

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS

ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # *C-1

Urgent

Routine

AGENDA DATE July 24, 2012

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of Utility Agreements with Modesto Irrigation District (M.I.D.), Pacific Telephone and Telegraph Company (PT&T), Charter Communications, and Pacific Gas & Electric and Future Utility Agreement with the City of Modesto for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project

STAFF RECOMMENDATIONS:

1. Approve utility agreements with Modesto Irrigation District (M.I.D.), Pacific Telephone and Telegraph Company (PT&T) (also known as AT&T), Charter Communications, and Pacific Gas & Electric (PG&E) and for the subject project.
2. Authorize the Director of Public Works to execute the utility agreements.
3. Authorize the Director of Public Works to execute a future utility agreement with the City of Modesto.

FISCAL IMPACT:

The total estimated cost for the relocation of these four utilities (PG&E, MID, PT&T, and Charter) on the SR 99/SR 219 (Kiernan Avenue) Interchange project is \$547,000. Each individual utility company estimated the costs for relocations. Per the terms spelled out in the Utility Agreements, the utility relocation costs to the County will be based on the actual costs to perform the relocations. The cost for all utility relocations will be funded by Regional Transportation Impact Fee (RTIF) funds. Funding is available in the 2012-2013 Fiscal Year Road Projects budget.

BOARD ACTION AS FOLLOWS:

No. 2012-387

On motion of Supervisor Chiesa, Seconded by Supervisor De Martini

and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. C-6-J-5

Approval of Utility Agreements with Modesto Irrigation District (M.I.D.), Pacific Telephone and Telegraph Company (PT&T), Charter Communications, and Pacific Gas & Electric and Future Utility Agreement with the City of Modesto for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project

DISCUSSION:

Stanislaus County, in cooperation with Caltrans District 10, proposes to reconstruct the SR 99/SR 219 (Kiernan Avenue) Interchange in the community of Salida. This project will help facilitate future growth, help alleviate traffic congestion, and will improve the operation of this interchange. Increasing the efficiency of the interchange will also encourage the free flow of goods and services for the region and the State. Two build alternatives and the no-build alternative were proposed and studied for this interchange. Alternative #1 was the preferred alternative and has been estimated to cost approximately \$39 million (in today's dollars) for construction, right-of-way acquisitions, and utility relocations. The Stanislaus County Public Facilities Fees and environmental mitigation fees funded the environmental, design, and right-of-way phases. The SR 99 Bond Savings funds will provide up to \$37 million toward the construction phase of the project. The remaining \$2 million in right-of-way and utility relocations will be funded by the Stanislaus County Public Facility Fees.

The proposed interchange improvements include reconstruction of the existing interchange to provide improved operations for turning movements to and from State Route (SR) 99, as well as associated local road improvements at adjacent intersections.

Stanislaus County Public Works completed the planning and environmental phases of the project in May 2011, which were funded with contributions from developers in conjunction with the Salida Community Plan and the voluntary regional transportation contribution received from Kaiser Permanente. The design phase of the project, including right of way certification, was completed on May 14, 2012 and the project is now ready for advertisement, bidding, and contract award.

Before construction begins on the project, the utility relocation process must be completed. Each utility company has already designed the relocation of their respective facilities. Now, the County must enter into individual agreements with each utility company, spelling out the terms of the utility relocation, prior to any relocation work. The utility agreements will outline the scope, schedule, and cost of the relocations. The agreements outline the County's share of the cost for the relocations. Due to the fact that this project takes place on a State highway, the utility relocations on the project fall under the terms of any existing state franchise agreements. Therefore, the State's Master Highway Agreement takes precedence for this project. In this case, several utility companies fall under that agreement, which obligates the County to share the relocation costs with the utility owners. The cost sharing percentages are spelled out in each agreement. The County's estimated share of these respective utility relocations is as follows:

PG&E Gas	\$ 15,000
PT&T (AT&T)	\$189,000
M.I.D. Power	\$324,000
Charter Communications	\$ 19,000

Approval of Utility Agreements with Modesto Irrigation District (M.I.D.), Pacific Telephone and Telegraph Company (PT&T), Charter Communications, and Pacific Gas & Electric and Future Utility Agreement with the City of Modesto for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project

Public Works staff recommends the approval and execution of the aforementioned utility agreements in order to allow the respective utility companies to begin scheduling and relocating their facilities in a timely fashion. The Board should note that the MID agreement is in a slightly different format from the other two utility agreements. This was the preferred format of the MID legal counsel.

