

## Memorandum

*Flex your power!  
Be energy efficient*

**To:** DISTRICT DIRECTORS

**Date:** July 24, 2002

**Attn:** Region/District Division Chiefs  
Right of Way  
Project Development  
Planning

**File:** R/W Utility Relocations  
General  
Utility Reference File  
No. 02-01

**From:** DEPARTMENT OF TRANSPORTATION  
DIRECTOR'S OFFICE - MS 49

**Subject:** State-Cost Utility Design Activities Prior to Environmental Approval

Timely project delivery may in some instances necessitate commencement of utility design activities prior to the approval of the environmental document.

This memorandum sets forth the processes and prerequisites for a District/Region to request and obtain the necessary Headquarters written approval before ordering a utility company to commence such utility design activities prior to the approval of the environmental document, when those activities involve State costs. These requirements also apply to Local Public Agency projects on the State Highway System.

It is important to note that this approval process does "NOT" allow, nor may the Department, under any circumstances, direct a utility owner to physically relocate utilities or order associated materials prior to approval of the environmental document.

In all cases when the State is liable for any share of the utility company's design costs, a Notice To Owner as well as an executed Utility Agreement is required before the utility owner commences these utility design activities.

The District/Region's request for approval to order utility design activities prior to approval of the environmental document may be submitted only upon completion of the environmental studies and the selection of the preferred alternative for the project.

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The District/Region must furnish sufficient information in the request to support the approval as a good business decision. The request must document that all the specified prerequisites listed below in "A" have occurred. Discussion and completion dates should be included. In addition, the narrative portion of the request must discuss the subject headings shown below in "B."

A. The mandatory prerequisites for the request, including relevant dates and explanation for each item are:

- Circulation of Draft Environmental Document and selection of preferred alternative completed- \_\_\_\_\_(Date; or explanation if not completed).\_
- Public Hearings Completed - \_\_\_\_\_(Date; or explanation if not completed).
- Prior to final environmental approval - \_\_\_\_\_(Anticipated Dates)
- The project is programmed and route adoption must be consistent with the preferred alternative - \_\_\_\_\_(Date Programmed)
- The District has confirmed availability of funds with Right of Way P&M - \_\_\_\_\_(Date confirmed.)
- Project must not be controversial - \_\_\_\_\_(Explanation; identify sources if opposition exists.)\_\_\_\_\_
- Ordered utility design activities will not limit the choice of project alternatives or environmental mitigation measures - \_\_\_\_\_(Explanation)\_\_\_
- No change to current use of property will result and Notices To Owner (NTO) shall not be issued for any acquisition of materials or physical relocation of facilities \_\_\_\_\_(Explanation)
- Freeway Agreement and/or resolution from local governing bodies, if required, must be obtained in accordance with Streets and Highways Code, Section 100.1 through 100.4. - \_\_\_\_\_(Date; or explanation if not completed).\_

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- B. The following subject headings for the narrative portion of the request should provide support for the approval as a good business decision:
1. SYNOPSIS - Benefits
  2. SYNOPSIS - Risks
  3. PROJECT TIMELINES  
A. If Request is Approved, B. If Request is Denied
  4. BACKGROUND
  5. PROGRAMMING INFORMATION
  6. PREREQUISITES AND SUPPORTING INFORMATION - Description of anticipated utility design work to be performed
  7. CONCLUSION - Restatement of risks and benefits.

The request must be signed by: the Deputy District Director/Regional Division Chiefs of Right of Way, Environmental, Program/Project Management, and the District Director. The request should be submitted to Chief, HQ Division of Right of Way, for approval. Approval will only be granted with the concurrence of: HQ Right of Way Planning and Management, as to availability of programmed funds, Chief, HQ Division of Environmental Analysis, as to Environmental appropriateness, and Chief, HQ Right of Way Utility Relocations Branch, as to utility process.

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Separate instructions will be issued to Right of Way Planning and Management, to address specifics as to federal approvals (E76), EA's, encumbrances and the payment process.



