



## Legislation Details (With Text)

**File #:** 20-0131      **Name:** Request by City of Fresno to Obtain Right-of-Way in the County

**In control:** Public Works & Planning

**On agenda:** 2/25/2020      **Final action:** 2/25/2020

**Enactment date:**      **Enactment #:**

**Title:** Approve City of Fresno’s request to acquire an exclusive water line easement on a parcel of land owned by County of Fresno, as needed in conjunction with City of Fresno Project No. J5758 for water main pipeline replacement in the Congo Alleyway between Merced Street and Fresno Street; and approve and authorize Chairman to execute Grant of Exclusive Water Line Easement on behalf of County of Fresno to, and for benefit of, City of Fresno (\$0); and approve and authorize Director of Department of Public Works and Planning to execute, upon review and approval by County Counsel as to legal form and Auditor-Controller/Treasurer-Tax Collector as to accounting form, an Agreement with City of Fresno Granting of Exclusive Water Line Easement with City of Fresno, in substantial form as attached Agreement, on file with Clerk, including any revisions thereto as may be approved by Director as he deems to be in best interest of the County

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Item, 2. Location Map, 3. Exhibits A - C, 4. Grant of Exclusive Water Line Easement, 5. Agreement for Granting of Exclusive Water Line Easement, 6. City Acceptance

Date	Ver.	Action By	Action	Result
2/25/2020	1	Board of Supervisors	Deleted	

**DATE:** February 25, 2020

**TO:** Board of Supervisors

**SUBMITTED BY:** Steven E. White, Director  
Department of Public Works and Planning

**SUBJECT:** City of Fresno Request to Obtain Exclusive Water Line Easement

**RECOMMENDED ACTION:**

- 1. Approve City of Fresno’s request to acquire an exclusive water line easement on a parcel of land owned by County of Fresno, as needed in conjunction with City of Fresno Project No. J5758 for water main pipeline replacement in the Congo Alleyway between Merced Street and Fresno Street.**
- 2. Approve and authorize the Chairman to execute the Grant of Exclusive Water Line Easement on behalf of the County of Fresno to, and for the benefit of, the City of Fresno (\$0).**
- 3. Approve and authorize the Director of the Department of Public Works and Planning to execute, upon review and approval by County Counsel as to legal form and Auditor-Controller/Treasurer-Tax Collector as to accounting form, an Agreement with the City of Fresno Granting of Exclusive Water Line Easement with the City of Fresno, in substantial form as the attached**

**Agreement, on file with the Clerk, including any revisions thereto as may be approved by the Director as he deems to be in the best interest of the County.**

Approval of the first recommended action will approve the request by the City of Fresno (City) to acquire an exclusive water line easement for the Congo Alley Water Main Replacement Project (Project), located in the Congo Alleyway between Merced Street and Fresno Street, see Location Map and Exhibits A-C. Approval of the second recommended action will authorize the County to grant a permanent exclusive water line easement (Easement) to the City to construct and maintain the water main pipeline, located in the same location. Approval of the third recommended action will approve and authorize the Director to execute the recommended agreement with the City of Fresno for Granting of Exclusive Water Line Easement (Agreement), which clarifies the responsibilities of the City and the County in regard to the recommended Easement. City staff has approved the recommended agreement in substantial form, but the agreement has not yet been approved by the City Council. County staff will not record the Easement until both parties sign the agreement. This item pertains to a location in District 3.

ALTERNATIVE ACTION:

There are no viable alternative actions. Denial of the recommended actions will result in the inability of the City to construct the water main pipeline required for the installation of the Project or delay the project. If the water main pipeline is not repaired, there is a risk it will break again and flood County properties.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. City staff have requested that the County provide an easement for their water lines in this County right of way. The City's use of the Easement will not unreasonably conflict with the County's use, and it is recommended that the Easement be granted to the City without requiring that a costly and time-consuming appraisal be performed and without establishing and charging a fee for the land value. This is due to the fact that the value of the land is nominal since it has no viable alternative use. The administrative cost incurred by the County in processing and granting this easement request will initially be paid from sufficient appropriations and estimated revenues included in the Public Works and Planning - Roads Org 4510 FY 2019-20 Adopted Budget. Thereafter, funds from the 4510 Budget will be reimbursed from the County's Internal Services Department.

DISCUSSION:

California Government Code, section 50335 authorizes the legislative body of a local agency to convey to any public or private corporation engaged in the public utility business, an easement to lay, reconstruct, maintain, and operate water, sewer, gas or storm drain pipes or ditches over and upon any land belonging to the local agency upon such terms and conditions as the parties may agree. Pursuant to this code section, the County and the City may agree that the City may construct water pipelines on the County-owned property, upon such terms and conditions as the County and City may agree.

City staff have requested that the County provide an exclusive water line easement for their water lines in this County right-of-way.

The purpose for the Project is to replace the cast-iron water main installed in 1961. The City's acquisition of the recommended Easement will allow the City to construct the water main, and continue its ongoing maintenance and operation. This is beneficial to the County, because it reduces the likelihood of future water main breaks resulting in extensive damage to County-owned buildings.

In connection with the Project, the City proposes to construct 500 linear feet of 12-inch diameter ductile iron pipeline in the Congo Alleyway between Merced Street and Fresno Street. In addition, existing potable water and fire services will be transferred from the old water main to the new water main. Due to construction constraints, the City's Water Division is proposing to construct approximately 150 linear feet of the 12-inch

water main within County-owned property, referenced as APN 466-621-13T on attached Exhibit A and B.

The recommended Easement provides that the County must maintain the Easement area free of any permanent surface obstructions so that the City may have vehicular access at all times. The County will continue to park vehicles on the Easement property following construction, with those vehicles moved upon reasonable notice from the City that access the Easement is needed.

The recommended agreement sets out the Easement responsibilities of the City and the County. The recommended agreement also provides that the City must take all safety precautions while constructing its water lines, must restore the property to its original condition following construction, and both parties must maintain adequate insurance. Lastly, the recommended agreement requires that both parties indemnify each other for damages resulting from each party's performance of the agreement; a provision common in agreements involving two public agencies.

OTHER REVIEWING AGENCIES:

This item was initiated at the request of the City of Fresno. The City has prepared Exhibits A - C.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Location Map  
Exhibits A - C  
On file with Clerk - Grant of Exclusive Water Line Easement  
On file with Clerk - Agreement for Granting of Exclusive Water Line Easement  
On file with Clerk - City Acceptance

CAO ANALYST:

Sonia M. De La Rosa