There is also a utility relocation necessary for the City of Modesto (water line). This agreement is in the process of being reviewed and approved by the City of Modesto and Caltrans prior to County execution. A draft agreement is attached for Board consideration. Once approved, Public Works staff would like to immediately execute this agreement as well. Besides the reimbursement commitment, the terms of the City agreement is identical to the other utility agreements. The City of Modesto agreement commits the City to reimbursing the County in the amount of \$148,600 for relocating and upsizing their existing water line within the existing bridge structure.

POLICY ISSUES:

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community and A Well Planned Infrastructure System by providing a reconstructed interchange of Kiernan Avenue that will be functionally operational and safe for the traveling public.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

Matt Machado, Public Works Director - Telephone: (209) 525-4130
Chris Brady, Public Works



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

Engineering & Operations Division
1716 Morgan Road, Modesto, CA 95358
Phone: 209-525-4130; Fax: 209-541-2505

DISTRICT 10	COUNTY STA	ROUTE 99/219	POST MILE 22.0 / 23.0	PROJECT ID	EA 10-0L3301
FEDERAL AID NUMBER			OWNER'S FILE NUMBER 512915		
FEDERAL PARTICIPATION					
<input checked="" type="checkbox"/> No		On the Project <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		On the Utilities <input type="checkbox"/> Yes	

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

UTILITY AGREEMENT NO. 10-3858.22 DATE: May 14, 2012

The County of Stanislaus hereinafter called LOCAL AGENCY proposes to replace the Route 99/Route 219 (Kiernan Ave.) interchange in the community of Salida in Stanislaus County. The project will replace the existing bridge on Route 219 over Route 99, widening the ramps, Route 219, Sisk Rd. and Salida Blvd. The Modesto Irrigation District (MID) hereinafter called OWNER owns and maintains overhead and underground facilities within the limits of the LOCAL AGENCY'S project that require relocation of said facilities to accommodate the LOCAL AGENCY'S project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner No. 10-3858.23 dated May 1, 2012, OWNER shall relocate electric facilities and appurtenances. All work shall be performed substantially in accordance with OWNER's Plan No. 512915 dated March 7, 2012, consisting of 2 sheets, a copy of which is on file in the Office of the LOCAL AGENCY at 1716 Morgan Rd. Modesto. Deviations from the OWNER's plan described above initiated by either the LOCAL AGENCY 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 LOCAL AGENCY 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. Deviations of work shall be brought to the attention of the LOCAL AGENCY as soon as practical. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. A deviation is defined as a needed field change that could increase or decrease the cost of OWNER's facility relocation plan and requires a revised notice to owner. A change in project scope is

defined as a change in the project plan by the LOCAL AGENCY. A notice to OWNER must be generated.

II. FINANCIAL RESPONSIBILITY

The existing facilities described in Section I above will be relocated at 25% OWNER's cost and at 75% LOCAL AGENCY'S cost. The engineer's estimate of cost is \$430,800. The LOCAL AGENCY, at the completion of the work and upon the receipt of a detailed invoice, shall only pay the actual relocation cost.

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.

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 LOCAL AGENCY shall pay its share of the actual and necessary cost of the herein described work within 45 days after receipt of five (5) copies of OWNER's FINAL 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 LOCAL AGENCY 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 LOCAL AGENCY for the "used life" or accrued 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 shall be made within 60 days of submission of bill by OWNER. Payment of progress bills which exceed the amount of this Agreement shall be made after receipt and approval by LOCAL AGENCY 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 LOCAL AGENCY within 360 days after the completion of the work described in Section I above. If the LOCAL AGENCY has not received a FINAL BILL within 360 days after completion of the OWNER's work described in Section I of this Agreement, and LOCAL AGENCY has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements, if required for OWNER's facilities, LOCAL AGENCY will provide written notification to OWNER of its intent to close its file within 30 days for OWNER to submit final invoice and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned.

The FINAL BILL 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.

