

Monterey County  
Department of Public  
Works, Facilities and  
Parks

**UTILITY AGREEMENT**

County	Street	Post Miles	Project #
Monterey	Davis Road	N/A	3600
<b>Fed. Aid. No.:</b> BRLS-5944(068)			
<b>Owner's File:</b> 74039184		<b>Customer No.:</b>	
<b>FEDERAL PARTICIPATION:</b> On the Project <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
On the Utilities <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			

**UTILITY AGREEMENT NO. DRB-36004**

The MONTEREY COUNTY DEPARTMENT OF PUBLIC WORKS, FACILITIES, AND PARKS hereinafter called "LOCAL AGENCY" proposes to widen the existing 2 lane facility to accommodate an 8-foot striped median, four 12-foot lanes, two 8-foot shoulders and a class 2 bicycle lanes. Additionally, a 1,700 foot bridge is proposed to replace the existing structure over the Salinas River on Davis Road, in the City of Salinas, in Monterey County, California.

And PACIFIC GAS AND ELECTRIC COMPANY hereinafter called "OWNER," owns and maintains certain gas transmission facilities within Davis Road near the City of Salinas, in unincorporated County of Monterey, within the limits of the project that requires relocation of said facilities to accommodate the project.

It is hereby mutually agreed that:

**I. WORK TO BE DONE**

In accordance with Notice to Owner No. DRB-36004, dated 08/10/2022, OWNER shall relocate gas transmission facilities located within the project area. All work shall be performed substantially in accordance with OWNER's Plan No. PM74039184 dated 2/16/2022 consisting of 15 sheets, a copy of which is on file at LOCAL AGENCY's Office, at 1441 Schilling Place, South 2<sup>nd</sup> floor, Salinas, CA 93901. Deviations from the OWNER's plan described above initiated by either LOCAL AGENCY or OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by LOCAL AGENCY and agreed to/acknowledged by 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 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 7.25 % LOCAL AGENCY expense and 92.75% OWNER expense in accordance with the following proration:

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<b>Total Length of pipeline in R/W</b>	<b>Local Agency Expense</b>	<b>Owner Expense</b>
1668 linear feet	121 linear feet	1547 linear feet

Overall Proration:

LOCAL AGENCY (121/1668) or 7.25%

OWNER (1547 /1668) or 92.75%

### **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 personnel requiring lodging and meal 'per diem' expenses will not be allowed without prior written authorization by LOCAL AGENCY's representative. Requests for such authorization must be contained in OWNER's estimate of actual and necessary relocation costs. 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 California Department of Human Resources travel expense guidelines.

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; but, 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.

### **IV. PAYMENT FOR WORK**

The LOCAL AGENCY shall pay its share of the actual and necessary 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 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 (PUC), Federal Energy Regulatory Commission (FERC) or Federal Communications Commission (FCC), whichever is applicable.

It is understood and agreed that 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 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 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 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 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 LOCAL AGENCY has delivered to OWNER fully executed Director's Deeds, Consent to Common Use or Joint Use Agreements as required for OWNER's facilities; LOCAL AGENCY 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 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 and approval of documentation by LOCAL AGENCY. 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 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 LOCAL AGENCY.

Detailed records from which the billing is compiled shall be retained by OWNER for a period of three years from the date of the final payment and will be available for audit in accordance with Contract Cost Principals and Procedures as set forth in 48 CFR, Chapter 1, Subpart E, Part 31 by LOCAL AGENCY 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 Local Public Agency (LPA) to comply with applicable laws, regulations, and ordinances then 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 LOCAL AGENCY's request of **January 8, 2021** 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.

LOCAL AGENCY will acquire new rights of way in the name of either the LOCAL AGENCY or OWNER through negotiation or condemnation and when acquired in LOCAL AGENCY's

name, shall convey same to OWNER by Easement Deed. LOCAL AGENCY's liability for such rights of way will be at the proration shown for relocation work involved under this Agreement. OWNER shall reimburse the LOCAL AGENCY all costs for the easement.