Brent Felker  
Chief Engineer

Attachment: Request Exhibit – example of similar format and request

c: Bruce A. Behrens Chief Counsel	Dick Petrie Chief, Federal Resources Office
Brice D. Paris Chief Division of Right of Way	Jim Nicholas Chief Division of Transportation Programming
Robert L. Buckley Chief Division of Engineering Services	Gary Winters Chief Division of Environmental Analysis
Carlton L. Haack Chief Division of Project Management	Karla Sutliff Chief Division of Design
Right of Way Office Chiefs	Terry L. Abbott Chief Division of Local Assistance

**M e m o r a n d u m**

To : BRICE PARIS, Chief  
Division of Right of Way

Date: April 22, 2002

Attn : Lorrie Wilson, Chief  
Utility Relocation Branch

File: 11-IMP-78/111  
P.M. 15.3-15.8/R20.3-R22.4  
E.A. 167871-Stage 1

From : DEPARTMENT OF TRANSPORTATION  
District 11

Subject: Request for Early Utility Design Activities Prior to Environmental Approval

**Sample**

This is an approval request to authorize early utility design activities, prior to approval of the environmental document, to support Stage 1 of SR 78/111, the Brawley Bypass project, in Imperial County. Stage 1 is estimated at \$14-million, and is currently programmed for the 02/03 fiscal year. The District, local government agencies, and community citizens have all been involved in cooperating to achieve early delivery of this important project. Approval of this request will help save \$1.75-million in unnecessary project costs and will bring an important project on line for the public several years early. Successful performance of the requested early utility design activities is the final element necessary to achieve this worthy goal.

**SYNOPSIS - Benefits**

Authorization of early utility design activities represents the opportunity for a good business decision to help maintain an accelerated project delivery schedule, comply with community wishes for early completion of an important bypass project, save the state \$1.75-million in unnecessary interim costs, and help prevent the potential unnecessary loss of \$14-million in programmed funds for Stage 1 of the Brawley Bypass.

**SYNOPSIS - Risks**

The risks to such a business decision are extremely low because the proposed early utility design activities will take place in areas common to all three alignments and the design activities do not affect such environmental considerations as project alternative choices or mitigation issues.

## TIMELINES

### If Request is approved:

12+/month Utility Relocation Design Begins -	Apr. '02;
EIS/EIR submitted for approval -	May '02;
ROD/NOD -	Dec. '02;
Utility Relocation Design Completed -	May '03;
Right of Way Certification -	May '03,
RTL -	June '03

### If Request is Denied:

EIS/EIR submitted for approval -	May '02
ROD/NOD -	Dec. '02
12+/month Utility Relocation Design Begins -	Dec. '02
Utility Relocation Design Complete -	Dec. '03
Right of Way Certification (DELAYED) -	Dec. '03
RTL (DELAYED) -	Jan. '04

### Result if Approval Denied:

Unnecessary project delay minimum of 7 calendar months.

Possible greater delay if re-scheduled relocation work conflicts with agricultural or seasonal demands for irrigation water.

Project delay may require construction of costly (\$1.75-million) temporary transition road.

May jeopardize \$14-million in programmed funds for Brawley Bypass, Stage 1.

## BACKGROUND

The Brawley Bypass in Imperial County is a new, four-lane divided expressway from State Route 78/86, northwest of the City of Brawley, to SR 111, southeast of the city. This proposed 78/111 expressway will supersede existing state route segments of SR 78 and SR 111 in the City of Brawley, and thus is referred to as the Brawley Bypass. The purpose of the "Bypass" is to reduce negative traffic impacts in the downtown area of Brawley and to accommodate increased regional and international traffic due to the North American Free Trade Agreement (NAFTA).

SR 111 originates at the U.S./Mexico border in Calexico. It intersects SR 78 at the eastern city limits of Brawley. Construction has begun on fourteen miles of SR 111 to upgrade the facility to a four-lane expressway. This SR-111 project is in three Units: starting just north of Interstate 8 and extending northerly 14 miles to just south of the City of Brawley (1.3 miles south of SR-78). Construction of this SR-111 project will be completed by 2005.

Construction of the Brawley Bypass was originally scheduled for early 2006 and the facility would have opened to traffic mid-year 2008. During the three-year gap

between projects (2005-2008), a temporary transition road would have been used between the north end of the SR 111 Unit 3 construction and existing SR 111.