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. OWNER will notify LOCAL AGENCY, as soon as practical, of any and all increases in costs that are the direct result of field conditions causing deviations from the work described in Section I of this Agreement.

Detailed records from which the FINAL BILL is compiled shall be retained by the OWNER for a period of three (3) years from the date of the final payment and will be available for audit by LOCAL AGENCY, State and/or Federal auditors. OWNER agrees to comply with LOCAL AGENCY, State and Federal audit regulations that are in effect at the time the FINAL BILL is submitted. If a subsequent LOCAL AGENCY, State and/or Federal audit determines payments to be unallowable, OWNER agrees to comply with, LOCAL AGENCY, State and Federal Audit Regulations that are in effect at the time the FINAL BILL is submitted, and reimburse LOCAL AGENCY upon receipt of LOCAL AGENCY billing.

V. GENERAL CONDITIONS

All costs accrued by OWNER as a result of LOCAL AGENCY'S request of November 30, 2011 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 LOCAL AGENCY'S project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, LOCAL AGENCY will notify OWNER in writing and LOCAL AGENCY reserves the right to terminate this Agreement by written correspondence. OWNER shall be paid for all incurred costs to complete any work in progress

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1; Part 645 is hereby incorporated into this Agreement.

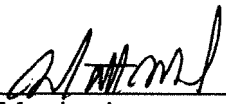
VI. INDEMNITY


Neither party nor any of its officers or employees, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the other party under or in connection with any work delegated to that party under this agreement. The parties further agree, pursuant to Government Code Section 895.4, that each party shall fully indemnify and hold harmless the other party and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this agreement.

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

COUNTY OF STANISLAUS

MODESTO IRRIGATION DISTRICT

By: 
Matt Machado
Public Works Director

By: 

Date: 7/25/12

Date: 9.10.12

RESOLUTION NO. 2012-57
APPROVING EXECUTION OF UTILITY AGREEMENT NO. 10-3858-22
BETWEEN MODESTO IRRIGATION DISTRICT AND STANISLAUS COUNTY
FOR THE ROUTE 99/219 INTERCHANGE REPLACEMENT PROJECT

WHEREAS, Stanislaus County proposes to replace the Route 99/219 Interchange in the community of Salida; and

WHEREAS, the Modesto Irrigation District must relocate certain MID facilities located within the boundaries of the project; and

WHEREAS, Stanislaus County will reimburse the District for 75 percent (%) of the actual cost to relocate said facilities.

BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby authorize and direct the General Manager to execute Utility Agreement No. 10-3858-22 between Modesto Irrigation District and Stanislaus County for the relocation of District facilities and reimbursement of costs associated with the Route 99/219 Interchange Replacement Project.

Moved by Director Blom, seconded by Director Warda, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Blom, Byrd, Van Groningen, Warda and Wild

Noes: Directors None

Absent: Directors None

The President declared the resolution adopted.

o0o

I, Pat Mills, Secretary of the Board of Directors of the Modesto Irrigation District, do hereby CERTIFY that the foregoing is a full, true and correct copy of a resolution duly adopted at a special meeting of said Board of Directors held the 4th day of September 2012.


Secretary of the Board of Directors
of the Modesto Irrigation District



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

Engineering & Operations Division
1716 Morgan Road, Modesto, CA 95358
Phone: 209-525-4130; Fax: 209-541-2505

UTILITY AGREEMENT – Charter Communications

County	Location	P.M.	Project #
Stanislaus	SR 99 & Kiernan Rd	22.0/23.0	10-0L3301
Federal Aid No.:			
Owners File:			
FEDERAL PARTICIPATION: On the Project: No			
On the Utilities: No			

UTILITY AGREEMENT No. 10-3858.61

DATE: 5/14/12

The County of Stanislaus hereinafter called LOCAL AGENCY proposes to replace the Route 99/Route 219 (Kiernan Ave.) interchange in the community of Salida in Stanislaus County. The project will replace the existing bridge on Route 219 over Route 99, widening the ramps, Route 219, Sisk Rd. and Salida Blvd. Charter Communications Company hereinafter called OWNER owns and maintains overhead and underground facilities within the limits of the LOCAL AGENCY's project that require relocation of said facilities to accommodate the LOCAL AGENCY's project.

