



STAFF REPORT

Date: Tuesday, November 18, 2014

To: Bryan Montgomery, City Manager

From: Kevin Rohani, Public Works Director/City Engineer

Subject: Authorizing the City Manager to execute the Contract and Grant of Permanent Easement related to the relocation of United States Bureau of Reclamation (USBR) lateral in Grapevine Lane between Rose Avenue and O'Hara Avenue

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Background and Analysis

On October 28, 2014 the City Council adopted Resolution 95-14 which approved the acceptance of four offers of dedication of right-of-way for Grapevine Lane between Rose Avenue and O'Hara Avenue. This action was the first of two steps required to be completed before the irrigation lateral, described in the October 28th staff report, could be relocated.

The second required action is for the City to grant a permanent easement in Grapevine Lane for the relocated irrigation lateral to be constructed. Upon completion of this action, Discovery Builders, Inc., Albert D. Seeno Construction Co., and West Coast Home Builders, Inc. (collectively the Developer) will be able to proceed with construction of the lateral.

Fiscal Impact

Approval of the resolution will have no fiscal impact, as the Developer is responsible for preparation of all documents and for construction of the three street segments with their subdivision construction projects.

Staff Recommendation

Staff recommends that the City Council adopt the resolution authorizing the City Manager to execute the Contract and Grant of Permanent Easement.

Attachments

- 1) USBR Contract and Grant of Permanent Easement
- 2) October 28th staff report with (Exhibit 1 only)
- 3) Resolution 95-14
- 4) Resolution

WHEN RECORDED MAIL TO:

U.S. Department of the Interior
Bureau of Reclamation, MP-450
2800 Cottage Way
Sacramento, CA 95825-1898

DOCUMENTARY TRANSFER TAX: None
This conveyance is exempt from any
documentary transfer tax per California
Revenue and Taxation Code Section 11922.

*Central Valley Project
Contra Costa Water District
County of Contra Costa
Contract 07-LG-20-9519
Units 7.1-14, 7.1-15, and 7.1-16
Page 1 of 6*

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
SOUTH-CENTRAL CALIFORNIA AREA OFFICE

CONTRA COSTA WATER DISTRICT DISTRIBUTION SYSTEM
CENTRAL VALLEY PROJECT, CALIFORNIA

CONTRACT AND GRANT OF PERMANENT EASEMENT
for
RELOCATION OF LATERAL 7.1 UNITS 7.1-14, 7.1-15, AND 7.1-16
DISTRIBUTION SYSTEM

THIS AGREEMENT, made this _____ day of _____, 2007, pursuant to the Act of June 17, 1902, (32 Stat. 388) and acts amendatory thereof and supplementary thereto, and Section 14 of the Reclamation Act of August 4, 1939, (53 Stat. 1187), all of which acts are commonly referred to as the Federal Reclamation laws, between the UNITED STATES OF AMERICA, hereinafter the United States, represented by the officer executing this Agreement, his duly appointed successor, or his authorized representative, hereinafter referred to as the Contracting Officer and the City of Oakley, hereinafter the City.

WITNESSETH:

The following grants, rights, and mutual covenants by and between the parties hereto which are acquired for the use of the Bureau of Reclamation, Department of the Interior, its agents, or assigns:

1. For the consideration hereinafter expressed, the City does hereby grant, bargain, convey and confirm unto the United States and assigns, the rights, privilege, and permanent easement to layout, construct, reconstruct, inspect, operate, repair, and maintain an underground lateral, together with all necessary appurtenances, supports, fixtures, facilities, and devices, used or useful in the operation of said lateral through, over, under, and across the lands as shown in *Exhibit A* and more particularly described in *Exhibit B*, both of which Exhibits are attached hereto and made a part hereof.

