by section 1 above, the Agreement remains in full force.
3. **Interpretation.** The Agreement is to be interpreted and applied consistently with the modification in section 1 above as if all necessary changes have been made.
4. **Entire Agreement.** This first amendment to the Agreement sets forth the Parties' entire understanding regarding the matters set forth and is intended to be their final, complete, and

exclusive expression of those matters. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both Parties.

5. Counterparts. The Parties may execute this first amendment to the Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.

CITY OF SACRAMENTO,
a charter city and municipal corporation

By: _____
William H. Edgar, Interim City Manager

Date: June __, 2011

Attest:

CITY CLERK

Approved As To Form:

Michael T. Sparks, Senior Deputy City Attorney

SACRAMENTO MUNICIPAL UTILITIES DISTRICT,
a political subdivision of the State of California,
formed and operating under the California Municipal
Utility District Act

By: _____
Signature

Title

Date: June __, 2011

CIRCULATION SHEET: AMENDMENT TO CONTRACT

[For Agency Use Only]

Initial	<i>[Staff must initial in the box at left and insert the form number (found after the signature line) to certify the following statement. Contracts without initials must be reviewed by the Legal Department.]</i> I have used the latest version of the contract form (obtained by copying and using the form contained in <u>Standard Amendment.doc</u>). I have not used a form that was stored on a local computer. I have attached all required attachments. I have made no changes to the contract form except to complete blanks.
Form No.	

ORGANIZATION				FINANCIAL INFORMATION (from staff)			
Project Name		North 7ths Street Undergrounding		Vendor Name		City of Sacramento	
Staff Contact		Diana Sasser		Vendor ID #		CM00965	
Phone		916/808-5519		Org/Key/Object		630-421-3071-5405	
Mail Code		18000		New Expiration		December 31, 2011	
				Amended Amount		\$19,085.00	
PUBLIC BIDDING				Description		Additional hazardous materials cost	
Done	Not Required (select one):			Existing P.O. No.			
		Total Contract Under \$5000		Professional Services (engineer, architect, etc.)		FINANCE APPROVAL	
AGENCY PROCUREMENT POLICY BID REQUIREMENTS				Budget Available		Initial:	
Done		Exempt		Pre-encumbrance Number			
CDFA # _____							
AUTHORITY							
Contract amount is total paid by Agency to Contractor and its subcontractors for the work (no contract splitting).							
(SELECT AT LEAST ONE OF THE FOLLOWING)							
Within Executive Director's authority (all amendments and contract total not more than \$100,000 total)							
Within Executive Director's change order authority (all amendments total not more than 15% of contract amount or budget & not new work)							
Approval Resolution No: _____ (authorizing amendment execution & budget change if required)							
ROUTING (3 COPIES)				DELIVER COPIES TO:			
Contractor Signature		Department Director Signature		Contractor		Noreen James , 916/808-5470	
Procurements (for insurance, encumbrance and purchase order)		Proper Insurance Submitted (or waivers attached)				Computer file copy in u:/share/contract files	
Conflict of Interest Statement		is required & has been delivered to Contractor for completion		X	is not required		
PROGRAM MANAGER REVIEW: Reviewed and approved by Program Manager:				Initial		Date	
CDBG COORDINATOR: Approved by CDBG Coordinator <i>If this contract is for Agency work paid with CDBG funds, this Contract must be initialed by the CDBG Coordinator. If box at right is blank and "CDBG and Other Federal Requirements" attachment is not attached, CDBG funds cannot be used.</i>				Initial		CDBG Year	

LEGAL DEPT INSURANCE WAIVER	Initial	Date
1. If the contract has limited risk, contact the Legal Department to <u>request a waiver</u> of some or all of the insurance requirements. You may make the <u>waiver request by e-mail</u> and attach a printed copy of the reply. If the contract work will be completed in less than 30 days, the cancellation language of the standard insurance certificate is sufficient.		
WORKERS' COMPENSATION WAIVER		
If the Contractor provides a letter stating that Contractor has no employees and will hire no employees during the contract term, the letter will serve as proof of worker's compensation insurance.	<input type="checkbox"/> Worker's Comp Letter Attached	

AMENDMENT TO CONTRACT

Amendment No. 1

NORTH 7TH STREET UNDERGROUNDING

Date May 25, 2011

AS OF THE ABOVE-WRITTEN DATE, AND IN CONSIDERATION OF THEIR MUTUAL OBLIGATIONS, THE "AGENCY" AND "CONTRACTOR" (DEFINED BELOW) ENTER INTO THIS "AMENDMENT" AND AMEND THE "CONTRACT" (DEFINED BELOW) AS FOLLOWS:

1. "Agency" is/are the following selected agency/agencies, which are public bodies, corporate and politic and which has/have the address of 801 - 12th Street, Sacramento, California 95814:

SELECT	AGENCY	SELECT	AGENCY
X	Redevelopment Agency of the City of Sacramento		Redevelopment Agency of the County of Sacramento
	Housing Authority of the City of Sacramento		Housing Authority of the County of Sacramento
	Sacramento Housing and Redevelopment Agency		

2. "Contractor" is the following:

City of Sacramento – Economic Development/Redevelopment Division

3. "Contract" is that contract between Agency and Contractor dated:

Original Contract Date: 12-7-10	Contract Expiration Date (as last amended): 8/15/11
CDFA#:	

The Agency and Contractor agree that this Amendment is invalid if the term of the Contract has expired prior to the date of this Amendment.

4. The contract is amended in the following respects:

a) The total amount of the Contract is changed as follows:

Description	Amount	Total
Original Contract amount: 630-421-3071-5405		\$50,000.00
Amendment 1 630-421-3071-5405	19,085.00	
Amendment 2	\$ 0.00	
Amendment 3	\$ 0.00	
Amendment 4	\$ 0.00	
Amendment 5	\$ 0.00	
Amendment 6	\$ 0.00	
Amendment 7	\$ 0.00	
Amendment 8	\$ 0.00	
Total of all Amendments	\$ 0.00	
The total of all Amendments is the following percentage of the Contract Price (Total of All Amendments/Contract Amount)	27.63%	
Total of Contract and Amendments	\$69,085.00	

b) The Scope of Work is amended as follows:

PERFORMING PARTY	TASK/OBLIGATION	LOCATION	"DEADLINE"
The following work is deleted from the original Scope of Work:			
The following work is added to the original Scope of Work:			
	Additional costs related to hazardous waste disposal due to unforeseen hazardous material on site	North 7 th Street	12/31/11
Agency and Contractor	"COMPLETION DATE" The term of the Contract <input type="checkbox"/> is not extended. <input checked="" type="checkbox"/> is extended to the following new Completion Date.		Completion Date 12-31-11

5. No rights, obligations or defaults of the parties are waived by this Amendment, except as expressly stated in this Amendment.

6. All other terms of the Contract shall remain the same.

Executed in Sacramento, California.

CONTRACTOR:

AGENCY:

By:

By:

William H. Edgar
Interim City Manager:

LaShelle Dozier
Executive Director

Approved as to form:

Approved as to form:

City Attorney

Agency Counsel

Attest:

City Clerk