It is hereby mutually agreed that:

Section 1. WORK TO BE DONE

- 1.1 In accordance with Notice to Owner Number 10-3858.62 dated May 14, 2012 OWNER shall relocate its overhead fiber optic facilities as identified on the attached Utility Drawings. All work shall be performed substantially in accordance with OWNER's plan job number TURFR42012 Dated 4/23/1012 consisting of 1 sheet, a copy of which is on file in the Office of the LOCAL AGENCY at 1716 Morgan Rd. Modesto. Deviations from the OWNER's plan described above initiated by either the LOCAL AGENCY or OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notice to Owner, approved by the LOCAL AGENCY and acknowledged by the OWNER, will constitute an approved revision of OWNER's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to receipt by 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. All off bridge relocation work is to be completed on or before December 31, 2012.

Section 2. LIABILITY FOR WORK

- 2.1 This is a second or subsequent relocation of existing facilities within a period of ten years: SR 219 Phase I, EA 0A8702, therefore relocation is at LOCAL AGENCY's expense under provisions of Section 704 of the California Streets and Highway Code. The engineer's estimate of cost is \$18,999.40. The LOCAL AGENCY, at the completion of the work and upon receipt of a detailed invoice, shall only pay the actual relocation cost.
- 2.2 Pursuant to Public Works Case Number 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 subject to prevailing wage requirements. OWNER shall verify compliance with this requirement in the administration of its contract referenced above.

Section 3. PERFORMANCE OF WORK

- 3.1 OWNER agrees to perform the herein-described work with its own forces or to cause the herein described work to be performed by 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.

Section 4. PAYMENT FOR WORK

- 4.1 The LOCAL AGENCY shall pay its share of the actual cost of the herein described work within 90 days after receipt of OWNER's itemized bill in quintuplicate, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual 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 (PUC) or Federal Communications Commission (FCC), Whichever is applicable.
- 4.2 It is understood and agreed that the LOCAL AGENCY will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and the OWNER shall give credit to the LOCAL AGENCY for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER.
- 4.3 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 the LOCAL AGENCY of documentation supporting

the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

- 4.4 OWNER shall submit a final bill to the LOCAL AGENCY within 180 days after the completion of the work described in Section I above. If the LOCAL AGENCY has not received a final bill within 180 days after notification of completion of OWNER's work described in Section I of this Agreement, and the LOCAL AGENCY has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER'S facilities; the LOCAL AGENCY will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law that all remaining costs will be deemed to have been abandoned.
- 4.5 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 LOCAL AGENCY 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. 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.
- 4.6 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 the LOCAL AGENCY.

Section 5. GENERAL CONDITIONS

- 5.1 All costs accrued by OWNER as a result of the LOCAL AGENCY request of November 30, 2011 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.
- 5.2 If the LOCAL AGENCY's project which precipitated this Agreement is cancelled or modified so as to eliminate the necessity of work by OWNER, the LOCAL AGENCY will notify OWNER in writing, and the LOCAL AGENCY reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.
- 5.3 OWNER shall submit a Notice of Completion to the LOCAL AGENCY within 30 days of the completion of work described herein.
- 5.4 The LOCAL AGENCY may acquire new rights of way in the name of either the LOCAL AGENCY or OWNER through negotiation or condemnation and when acquired in the LOCAL AGENCY name, shall convey same to OWNER by Easement Deed. The LOCAL

AGENCY's liability for such rights of way will be at the proration shown for relocation work involved under this Agreement.

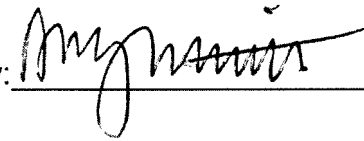
5.5 Upon completion of the work to be done by the LOCAL AGENCY in accordance with the above-mentioned plans and specifications, the new facilities shall become the property of OWNER, and OWNER shall have the same rights in the new location that it had in the old location.