its agent,
the Contra Costa Water District,
hereinafter the

Central Valley Project
Contra Costa Water District
County of Contra Costa
Contract #07-LC-20-9519
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2. Said underground lateral will remain the property of and be maintained by the United States, its successors and assigns.
3. If the United States or District requires subsequent relocation of the new lateral, the District agrees to either relocate the lateral at its own expense or reimburse the City for the costs of the relocation, including the cost of restoring the roadway. If the City requires subsequent relocation of the new lateral, then City will reimburse the District or the United States for the costs of relocation. The United States shall not incur any cost for such relocation.
4. If a leak occurs in the new lateral or other damage is caused by a defect in the new lateral which damages the City's roadway, the District shall reimburse the City the costs of repairing the roadway. The United States shall not incur any cost for such repair.
5. If the roadway damages the new lateral, the City will reimburse the District or United States for the costs of repair or relocation, if necessary. The United States shall not incur any cost for such repair or relocation.
6. The Grant of Easement herein contained shall include the right to (a) trim, cut, fell and remove underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the easement, (b) store vehicles, equipment, and construction materials, and (c) such other uses requisite in the layout, construction, reconstruction, operation, use, maintenance, inspection, and repair of said underground lateral.
7. The City, its successors and assigns, reserve the right to use the premises for any purposes which will not interfere with the easement, rights, and privileges herein granted to the United States, or endanger any of its property, but such reserved rights shall not extend to or include the erection of any buildings or structures, or permission to the public to use subsurface part thereof, for any reason or purpose, without advance written permission on behalf of the United States or its assigns.
8. The Grant of Easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, pipelines, electrical transmission lines, telegraph and telephone lines on, over and across the lands described in said *Exhibits A and B* and to any mineral rights of record outstanding in third parties on the date of this Contract.
9. As complete compensation and consideration for the Grant of Easement and the use of said lands by the United States as provided in this Contract, the United States has granted the right to relocate Lateral 7.1 of the Unit 7.1-14, 7.1-15, and 7.1-16 of the Distribution System onto certain lands to be dedicated to the City in accordance with the terms and conditions of Contract 06-LC-20-9323 entitled, RELOCATION AGREEMENT FOR CONVEYANCE AND RELOCATION OF LATERAL 7.1 OF UNITS 7.1-14, 7.1-15, and 7.1-16 OF THE LATERAL DISTRIBUTION SYSTEM, dated 10/14/2008.
10. The City warrants that no person or agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established agencies maintained by the City for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this Contract without liability or in its discretion to require the City to pay the full amount of such commission, percentage, brokerage, or contingent fee.

11. No Member of Congress shall be admitted to any share or part of this Contract made, entered into or accepted by or on behalf of the United States, or to any benefit to arise thereupon.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and date first above written.

THE CITY OF OAKLEY
A Municipal Corporation

By: _____

Title: _____

ACKNOWLEDGMENT

STATE OF CALIFORNIA
County of _____

On _____ before me, _____, personally
(Here insert name and title of the officer)

appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

(Seal)

**STAFF REPORT**

Date: Tuesday, October 28, 2014

To: Bryan Montgomery, City Manager

From: Kevin Rohani, Public Works Director/City Engineer

Subject: Acceptance of Grapevine Lane Offers of Dedication Associated with Subdivisions 8760, 7662, 8734 and Parcel Map 32 PM 48 between Rose Avenue and O'Hara Avenue

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager**Background and Analysis**

On September 23, 1993, the County approved a vesting tentative map for Subdivision 7681, a 39-lot single-family subdivision east of O'Hara Avenue and north of Carpenter Road. On November 22, 1999 the City Council approved Resolution 52-99 that extended the life of the tentative map to September 23, 2004, subject to conditions. On September 13, 2004 the City Council adopted Resolution 96-04 approving the final map for the project and the associated Subdivision Improvement Agreement for the project.

