

UTILITY AGREEMENT

RW 13-5 (REV 6/2010)

DISTRICT 03	COUNTY ED	ROUTE 50	POST MILE 1.06/R2.90	EA 03-1E290
FEDERAL AID NUMBER N/A		OWNER'S FILE NUMBER N/A		
FEDERAL PARTICIPATION				
ON THE PROJECT		ON THE UTILITIES		
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
OWNER PAYEE DATA NO.		OR, FORM STD 204 IS ATTACHED:		
		<input type="checkbox"/> YES		

UTILITY AGREEMENT NO.**03-UT-2550.3L****DATE**

November 13, 2012

Whereas, pursuant to the Cooperative Agreement No. 03-0459, dated June 6, 2012, between the County of El Dorado and the State of California; El Dorado County Department of Transportation, hereinafter called "COUNTY," acting by and through the State of California Department of Transportation, hereinafter called "STATE," proposes to construct a new interchange with U.S. 50 and Silva Valley Parkway in El Dorado Hills and Pacific Bell Telephone Company, a California corporation, dba AT&T California, hereinafter called "OWNER," owns and maintains communication 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. 2550.3L dated November 13, 2012, OWNER shall relocate their facilities as indicated on relocation plans. All work shall be performed substantially in accordance with OWNER's Plan No. 8776765 dated October 2012 consisting of 7 sheets, a copy of which is on file in the District office of the Department of Transportation 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.

II. LIABILITY FOR WORK

The existing facilities described in Section I above will be relocated at 50% COUNTY expense (\$51,347.56) and 50% OWNER expense (\$51,347.56) for facilities within the current right-of-way in accordance with Sections 5c of the Master Contract dated November 15, 2004.

The existing facilities described in Section I above will be relocated at 100% County expense (\$14,904.17) for facilities within the existing AT&T easement in accordance with Section 5a of the Master Contract dated November 15, 2004.

III. PERFORMANCE OF WORK

OWNER agrees to perform the herein described work with its own forces or to cause the herein-described work to be performed by the OWNER's contractor, employed by written contract on a continuing basis to perform work of this type, and to provide and furnish all necessary labor, materials, tools, and equipment required therefore, and to prosecute said work diligently to completion.

Use of out-of-state personnel (or personnel requiring lodging and meal "per diem" expenses) will not be allowed without prior written authorization by State's representative. Requests for such authorization must be contained in OWNER's estimate of actual and necessary relocation costs. Accounting Form FA-1301 is to be completed and submitted for all non-State personnel travel per diem. OWNER shall include an explanation why local employee or contract labor is not considered adequate for the relocation work proposed. Per Diem expenses shall not exceed the per diem expense amounts allowed under the State's Department of Personnel Administration travel expense guidelines.

Pursuant to Public Works Case No. 2001-059 determination by the California Department of Industrial Relations dated October 25, 2002, 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. OWNER shall verify compliance with this requirement in the administration of its contracts referenced above.

IV. PAYMENT FOR WORK

It is estimated that the cost of the work provided for by this Agreement and, as hereinafter set forth, is the sum of \$66,251.63. COUNTY agrees to advance to OWNER the sum of \$66,251.63 to apply to the cost of the work to be undertaken as provided hereinabove.

If COUNTY cancels project before OWNER's actual relocation construction begins, OWNER will reimburse remaining amount minus engineering/overhead/or any amount expended towards the project prior to formal notice of cancellation.

V. GENERAL CONDITIONS

All costs accrued by OWNER as a result of COUNTY's request of March 19, 2010 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 the project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of all or a portion of Facility Relocation work by the OWNER, the COUNTY shall provide written notice OWNER, whereby the COUNTY reserves the right to terminate this Agreement by Amendment. Any Amendment shall be based upon mutually acceptable terms and conditions for terminating the Agreement between the Parties.

Notwithstanding any termination or Amendment of this Agreement, the Parties agree that they will continue their respective performances required hereunder, including payment of undisputed billings, and such continued efforts and payments of billings (whether or not disputed) shall not be construed as a waiver of any legal right or remedies of any Party under this Agreement executed pursuant hereto, or otherwise available pursuant to applicable law.

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

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on COUNTY highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

The laws of the State of California shall govern this Agreement. Any litigation arising herein shall be brought in the

UTILITY AGREEMENT (Cont.)

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County of El Dorado.

For work performed within COUNTY right of way, COUNTY will issue an encroachment permit at no cost to OWNER.

THE ESTIMATED COST TO COUNTY FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$66,251.63.

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

COUNTY: EL DORADO

OWNER: AT&T

By _____
Name _____ Date _____
Title _____

By _____
Name _____ Date _____
Title _____

APPROVAL RECOMMENDED:

By Kimberly A Kerr
Name Kimberly A. Kerr Date 11/7/12
Title Interim Director
Dept. of Transportation

By _____
Name _____ Date _____
Title _____