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

COUNTY OF STANISLAUS


CHARTER COMMUNICATIONS

By: 
Matt Machado
Public Works Director

By: 

Date: 7/25/12

Date: 8-15-12

APPROVED AS TO FORM:
STANISLAUS COUNTY COUNSEL
BY: 
DATE: 7/10/12



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

Engineering & Operations Division
1716 Morgan Road, Modesto, CA 95358
Phone: 209-525-4130; Fax: 209-541-2505

UTILITY AGREEMENT COUNTY OF STANISLAUS

County	Location	P.M.	Project #
Stanislaus	SR 99 & Kiernan Rd	22.0/23.0	10-0L3301
Federal Aid No.:			
Owners File: PM 30911413			
FEDERAL PARTICIPATION: On the Project: No			
On the Utilities: No			

UTILITY AGREEMENT No. 10-3858.53

DATE: 8-22-12

The County of Stanislaus hereinafter called Local Agency proposes to replace the Route 99/Route 219 (Kiernan Ave.) interchange in the community of Salida in Stanislaus County. The project will replace the existing bridge on Route 219 over Route 99, widening the ramps, Route 219, Sisk Rd. and Salida Blvd. Pacific Gas and Electric hereinafter called Owner owns and maintains distribution gas facilities within the limits of the Local Agency's project that requires relocation of said facility to accommodate the Local Agency's project.

It is hereby mutually agreed that:

Section 1. WORK TO BE DONE

1.1 In accordance with Notice to Owner Number 10-3858.53 dated May 1, 2012 Owner shall cut off, purge and abandon its pipeline on the existing bridge. All work shall be performed substantially in accordance with Owner's plan job number PM 30911413 dated May 15, 2012 consisting of 1 sheet, a copy of which is on file in the Office of the Local Agency at 1716 Morgan Rd. Modesto. Deviations from the Owner's plan described above initiated by either the Local Agency or Owner, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notice to Owner, approved by the Local Agency and acknowledged by the Owner, will constitute an approved revision of Owner's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to receipt 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. All work is to be completed on or before December 31, 2012

Section 2. LIABILITY FOR WORK

- 2.1 The existing facility described in Section I above will be relocated at 50% Local Agency's expense and 50% owner's expense in accordance with Section 5 and 6 of the Master Agreement dated November 1, 2004 between CalTrans and PG&E. This entire project is classified as a Freeway Project and subject to the terms and conditions of that Freeway Master Contract. The engineer's estimate of cost is: \$14,990.00 The Local Agency, at the completion of the work and upon the receipt of a detailed invoice, shall only pay the actual relocation cost.

Section 3. PERFORMANCE OF WORK

- 3.1 Owner agrees to perform the herein-described work with its own forces or to cause the herein described work to be performed by 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.
- 3.2 Pursuant to Public Works Case Number 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 subject to prevailing wage requirements. Owner shall verify compliance with this requirement in the administration of its contract referenced above.

Section 4. PAYMENT FOR WORK

- 4.1 The Local Agency shall pay its share of the actual cost of the herein described work within 90 days after receipt of Owners itemized bill in quintuplicate, signed by a responsible official of Owner's organization and prepared on Owner's letterhead, compiled on the basis of the actual 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 (PUC) or Federal Communications Commission (FCC), Whichever is applicable.
- 4.2 It is understood and agreed that the Local Agency will not pay for any betterment or increase in capacity of Owner's facilities in the new location and the Owner shall give credit to the Local Agency for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by Owner.
- 4.3 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 the Local Agency of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

- 4.4 The Owner shall submit a final bill to the Local Agency within 180 days after the completion of the work described in Section I above. If the Local Agency has not received a final bill within 180 days after notification of completion of Owner's work described in Section I of this Agreement, and the Local Agency has delivered to Owner fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for Owner's facilities; the Local Agency will provide written notification to Owner of its intent to close its file within 30 days and Owner hereby acknowledges, to the extent allowed by law that all remaining costs will be deemed to have been abandoned.
- 4.5 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 Local Agency 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. 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.
- 4.6 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 the Local Agency.