On October 14, 2008, a Relocation Agreement (Agreement) was executed between the United States Bureau of Reclamation (USBR), the Contra Costa Water District, the City of Oakley, and Discovery Builders, Inc., Albert D. Seeno Construction Co., and West Coast Home Builders, Inc. (collectively the Developer) which allowed for the Developer to relocate certain irrigation laterals that ran through easements on several lots contained within Subdivision 7681. The Agreement also requires the laterals to be:

- Relocated to locations owned by the Developer
- Developer to dedicate the new locations to the City
- City accepts such dedications as part of the City's street system
- City then grants to USBR the easements to the relocated laterals

Three of the proposed dedications are contained within future streets that were dedicated by the Developer to the City, associated with the recordation of three subdivision maps:

- Subdivision 8760 Stonewood Unit 1B
- Subdivision 7662 Stonewood Unit 1A
- Subdivision 8734 Stonewood Unit 2A
- Parcel Map 32 PM 48

During Staff's review of the documents, it was determined that the Grapevine Lane offer of dedication associated Parcel Map 32 PM 48 was rejected and terminated by the recordation of the Subdivision 8734 final map. Pursuant to Section 66477.2(a) of the Subdivision Map Act, the City Council may rescind its action and accept the offer of dedication by resolution.

The Developer has requested that the City accept all four of these offers of dedication so that the Developer can move forward with the preparation of the grant of easement to USBR by the City, and so that the Developer can finally proceed with the relocation of the laterals. Once the relocations are completed, the Developer will be able to move forward when they are ready with the construction the subdivisions and new homes.

Under the Subdivision Improvement Agreements associated with the three subdivisions, the Developer is required to construct the three parts of the future Grapevine Lane as part of the construction of the three subdivisions. The part of Grapevine Lane dedicated by Parcel Map 32 PM 48 will be constructed at some later date when the property is developed.

The relocation of the laterals will permit the affected lots in Subdivision 7681 to have the pipelines removed from their properties and for the existing easements to be removed as well. The relocation will also permit the three affected subdivisions to move forward with construction when the Developer is ready to begin.

Fiscal Impact

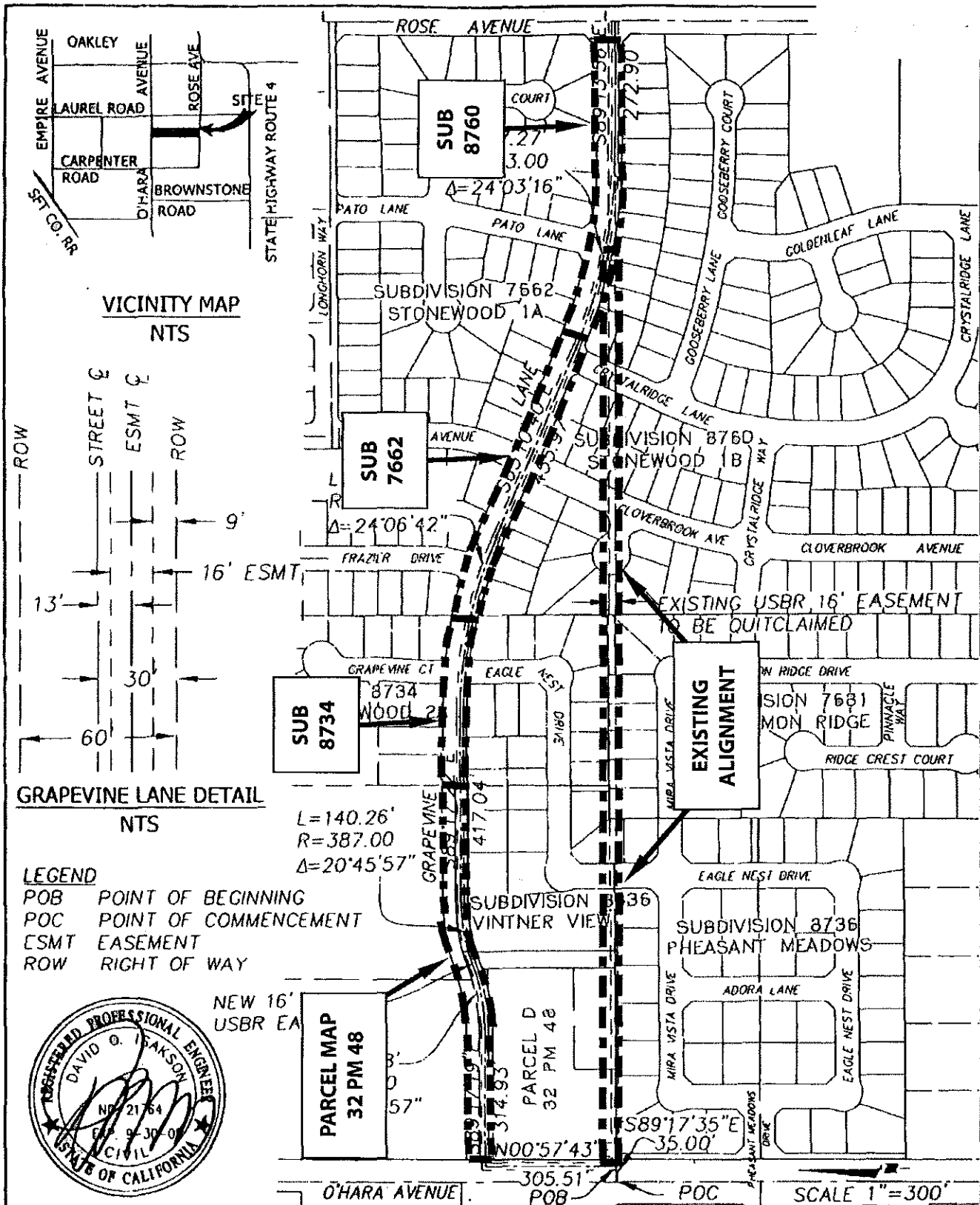
Approval of the resolution will have no fiscal impact, as the Developer is responsible for preparation of all documents and for construction of the three street segments with their subdivision construction projects.