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 LOCAL AGENCY highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

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 Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of LPA under the terms of this Agreement are subject to the acceptance of the Agreement by LPA Board of Directors or Delegated Authority (as applicable).

OWNER shall submit a Notice of Completion to LOCAL AGENCY 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, Chapter 1, Part 645 is hereby incorporated into this Agreement.

In addition, the provisions of 23 CFR 635.410, Buy America, are also incorporated into this Agreement. The BA requirements are further specified in Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), section 1518; 23 CFR 635.410 requires that all manufacturing processes have occurred in the United States for steel and iron products (including the application of coatings) installed on a project receiving funding from the FHWA.

OWNER understands and acknowledges that this project is subject to the requirements of the Buy America law (23 U.S.C., section 313) and applicable regulations, including 23 CFR 635.410 and FHWA guidance. OWNER hereby certifies that in the performance of this agreement, for products where BA requirements apply, it shall use only such products for which it has received a certification from its supplier, or provider of construction services that procures the product certifying BA compliance. This does not include products for which waivers have been granted under 23 CFR 635.410 or other applicable provisions or excluded material cited in the Department's guidelines for the implementation of BA requirements for utility relocations issued on December 3, 2013.

It is understood that said right of way is a Federal aid highway and, accordingly, 23 CFR 645 and 23 U.S.C.313, as applicable, is hereby incorporated into this Agreement by reference. However, OWNER represents and warrants that the non-domestic iron and steel materials used on this relocation do not exceed one-tenth of one percent (<0.1%) of this Utility Agreement amount, or \$2,500, whichever is greater.

LOCAL AGENCY further acknowledges that OWNER, in complying with the Buy America Rule, is expressly relying upon the instructions and guidance (collectively, "Guidance") issued by LOCAL AGENCY 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.

THE ESTIMATED COST TO LOCAL AGENCY FOR THE ABOVE-DESCRIBED WORK IS **\$674,302.00**

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

LOCAL AGENCY:  
MONTEREY COUNTY

OWNER:  
PACIFIC GAS AND ELECTRIC COMPANY

By \_\_\_\_\_  
RANDELL ISHII, MS, PE, TE, PTOE  
Director of Public Works,  
Facilities, and Parks

E-SIGNED by Julius Cox  
on 2023-08-21 19:42:37 GMT  
By \_\_\_\_\_  
Julius Cox  
Executive Vice President  
People, Shared Services,  
& Supply Chain

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM

Office of the County-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager

By  \_\_\_\_\_  
A1033B26E717442...  
Mary Grace Perry  
Deputy County Counsel

Date: 8/22/2023 | 12:35 PM PDT  
\_\_\_\_\_

By \_\_\_\_\_  
Signature of Secretary, Assistant Secretary,  
CFO, Treasurer, or Assistant Treasurer

APPROVED AS TO FISCAL  
PROVISIONS

\_\_\_\_\_  
Auditor-Controller

Date: \_\_\_\_\_

By \_\_\_\_\_

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF OWNER is a corporation, including a nonprofit corporation, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers per California Code Section 313. If OWNER is a limited liability corporation, the full legal name of the LLC shall be set forth above together with the signatures of two managers. If OWNER is a partnership, the name of the partnership shall be set forth above together with the signatures of a partner who has authority to execute this Agreement on behalf of the partnership. If OWNER is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign Agreement

**CONTRACT ADMINISTRATORS**

**FOR LOCAL AGENCY:**

ENRIQUE SAAVEDRA, P.E.  
Chief of Public Works  
Public Works, Facilities, and Park  
1441 Schilling Place, South, 2<sup>nd</sup> Floor  
Salinas, CA 93901

**FOR OWNER:**

TED QUACH  
Land Agent  
300 Lakeside Dr. – c/o Land Dept.  
Oakland, CA 94612

**Distribution:** 1) Owner, 2) Utility Coordinator, 3) DLAE –File, 4) District Utility Coordinator – File