Section 5. GENERAL CONDITIONS

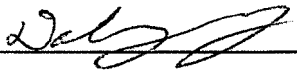
- 5.1 All costs accrued by Owner as a result of the Local Agency request of November 30, 2011 to review, study and /or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.
- 5.2 If the Local Agency's project which precipitated this Agreement is cancelled or modified so as to eliminate the necessity of work by Owner, the Local Agency will notify Owner in writing, and the Local Agency reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.
- 5.3 Owner shall submit a Notice of Completion to the Local Agency within 30 days of the completion of work described herein.
- 5.4 The Local Agency may acquire new rights of way in the name of either the Local Agency or Owner through negotiation or condemnation and when acquired in the Local Agency name, shall convey same to Owner by Easement Deed. The Local Agency's liability for such rights of way will be at the proration shown for relocation work involved under this Agreement.
- 5.5 Upon completion of the work to be done by the Local Agency in accordance with the above-mentioned plans and specifications, the new facilities shall become the property of Owner, and Owner shall have the same rights in the new location that it had in the old location.

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

COUNTY OF STANISLAUS

PACIFIC GAS AND ELECTRIC

By: 
Matt Machado
Public Works Director

By: 

Date: 7/25/12

Date: 8-22-12

Dale Overbay
Supervisor (PG&E)
Land & Env. Management



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

Engineering & Operations Division
1716 Morgan Road, Modesto, CA 95358
Phone: 209-525-4130; Fax: 209-541-2505

CITY OF MODESTO - UTILITY AGREEMENT

County	Location	P.M.	Project #
Stanislaus	SR 99 & Kiernan Rd	22.0/23.0	10-0L3301
Federal Aid No.:			
Owners File:			
FEDERAL PARTICIPATION: On the Project: No			
On the Utilities: No			

UTILITY AGREEMENT No. 10-3858.42

DATE: October 23, 2012

The County of Stanislaus, hereinafter called LOCAL AGENCY, proposes to replace the Route 99/Route 219 (Kiernan Avenue) Interchange in the community of Salida in Stanislaus County. The project will replace the existing bridge on Route 219 over Route 99, widening the ramps, Route 219, Sisk Road and Salida Boulevard. The City of Modesto, hereinafter called OWNER, owns and maintains facilities within the limits of the LOCAL AGENCY's project that require relocation of said facilities to accommodate the LOCAL AGENCY's project.

It is hereby mutually agreed that:

Section 1. WORK TO BE DONE

1.1 In accordance with a Notice to Owner Number 10-3858.43 dated May 25, 2012, LOCAL AGENCY shall relocate OWNER'S 8" water main as a 16" water main, as shown on LOCAL AGENCY's contract plans for the replacement of the Kiernan Avenue bridge, which by this reference are made a part hereof. OWNER hereby acknowledges review of LOCAL AGENCY's plans for the work and agrees to the construction in the manner proposed. Deviations from the plan described above, initiated by either the LOCAL AGENCY or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notice to Owner, approved by the LOCAL AGENCY and approved by the OWNER, will constitute an approved revision of project plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to receipt by 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. OWNER shall have the right to inspect the work during construction. LOCAL AGENCY shall secure from the contractor a Faithful Performance

Bond, Payment Bond, and a 1 year guarantee. Upon completion of the work by LOCAL AGENCY, OWNER agrees to accept ownership and maintenance of the constructed facility. OWNER agrees to tie-in the new facility to their existing system and relinquish to LOCAL AGENCY ownership of the replaced facility.

Section 2. LIABILITY FOR WORK

- 2.1 The existing facilities are lawfully maintained in their present location and qualify for relocation at LOCAL AGENCY expense under the provisions of Section 703 of the Streets and Highways Code and Water Code Section 7035. The LOCAL AGENCY's engineers and City of Modesto estimate to replace the 8" pipeline with a 16" pipeline on the bridge is \$261,635.
- 2.2 Pursuant to Public Works Case No. 2001-059 determination by the California Department of Industrial Relations dated October 25, 2002, work performed by LOCAL AGENCY's contractor is public work under the definition of the Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. LOCAL AGENCY shall verify compliance with this requirement in the administration of its contracts.

Section 3. PERFORMANCE OF WORK

- 3.1 OWNER shall have access to all phases of the relocation work to be performed by LOCAL AGENCY for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Contract; however, all questions regarding the work being performed will be directed to LOCAL AGENCY's residence engineer for their evaluation and final disposition.
- 3.2 OWNER agrees to tie-in the new facility to their existing system, in accordance with approved plans and specifications, 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.
- 3.3 OWNER shall provide written notification to the LOCAL AGENCY, within 30 days of completion of their work.