Staff Recommendation

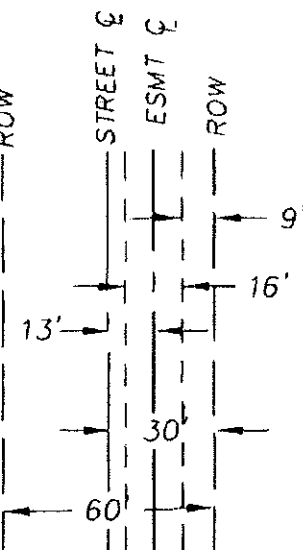
Staff recommends that the City Council adopt the resolution approving the acceptance of the offers of dedication.

Attachments

- 1) Exhibit showing existing and proposed alignments
- 2) Fully Executed Relocation Agreement
- 3) Resolution

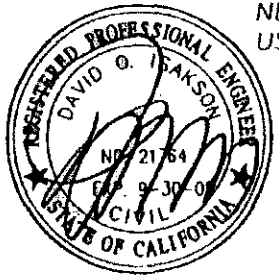


VICINITY MAP
NTS



GRAPEVINE LANE DETAIL
NTS

- LEGEND**
- POB POINT OF BEGINNING
 - POC POINT OF COMMENCEMENT
 - ESMT EASEMENT
 - ROW RIGHT OF WAY



NEW 16'
USBR EA

PARCEL MAP
32 PM 48

PARCEL D
32 PM 48

ISAKSON & ASSOCIATES INC.

