



STAFF REPORT

Meeting Date: July 1, 2014
To: Honorable Mayor & City Council
From: Mark Cuneo, City Engineer *MC*
Subject: Memorandum of Agreement between the City of Beverly Hills and Metro for the Utility Relocation Phase of the Segment 1 - Subway Construction

Attachments:

1. Memorandum of Agreement (as proposed by City)
2. Memorandum of Agreement (red-lined to show revisions requested by Metro)

INTRODUCTION

The City and Metro are currently engaged in the development of a Memorandum of Agreement pertaining to the Advanced Utility Relocation Phase of the Purple Line Extension Project – Segment 1. The agreement is intended to establish the procedure and conditions for the utility relocations that will be necessary before construction of the subway station at La Cienega and Wilshire Boulevards. In February of this year, the City submitted to Metro its proposed draft Memorandum of Agreement (Attachment 1). Metro staff reviewed the City's draft and suggested several modifications by way of its own revised draft, which it submitted to the City in June. The original draft agreement and the Metro revised agreement were distributed to City Council on June 24, 2014 as an Information Item. Staff requests input and direction from City Council on the terms of the Memorandum of Agreement. In addition, staff seeks Council's input on the suggested items resulting from the community meeting. Based upon Council direction, we will then seek to negotiate a revised agreement with Metro and present a revised Memorandum of Agreement and a permit application for the utility relocation phase for City Council's consideration at the July 29, 2014 City Council meeting.

DISCUSSION

Construction of the La Cienega Subway Station under Wilshire Boulevard between La Cienega Boulevard and San Vicente Boulevard requires the relocation and rearrangement of underground utilities and facilities. Metro has submitted a permit application to relocate the City's water, sewer and storm drain systems and Southern California Edison's electrical system in the La Cienega station area. Metro has indicated that this work is scheduled to begin in late August and take approximately 30 months to complete.

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In order to protect the City in a comprehensive manner with mitigation provisions applicable to all permits required for utility relocation, City staff developed a draft Memorandum of Agreement specific to this phase. The purpose of an agreement is to establish the conditions and procedures which Metro and the City will follow in identifying, planning, designing and effecting rearrangements and relocation of facilities in the public right-of-way, the manner in which the City will be reimbursed for costs associated with such activities, and conditions for construction operations that minimize impacts to surrounding community. It is anticipated that at least two subsequent phases will require revised Memorandum of Agreements to address specific issues of each phase.

The provisions of the City's initial draft agreement included the following:

- City Council approval of permits including requests for after-hours construction permits
- Metro will reimburse the City for all costs associated with work on the project by staff and any consultants/contractors.
- An Inspector will monitor all construction conditions and address any violations of permit conditions.
- Construction staging plans and traffic control plans including a parking control plan will be required.
- Nighttime parking used by residents will not be removed unless it is in the area needed for construction or traffic control. If such parking is removed, Metro shall provide an equal number of replacement parking spaces within a reasonable distance from the removed spaces.
- Minimum requirements for available travel lanes on Wilshire, La Cienega and San Vicente Boulevards.
- Access to all commercial and residential properties shall be maintained at all times.
- Haul routes restricted to preclude residential streets.
- An expanded list of construction work holidays.
- Use of temporary noise barriers and sound curtains will be required at all times for loud construction activity.
- All jackhammers, pavement breakers, and saw cutting equipment shall be enclosed with shields, acoustical barrier enclosures, or noise barriers.
- Light control plans will be required for all use of night lighting of the construction site. All lights shall be directed downwards and shielded.
- Quarterly Project Update meetings for the community will be conducted by Metro.
- Advanced Notification of various construction activities shall be provided to an appropriate distribution area in accordance with an approved Community Outreach Plan.
- 24 hour staffed phone line required for immediate resolution of issues.

Metro staff has reviewed the City's draft agreement and requested significant revisions. The revisions to the City's original proposed agreement are highlighted on the attached red-lined Memorandum of Agreement (Attachment 2). Discussions with Metro on their requested changes to the agreement have been initiated. City staff has identified certain fundamental issues to Metro that must be addressed in the next draft, along with a multitude of language issues. Among the fundamental issues already addressed with Metro are the following:

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- All City facilities must be relocated at the end of construction to their preconstruction depths and restored to City standard materials. In their interim, temporary condition, during construction, Metro must maintain the facilities and assume all liability for the facilities.
- The neighborhood protection measures proposed in the agreement are not yet sufficiently specific nor sufficiently protective of the community.
- The agreement should include provisions for a monitor who will monitor compliance with neighborhood protection measures and have authority to abate violations. Last week, Metro submitted to the City its mitigation enforcement proposal. Under Metro's proposal, the Inspector will have limited authority to halt work until Metro and/or its contractors agree to comply with the violated permit conditions. Metro has not proposed any monetary penalties for violations.
- It is not appropriate for the City to accept any provision in which it assumes liability for potential delay damages nor a provision that results in a "deemed approval" of any utility relocation work as a result of delayed action or inaction.
- The traffic control plan must assure access to all adjacent businesses during business hours (including the hours of operation of the Saban Theatre).

In addition, based on community input and further review, staff has already proposed to Metro and anticipates incorporating the following items in the next draft agreement:

- Development of a measurable and enforceable noise standard for nighttime construction activities such as limiting construction generated noise to 5 decibels above ambient noise levels, when measured at the property line of the nearest residential building.
- Noise Control Plans will be required, listing all applicable restrictions from the Environmental Impact Report.
- If sound blankets are to remain in place for 5 days or more, Metro must seek separate City approval to address potential business visibility issues and general aesthetic concerns about the street while under construction.
- A Pedestrian Access plan shall be required for all work proposed adjacent to commercial properties during their hours of operation.
- Trees shall be preserved in place in all cases where possible.
- Any trees that must be removed shall be replaced with a mature tree of the same species of a minimum height at planting of 20 feet.
- Monthly schedule of activities to be posted on Metro and City Websites.
- Construction haul routes will be limited to: Wilshire, La Cienega and San Vicente Boulevards.
- Log of construction related complaints and resolutions shall be maintained, submitted to the City and made available to the public.

Community Outreach

A community meeting was held on the evening of June 18, 2014, at La Cienega Park Community Center to discuss the utility relocation work and receive input on conditions to be included in the agreement and permits. Notices of the meeting were mailed to properties along Wilshire Boulevard between La Cienega and San Vicente and to the entire block north and south of Wilshire on the adjacent streets of Hamilton, Gale and Tower. Twenty-three members of the community, including businesses and residents, attended the meeting. City staff presented information about the scope of utility relocation work, potential construction impacts and mitigation measures. Community

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members were concerned with traffic, access impacts, potential loss of residential parking, and noise impacts associated with night-time construction.

FISCAL IMPACT

None at this time.

RECOMMENDATION

Staff will return to City Council on July 29, 2014 with a revised Memorandum of Agreement and a permit application for the utility relocation phase for Council consideration.

David Lightner



Approved By