

UTILITY AGREEMENT

DOT RW 13-05 (REV 03/2024)

DISTRICT 03	COUNTY ED	ROUTE 49	POST MILE 11.86/12.40	PROJECT ID 03-0E961
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FEDERAL AID NUMBER N/A	OWNER'S FILE NUMBER PM 35432467
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FEDERAL PARTICIPATION/FEDERALLY ELIGIBLE/NEPA DOCUMENT

On the Project Yes No On the Utilities Yes No

Owner Payee Data No. _____ or Form STD 204 is attached.

UTILITY AGREEMENT NO. 2934.1L DATE _____

The County of El Dorado, hereinafter called "COUNTY," proposes to construct a 4-lane arterial roadway between Missouri Flat Road and State Route 49 in Diamond Springs

and

NAME Pacific Gas & Electric Company

ADDRESS 850 Stillwater Road, West Sacramento, CA 95605

hereinafter called "OWNER," owns and maintains overhead electric utility facilities

within the limits of COUNTY's project which requires relocation

to accommodate COUNTY's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner No. 2934.1L, dated May 7, 2024, OWNER shall relocate their facilities as indicated on the relocation plans. All work shall be performed substantially in accordance with OWNER's Plan No. PM 35432467, dated 10/2023, consisting of 19 sheets, a copy of which is on file in the office of the COUNTY at 2850 Fairlane Court, Placerville, CA 95667.

Deviations from the OWNER's plan described above initiated by either the COUNTY or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the COUNTY and agreed to/acknowledged by the OWNER, will constitute an approved revision of the OWNER's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner.

It is mutually agreed that the COUNTY will include the civil work, including but not limited to, furnishing and installing conduit, electrical equipment, and enclosures as part of the COUNTY's highway construction contract. OWNER shall have access to all phases of the work to be performed by the COUNTY for the purpose of inspection to ensure that the work being performed for the OWNER is in accordance with the specifications contained in the highway contract. Upon completion of the work performed by COUNTY, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to COUNTY ownership of the replaced facilities, except in the case of liability determined pursuant to Water Code 7034 or 7035.

II. LIABILITY FOR WORK

Existing facilities are located in their present position pursuant to rights superior to those of the COUNTY and will be relocated at COUNTY's expense.

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COUNTY chooses to have the utility company relocate their facilities underground, unrelated to engineering necessity or documented cost effectiveness. The underground relocation work is not federally eligible for reimbursement, however, federal reimbursement will be allowed and limited to the cost of overhead relocation.

III. PERFORMANCE OF WORK

OWNER shall have access to all phases of the relocation work to be performed by COUNTY, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to COUNTY's Resident Engineer for their evaluation and final disposition.

OWNER agrees to perform the herein described work, excepting that work being performed by the COUNTY's highway contractor, with its own forces and to provide and furnish all necessary labor, materials, tools, and equipment required therefore, and to prosecute said work diligently to completion.

Work performed by OWNER's contractor is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements.

Work performed directly by OWNER's employees falls within the exception of Labor Code Section 1720(a)(1) and does not constitute a public work under Section 1720(a)(2) and is not subject to prevailing wages. OWNER shall verify compliance with this requirement in the administration of its contracts referenced above.

Use of personnel requiring lodging and meal 'per diem' expenses shall not exceed the per diem expense amounts allowed under the California Department of Human Resources travel expense guidelines. Accounting Form FA-1301 is to be completed and submitted for all non-State personnel travel per diem. Owner shall also include an explanation why local employee or contract labor is not considered adequate for the relocation work proposed.

IV. PAYMENT FOR WORK

Upon completion of the work, and within 45 days after receipt of OWNER's bill, signed by a responsible official of OWNER's organization, and prepared on OWNER's letterhead, COUNTY will pay OWNER the lump-sum amount of \$582,363.41. The above lump-sum amount has been agreed upon between the COUNTY and the OWNER and includes any credits due the COUNTY for betterment, depreciation and salvage.

COUNTY and OWNER further agree that for lump-sum payments in excess of \$25,000, that COUNTY shall have the option of performing an informal audit of OWNER's detailed records from which the billing is compiled. The purpose of COUNTY's audit shall be to establish the continued acceptability of using lump-sum payments for high cost relocations and shall not in any way affect the amount or acceptability of the lump-sum amount herein agreed to. OWNER shall keep supporting detailed records available for COUNTY review for a period of one year following OWNER's submittal of final bill.

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Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit detailed itemized progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills not to exceed the amount of this Agreement may be made under the terms of this Agreement. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by COUNTY of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the COUNTY within 360 days after the completion of the work described in Section I above. If the COUNTY has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I of this Agreement, and COUNTY has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements for OWNER's facilities (if required), COUNTY will provide written notification to OWNER of its intent to close its file within 30 days. OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the COUNTY processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of a detailed itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the COUNTY shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by COUNTY. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this Agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER'S final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of COUNTY.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. In performing work under this Agreement, OWNER agrees to comply with the Uniform System of Accounts for Public Utilities found at 18 CFR, Parts 101, 201, et al., to the extent they are applicable to OWNER doing work on the project that is the subject of this agreement, the contract cost principles and procedures as set forth in 48 CFR, Chapter 1, Subpart E, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and 2 CFR, Part 200, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse AGENCY upon receipt of AGENCY billing. If OWNER is subject to repayment due to failure by State/Local Public Agency (LPA) to comply with applicable laws, regulations, and ordinances, then State/LPA will ensure that OWNER is compensated for actual cost in performing work under this agreement.

V. GENERAL CONDITIONS

All costs accrued by OWNER as a result of COUNTY's request of 3/31/2022 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

If COUNTY's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, COUNTY will notify OWNER in writing, and COUNTY reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of COUNTY under the terms of this Agreement are subject to the acceptance of the Agreement by COUNTY's Board of Supervisors, the passage of the annual Budget Act by the State Legislature, and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the COUNTY within 30 days of the completion of the work described herein.

COUNTY will acquire new rights of way in the name of either the COUNTY or OWNER through negotiation or condemnation and when acquired in COUNTY's name, shall convey same to OWNER by Easement Deed. COUNTY's liability for such rights of way will be at the proration shown for relocation work involved under this Agreement.

COUNTY represents and warrants that this Utility Agreement is not subject to 23 CFR 635.410, the Buy America provisions.

COUNTY further acknowledges that OWNER, in complying with the Buy America Rule, is expressly relying upon the instructions and guidance (collectively, "Guidance") issued by Caltrans and its representatives concerning the Buy America Rule requirements for utility relocations within the State of California. Notwithstanding any provision herein to the contrary, OWNER shall not be deemed in breach of this Agreement for any violations of the Buy America Rule if OWNER's actions are in compliance with the Guidance.

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IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

COUNTY:

OWNER:

By _____
Name Rafael Martinez Date _____
Title Director of Transportation

By _____
Name _____ Date _____
Title _____

APPROVAL RECOMMENDED:

By _____
Name Daniel Vandekoolwyk Date _____
Title Deputy County Counsel

By _____
Name _____ Date _____
Title _____