

UTILITY AGREEMENT NO.

	<u>Dist</u> 03	<u>Co</u> ED	<u>Rte</u> 50	<u>P.M.</u> 0.4/1.2	<u>EA</u> 2E5101
COUNTY OF EL DORADO	Federal Aid No.: <u>NONE</u>				
	Owner's File:				
	FEDERAL PARTICIPATION: On the Project <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	On the Utilities <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

UTILITY AGREEMENT NO. _____ DATE: _____

The County of El Dorado, hereinafter called "COUNTY", acting on behalf of the State of California through the Department of Transportation, hereinafter called "STATE", proposes to reconstruct the El Dorado Hills Interchange westbound on and off ramps,

and

AT&T hereinafter called "OWNER," owns and maintains fiber optic communication lines, manholes and vaults 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. _____ dated _____, OWNER shall remove and/or abandon, and relocate Owner's facilities to underground conduit within Saratoga Way, El Dorado Hills Boulevard and a joint trench easement as shown on the owner's relocation plans. All work shall be performed substantially in accordance with OWNER's Plan No. _____ dated _____, consisting of two (2) sheets, a copy of which is on file in the COUNTY office of the Department of Transportation at 2850 Fairlane Court Bldg C, 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. OWNER shall have the right to inspect the work during construction. 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 and 50% OWNER expense in accordance with Section 5 of the Master Contract dated November 15, 2004.

Total Job Cost: \$137,026

COUNTY Liability: \$68,513

OWNER Liability: \$68,513

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.

Upon the issuance of a Notice to Owner, OWNER shall diligently undertake, or cause to be undertaken, the relocation of its utility facilities in accordance with COUNTY's Notice to Owner.

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:

The COUNTY shall pay its share of the actual and necessary cost of the herein described work within 45 days after final liability determination and after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense incurred and charged or allocated to said work in accordance with the uniform system of accounts prescribed for OWNER by the California Public Utilities Commission, Federal Energy Regulatory Commission or Federal Communications Commission, whichever is applicable.

It is understood and agreed that the COUNTY will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the COUNTY for the "used life" or accumulated depreciation of the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit 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 as required for OWNER's facilities, 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.

The final billing shall be in the form of an 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 the 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 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 OWNERS final bill. Any 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 COUNTY, State, and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and 18 CFR, Chapter 1, Parts 101, 201 et. al. If a subsequent COUNTY, State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse COUNTY upon receipt of COUNTY billing.

V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of COUNTY'S request (date) _____ 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.

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

It is understood that said highway is a Federal aid highway and accordingly 23 CFR 645 is hereby incorporated into this Agreement by reference; provided, however, that the provisions of any agreements entered into between the COUNTY and the OWNER pursuant to State law for apportioning the obligations and costs to be borne by each, or the use of accounting procedures prescribed by the applicable Federal or State regulatory body and approved by the Federal Highway Administration, shall govern in lieu of the requirements of said 23 CFR 645.

The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

This agreement contains all of the terms of agreement between COUNTY and OWNER. All modifications or amendments to this Agreement must be in writing and signed by both parties.

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

The County Officer or employee with responsibility for administering this Agreement is Matthew D. Smeltzer, Deputy Director Engineering, Engineering Division, Department of Transportation, or successor.

THE ESTIMATED COST TO COUNTY FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$137,026.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective dated of this Agreement.

- -COUNTY OF EL DORADO- -

By: _____
Kimberly A. Kerr, Interim Director
Department of Transportation

Dated: _____

- -PACIFIC GAS AND ELECTRIC COMPANY- -

By: _____
General Manager
"AT&T"

Dated: _____