Section 4. PAYMENT FOR WORK

- 4.1 The LOCAL AGENCY and OWNER shall perform the work under Section I above at no expense to OWNER except as hereinafter provided.
- 4.2 It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of \$148,600, said amount to be delivered to the 1716 Morgan Road Office of the LOCAL AGENCY upon completion of subject work and receipt of invoice from the LOCAL AGENCY. The betterment payment shall be calculated based upon the actual quantities installed as determined by the LOCAL AGENCY's inspector minus the LOCAL AGENCY's engineer's cost estimate, \$113,035, to replace the pipe in kind.
- 4.3 The LOCAL AGENCY shall submit a final bill to the OWNER 180 days after completion of the work described in Section I above. The LOCAL AGENCY shall credit the OWNER at the time of the final bill for all the accrued depreciation and the salvage value of any material or parts salvage retained by the LOCAL AGENCY. If the OWNER has not received a final bill within 180 days after notification of completion of OWNER's work described in Section I of this agreement, OWNER shall provide written notification to

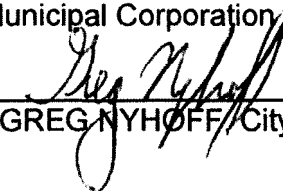
LOCAL AGENCY of its intent to close its file within 30 days, to the extent allowed by law all remaining cost will be deemed to have been abandoned.

Section 5. GENERAL CONDITIONS


- 5.1 All costs accrued by OWNER as a result of the LOCAL AGENCY request of November 30, 2011 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. These costs shall be submitted to the LOCAL AGENCY for review prior to payment of final bill. Upon approval by LOCAL AGENCY, costs shall be applied as a credit to the final bill paid by the OWNER.
- 5.2 If the LOCAL AGENCY's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, the LOCAL AGENCY will notify OWNER in writing, and the LOCAL AGENCY reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.
- 5.3 OWNER shall submit a Notice of Completion to the LOCAL AGENCY within 30 days of the completion of work described herein.
- 5.4 Upon completion of the work to be done by the LOCAL AGENCY in accordance with the above-mentioned plans and specifications, the new facilities shall become the property of OWNER, and OWNER shall have the same rights in the new location that it had in the old location.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2012- 427, adopted by the Council of the City of Modesto on the 23 day of October, 2012, and the County of Stanislaus, a Political Subdivision of the State of California, has authorized the execution of this Agreement in duplicate under authority of Board Action No. 2012-387, adopted by the Board of Supervisors of Stanislaus County on the 24th day of July, 2012.

CITY OF MODESTO,
a Municipal Corporation

By 
GREG NYHOFF, City Manager

COUNTY OF STANISLAUS

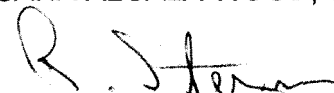
By 
MATT MACHADO,
County Director of Public Works

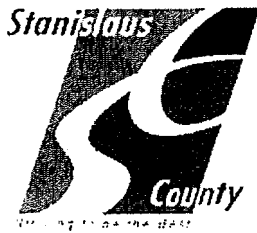
ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By 
ROLAND R. STEVENS,
Assistant City Attorney



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

Engineering & Operations Division
1716 Morgan Road, Modesto, CA 95358
Phone: 209-525-4130; Fax: 209-541-2505

UTILITY AGREEMENT – Pacific Telephone & Telegraph Company

County	Location	P.M.	Project #
Stanislaus	SR 99 & Kiernan Rd	22.0/23.0	10-0L3301
Federal Aid No.:			
Owners File: 8356172			
FEDERAL PARTICIPATION: On the Project: No			
On the Utilities: No			

UTILITY AGREEMENT No. 10-3858.32

DATE: 4/10/12

The County of Stanislaus hereinafter called Local Agency proposes to replace the Route 99/Route 219 (Kiernan Ave.) interchange in the community of Salida in Stanislaus County. The project will replace the existing bridge on Route 219 over Route 99, widening the ramps, Route 219, Sisk Rd. and Salida Blvd. The Pacific Telephone and Telegraph Company (PT&T) hereinafter called Owner owns and maintains overhead and underground facilities within the limits of the Local Agency's project that require relocation of said facilities to accommodate the Local Agency's project.