2255 YGNACIO VALLEY ROAD, SUITE C WALNUT CREEK, CA. 94598-3349
PHONE (925) 937-9333 FAX (925) 937-7926

EXHIBIT "B"
USBR EASEMENT

CHECKED BY: DOI
SCALE: 1"=300'

DRAWN BY: BJL
DATE: 08/15/06

JOB NO. 200443
SHEET 1 OF 1

RESOLUTION NO. 95-14

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
ACCEPTING THE GRAPEVINE LANE OFFERS OF DEDICATION
ASSOCIATED WITH SUBDIVISIONS 8760, 7662, 8734 AND
PARCEL MAP 32 PM 48**

WHEREAS, on January 9, 2006 the City of Oakley adopted Resolution 03-06 approving the final map for Subdivision 7662 and said map made certain offers of dedication of right of way including the future Grapevine Lane; and

WHEREAS, on January 9, 2006 the City of Oakley adopted Resolution 05-06 approving the final map for Subdivision 8760 and said map made certain offers of dedication of right of way including the future Grapevine Lane; and

WHEREAS, on May 14, 2007 the City of Oakley adopted Resolution 59-07 approving the final map for Subdivision 8734 and said map made certain offers of dedication of right of way including the future Grapevine Lane; and

WHEREAS, on March 27, 1974 Parcel Map 32 PM 48 was recorded in the office of the Contra Costa County Recorder and said map made certain offers of dedication of right of way including the future Grapevine Lane; and

WHEREAS, on October 14, 2008 a Relocation Agreement was executed between the United States Bureau of Reclamation, the Contra Costa Water District, the City of Oakley, and Discovery Builders, Inc., Albert D. Seeno Construction Co., and West Coast Builders, Inc. (collectively the Developer) which allowed for the Developer to relocate certain irrigation laterals that ran through easements on several lots contained within the Developer's Subdivision 7681; and

WHEREAS, the Relocation agreement requires, among other items, the Developer to dedicate right of way to the City and for the City to accept the right of way in the Developer's Subdivisions 7662, 8760 & 8734 as well as that which was dedicated by Parcel Map 32 PM 48; and

WHEREAS, the Developer desires to relocate said irrigation laterals into the future Grape Vine Lane in accordance with the Relocation Agreement and has requested that the City accept the offers of dedication to allow the Developer to proceed with the relocation; and

WHEREAS, Staff determined that the offer of dedication associated with Parcel Map 32 PM 48 was rejected and terminated by the recordation of the final map for Subdivision 8734 and that pursuant to Section 66477.2(a) of the Subdivision Map Act the City Council may rescind its action and accept the offer of dedication by resolution.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the Rejection and Termination of the Offer of Dedication by Parcel Map 32 PM 48 is hereby rescinded and that the Offers of Dedication of Right of Way described above are hereby accepted by the City.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 28th of October, 2014 by the following vote: 5-0

AYES: Burgis, Hardcastle, Pope, Rios, Romick

NOES:

ABSTENTIONS:


ABSENT:

APPROVED:



Randy Pope, Mayor

ATTEST:



Libby Vreonis, City Clerk

3/22/14

Date

RESOLUTION NO. XX-14

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND
GRANT OF PERMANENT EASEMENT RELATED TO THE RELOCATION OF
UNITED STATES BUREAU OF RECLAMATION (USBR) LATERAL IN
GRAPEVINE LANE BETWEEN ROSE AVENUE AND O'HARA AVENUE**

WHEREAS, On October 28, 2014 the City Council of the City of Oakley adopted Resolution 95-14 which approved the acceptance of four offers of dedication of right-of-way for Grapevine Lane between Rose Avenue and O'Hara Avenue; and

WHEREAS, the Relocation Agreement described in Resolution 95-14 requires both the acceptance by the City of the offers of dedication of right-of-way to the City and the grant of easement in Grapevine Lane for the relocation of the USBR irrigation lateral; and

WHEREAS, Discovery Builders, Inc., Albert D. Seeno Construction Co., and West Coast Home Builders, Inc. (collectively the Developer) desire to relocate said irrigation lateral into the future Grape Vine Lane in accordance with the Relocation Agreement and has requested that the City execute the Contract and Grant of Permanent Easement to allow the Developer to proceed with the relocation;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the City Manager is hereby authorized to execute the Contract and Grant of Permanent Easement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 18th of November, 2014 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

ATTEST:

Randy Pope, Mayor

Libby Vreonis, City Clerk

Date