In part because of resulting impacts to the communities and the traveling public, a Value Analysis (VA) team was formed in November 2000 to look at ways to reduce this interim period between projects. The VA team included representatives of the City of Brawley, the County of Imperial and the Department. The VA team recommended splitting the Bypass into stages. Stage 1 would begin where construction of Unit 3 of SR 111 ends and would end at SR 78. Stage 1 construction would be concurrent with the construction of Unit 3 of SR 111 and be completed at approximately the same time. By eliminating the 3-year temporary transition road, the VA team estimated initial cost savings of \$1,776,000.00.

In addition to the elimination of both hard and soft costs involved in the construction and operation of the 3-year temporary transition road, the proposed early construction of Stage 1 of the Brawley Bypass would eliminate the need for a design exception, would improve the capacity of the SR 111 to SR 78 corridor, and would also allow existing SR 111 to be used as a frontage road for adjacent property owners, while reducing out-of-direction travel for local traffic, eliminating excess construction and inflation costs, and avoiding potential project delays.

As a result of public meetings and city/county resolutions, this project enjoys widespread community, governmental and business support. In that regard, early acquisition resolutions for Stage 1 Brawley Bypass have been passed by Imperial County and the City of Brawley.

## CHRONOLOGY

An Environmental Impact Statement is proposed for the Federal Highway Administration's (FHWA) National Environmental Policy Act (NEPA) approval, with an EIR for CEQA approval. The Draft EIS/EIR was completed May 11, 2001 and was circulated from June 8th to August 27th 2001. A Public Hearing was held July 18, 2001 and the preferred alternative was announced October 29, 2001.

The draft Final Environmental document will be submitted to FHWA by May 1, 2002 and the District anticipates having the ROD and route adoption by December 2002. The Freeway Agreement is expected in February-March 2003.

## EARLY ACQUISITION SUMMARY

The District requested and received approval for early acquisition of the Bypass Stage 1 project by memorandum dated April 3, 2001; augmented April 24, 2001. The early acquisition process approval was conditioned by a number of qualifications that the District had to successfully meet in order to prevent either environmental impacts or influence to the final alignment selection. Subsequently, the District received a resolution from the local agency dated November 6, 2001 supporting the early acquisition of right of way prior to route adoption and Freeway Agreement. The right of way is currently being appraised and Right of Way

certification is planned for May 2003, with District RTL (Ready to List) by no later than June 2003. Construction of the first stage of the Bypass would then begin in October 2003.

## DETAILS

In order to meet the project's milestone dates as outlined above, the District is requesting authorization to proceed with early utility design activities. This authorization will be subject to the same type of limiting conditions as early acquisition (above).

These early utility efforts are needed in order to meet vital Right of Way Certification and Ready To List (RTL) dates and avoid unnecessary risk of loss of programmed funds in the amount of \$14 million for construction of Stage 1 of the Brawley Bypass. To accomplish this, the District must be able to issue Notices To Owner and Utility Agreements for these preparatory utility design activities prior to the Record of Decision (ROD) and Notice of Determination (NOD). This requirement is absolutely necessary for the Imperial Irrigation District's (I.I.D.) water/irrigation and power facility relocation designs to support the Brawley Bypass schedule.

**In addition to meeting the qualifications which follow, it is reemphasized that there is no risk of wasted design costs because the portion of the project designated for both the existing early acquisition and the requested early utility efforts is common to all alignments.**

The anticipated early utility design activity costs for Stage 1 are as follows:

IID-Water	\$505,000 *
IID-Power	\$ 74,100

\*This figure represents \$25,000 already encumbered for "preliminary engineering support activities" and \$480,000 for relocation design costs, the total of which would be encumbered under a new Utility Agreement.

Pursuant to this request, the District will not issue Notices to Utility Owners for any physical relocation of facilities under any circumstances. The proposed Notices To Owner will be strictly for relocation design purposes. Further, this utility design component would not limit the selection of project alternatives or environmental mitigation measures. The District will condition its future use of the relocation on CEQA compliance.