It is hereby mutually agreed that:

Section 1. WORK TO BE DONE

1.1 In accordance with a Notice to Owner Number 10-3858.33 dated May 1, 2012 Owner shall relocate its facilities as identified on the attached Relocation List and Utility Drawings. All work shall be performed substantially in accordance with Owner's plan job number 8356172 Dated November 30, 2011 consisting of 1 sheet, a copy of which is on file in the Office of the Local Agency at 1716 Morgan Rd. Modesto. Deviations from the Owner's plan described above initiated by either the Local Agency or Owner, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notice to Owner, approved by the Local Agency and acknowledged by the Owner, will constitute an approved revision of Owner's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to receipt by 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. All off bridge relocation work is to be completed on or before December 31, 2012. On bridge relocation work is subject to completion of conduit bank in the first bridge stage.

Section 2. LIABILITY FOR WORK

2.1 The existing facility described in Section 1 above will be relocated at 50% Local Agency's expense and 50% owner's expense in accordance with Section 5 and 6 of the Master Contract dated November 15, 2004 between CalTrans and PT&T. This entire project is classified as a Freeway Project and subject to the terms and conditions of that Freeway Master Contract. The

engineer's estimate of cost is: \$188,089.23. The Local Agency, at the completion of the work and upon the receipt of a detailed invoice, shall only pay the actual relocation cost.

- 2.2 Pursuant to Public Works Case Number 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 subject to prevailing wage requirements. Owner shall verify compliance with this requirement in the administration of its contract referenced above.

Section 3. PERFORMANCE OF WORK

- 3.1 Owner agrees to perform the herein-described work with its own forces or to cause the herein described work to be performed by 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.

Section 4. PAYMENT FOR WORK

- 4.1 The Local Agency shall pay its share of the actual cost of the herein described work within 90 days after receipt of Owners itemized bill in quintuplicate, signed by a responsible official of Owner's organization and prepared on Owner's letterhead, compiled on the basis of the actual 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 (PUC) or Federal Communications Commission (FCC), Whichever is applicable.
- 4.2 It is understood and agreed that the Local Agency will not pay for any betterment or increase in capacity of Owner's facilities in the new location and the Owner shall give credit to the Local Agency for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by Owner.
- 4.3 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 the Local Agency of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.
- 4.4 Owner shall submit a final bill to the Local Agency within 180 days after the completion of the work described in Section I above. If the Local Agency has not received a final bill within 180 days after notification of completion of Owner's work described in Section I of this Agreement, and the Local Agency has delivered to Owner fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for Owner's facilities; the Local Agency will provide written notification to Owner of its intent to close its file within 30 days and Owner hereby acknowledges, to the extent allowed by law that all remaining costs will be deemed to have been abandoned.
- 4.5 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 Local Agency 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. 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.

4.6 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 the Local Agency.

Section 5. GENERAL CONDITIONS

- 5.1 All costs accrued by Owner as a result of the Local Agency request of November 30, 2011 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.
- 5.2 If the Local Agency's project which precipitated this Agreement is cancelled or modified so as to eliminate the necessity of work by Owner, the Local Agency will notify Owner in writing, and the Local Agency reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.
- 5.3 Owner shall submit a Notice of Completion to the Local Agency within 30 days of the completion of work described herein.
- 5.4 The Local Agency may acquire new rights of way in the name of either the Local Agency or Owner through negotiation or condemnation and when acquired in the Local Agency name, shall convey same to Owner by Easement Deed. The Local Agency's liability for such rights of way will be at the proration shown for relocation work involved under this Agreement.
- 5.5 Upon completion of the work to be done by the Local Agency in accordance with the above-mentioned plans and specifications, the new facilities shall become the property of Owner, and Owner shall have the same rights in the new location that it had in the old location.

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

COUNTY OF STANISLAUS

PACIFIC TELEPHONE & TELEGRAPH

By: *[Signature]*
County Director of Public Works

By: *[Signature]*

Date: 7/25/12

Date: 4-12-12

APPROVED AS TO FORM:
STANISLAUS COUNTY COUNSEL

BY *[Signature]*
DATE: 7/10/12