Actual Notices To Owner to physically relocate Owner's facilities shall only be issued after the ROD, but prior to construction. However, without approval of this request for early utility design, completion of the utility relocation activities, whether design or physical work, will be delayed and will delay the overall project.

In the normal project process, utility design as a component of the overall project would not start until after the acceptance of the environmental document

(ROD/NOD). However, by using early utility design in this case, this time will be saved.

## FUNDING

Stage 1 of the Brawley Bypass project is in the 2002 STIP and is currently programmed for the 02/03 fiscal year. The total projected cost of Stage 1 is about \$20 million; \$12.5 million for construction, \$1.5 million for construction support and an estimated \$5.7 million for right of way capital and right of way support. \$1.7 million of the \$5.7 million is for utility design and construction. Full Federal participation is anticipated as FHWA has indicated that the proposed activity will qualify for federal funds. The requested utility design activities will be included in the District's E-76 submittal for Federal participation in accordance with practices for preliminary engineering activities.

## PREREQUISITES

This request meets the following prerequisites for early utility design activities prior to Project Acceptance and Environmental Document (PA&ED):

- After circulation of Draft Environmental Document - Completed August '01
- Prior to acceptance of the Environmental Document (ROD/NOD) - Anticipated Dec. '02
- STIP project only - Yes
- Preferred alternative selected - Yes. In the Environmental Document
- Project must not be controversial - This project has full Department, Local Government, & Community support
- Ordered early utility design activities will not limit the choice of project alternatives or environmental mitigation measures - Yes
- District has conditioned its future use of the relocation design on CEQA compliance - Yes
- No change to current use of property - Yes. No physical work will be ordered until approval of environmental document (ROD/NOD).
- Notices To Owner (NTO) shall not be issued for any physical relocation of facilities - Yes. Proposed NTO's will be issued for relocation design activities only.
- The project is programmed in the STIP and route adoption must be consistent with the preferred alternative - Yes
- Prior to executing requested Utility Agreements, District shall submit E-76 to FHWA with the requested utility design activities included under Preliminary Engineering. - Yes.
- Freeway or controlled access highway agreements, if required, or resolution from local governing body, must be obtained in accordance with S&H Code, section 100.1 through 100.4. - Yes

CONCLUSION

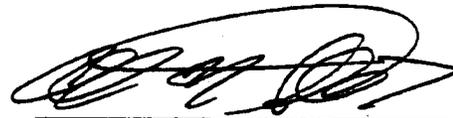
The District feels confident that this request for authorization to order early utility design activities prior to the ROD/NOD (corresponds to PA&ED) represents a virtual low-risk management action with considerable benefits. Among those benefits are:

- Approval represents a good business decision: There is no risk of lost work because the area in question is common to all alternatives; potential savings to the State are \$1.75-million as identified by the District Value Analysis study.
- Approval will help guarantee an earlier and more economical opening of a vital transportation link with positive impacts on statewide, national and international levels.
- Approval provides protection against programmed funds loss.
- Reduces overall support and contract costs, and impacts of inflation.
- This action will help open the transportation corridor earlier for all users.
- Allows the Department to respond positively to an opportunity to a) expedite processing of a high-profile project and b) demonstrate cooperation among project stakeholders.

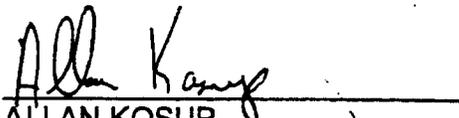
APPROVAL REQUESTED BY:



ANNE H. MARC-AURELE  
Deputy District Director  
Right of Way Division



CHARLES STOLL  
District Division Chief  
Environmental Division



ALLAN KOSUP  
District Division Chief  
Program/Project Management

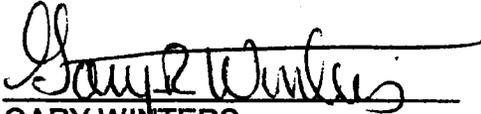


PEDRO ORSO-DELGADO  
District Director

APPROVAL RECOMMENDED BY:



BRICE D. PARIS  
Chief  
Division of Right Of Way



GARY WINTERS  
Chief  
Division of Environmental Analysis

APPROVED BY:



BRENT FELKER  
Chief Engineer