

M1210

Monterey County Public Works Department
UTILITY AGREEMENT

County	Route	P.M.	Project #
Monterey			382065
Fed. Aid. No.	BRLO-5944 (010)		
Cal-Am's File			
FEDERAL PARTICIPATION: On the Project : Yes			
On the Utilities: Yes/No			No

UTILITY AGREEMENT NO. 3820.02

THIS AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter called "County", and California American Water Company, hereinafter called "Cal-Am", a California corporation. Cal-Am owns and maintains water distribution facilities within the County.

RECITALS

The County proposes the Construction of the Schulte Road Bridge (Co. No. 501; St. No. 44C-0115) at Carmel River on Schulte Road, south of Carmel Valley Road, and approximately 6 miles east of State Highway 1 and 2 miles west of the Mid Valley Shopping Center in Carmel Valley, Monterey County, California; and

The County sent to Cal-Am a letter regarding "Utility Staging Plans" dated February 5, 2007 indicating the proposed construction staging for the bridge and utility relocation. The letter indicates that Cal-Am shall relocate their facilities (water lines) within the bridge and approaches per the Franchise Agreement; the County gave Cal-Am the option to either perform the work itself or the work could be done by the County's bridge contractor; and

In a letter of response to County, Cal-Am indicated its agreement with the County to include the water main replacement scope in the County's bridge contractor's scope of work. The County has included the water main replacement on the County's approved plans and specifications including all addenda. The County shall relocate/replace Cal-Am's water lines as indicated above at Cal-Am's expense.

On December 6, 2011, the County Board of Supervisors approved the final plans and specifications for the "Schulte Road Bridge at Carmel River, County Bridge No. 501 and State Bridge No. 44C-115" with a bid opening date of January 5, 2012. Addendum No.1 changed the bid opening date to January 26, 2012; and

Cal-Am hereby acknowledges that Cal-Am reviewed the County's plans and specifications indicated above including the water relocation shown; and Cal-Am has responded to the request

for information (for bidding purposes) and said response was incorporated in Addendum No. 2 dated January 20, 2012 for the project referenced above; and

The County has opened the bids for the above bridge project on January 26, 2012. The apparent lowest bidder is R. M. Harris Company; and the County is planning to award the project on March 13, 2012.

It is hereby mutually agreed that:

I. WORK TO BE DONE:

In accordance with approved plans, County shall relocate Cal-Am's water lines as shown on approved plans for the improvement of Schulte Road Bridge at Carmel River Co. No. 501, St. No. 44C-00115, Project No. 382065 including all the addendums of the project, which by this reference are made a part hereof, at Cal-Am expense per the Franchise Agreement.

Any deviations or changes from the plans described above initiated by either the County or Cal-Am, shall be agreed to and approved by both parties hereto under a Contract Change Order.

Such Contract Change Order approved by both Cal-Am and the County will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation or changes shall commence prior to approval by both Cal-Am and the County.

Cal-Am shall have the right to inspect the work during construction. The County shall provide 48 hours notice to Cal-Am and Cal-Am shall inspect the water facilities and provide approval before being covered in a timely manner. Upon completion of the work by County, Cal-Am agrees to accept ownership and maintenance of the constructed facilities. Cal-Am relinquishes to County ownership of the all material or parts salvaged but not retained by Cal-Am for disposal by the County's Contractor.

II. LIABILITY FOR WORK

The existing facilities are located within the County's right of way and are covered by Franchise Agreement between County and Cal-Am and will be relocated at Cal-Am's expense under the provisions of Section (673) and (680) of the Streets and Highways Code.

III. PERFORMANCE OF WORK

County agrees to perform the herein described work by the County's contractor and with contractor's own forces 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 County's contractor is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing

wage requirements. County shall verify compliance with this requirement in the administration of its contracts referenced above.

IV. PAYMENT FOR WORK

Cal-Am shall pay its share of the bid cost plus 10% contingencies of said work included in the County's construction contract within 90 days after receipt of County's bill; compiled on the basis of the actual bid price of said contract for the bid item of work Item No. 23 "Relocate Water Utility Lines", Item No. 24 "Relocate Water Meter", Item No. 25 "Adjust Water Meter", and Item No. 26 "Relocate Water Valve". The actual bid amount for Item No. 23 is \$105,000; for Item No. 24 is 26,600; for Item No. 25 is \$6,000; and for Item 26 is \$17,500; and the total bid cost to Cal-Am for the work on Cal-Am's behalf performed by the County's contractor is \$155,100. Cal-Am shall pay \$155,100 plus 10% contingencies for the total of \$170,610. Cal-Am shall pay this amount upon receipt of County's invoice, signed by a representative of County's organization and prepared on County's letterhead.

In the event actual final relocation costs as established herein are less than the sum of money advanced by Cal-Am to County, County hereby agrees and shall refund to Cal-Am the difference between said actual cost and the sum of money so advanced. In the event that the actual cost of relocation exceeds the amount of money advanced to County, in accordance with the provisions of this Agreement, Cal-Am hereby agrees to reimburse and shall pay the County said deficient costs upon receipt of an itemized bill as set forth herein.

It is understood and agreed that the County will not pay for any betterment or increase in capacity of Cal-Am's facilities in the new location.

County has obtained all necessary permits required for construction of Schulte Road Bridge (Co. No. 501; St. No. 44C-0115) at Carmel River on Schulte Road including the temporary or permanent rearrangement of Cal-Am's facilities from governmental agencies having jurisdiction over the same and has filed the required environmental documents in compliance with the applicable provisions of the Environmental Quality Act of 1970 (California Public Resources Code, Sections 21000 et seq.).

V. GENERAL CONDITIONS

County shall provide a copy of the Notice of Completion to Cal-Am within 30 days of the completion of the work described herein.

The County's contractor shall commence and thereafter diligently prosecute the rearrangement of Cal-Am's facilities as nearly as possible in accordance with the Schulte Road Bridge Plans.

County has acquired new rights-of-way easement in the name of the County through negotiation. The County shall dedicate the new right-of-way easement for PUBLIC USE and this right-of-way easement area will be part of the existing areas covered by the Franchise Agreement.

It is understood that Schulte Road is not in the federal-aid highway program. Schulte Road including the bridge is a County local road.

Inasmuch as Water Code Sections (7034) and (7035) require County to be responsible for the structural maintenance of the conduit (casing) portion of Cal-Am's facilities, which transports water (water pipe) through Schulte Road Bridge (Co. No. 501), County will repair or replace the conduit (casing) portion of Cal-Am's facilities, which lies within the County highway right of way when such becomes necessary unless such repair or replacement is made necessary by negligent or wrongful acts of the Cal-Am, its agents, contractors or employees; provided that Cal-Am shall keep the conduit (casing) clean and free from obstruction, debris, and other substances so as to ensure the free passage of water (water pipe) in said conduit (casing). The maintenance of water line will be the responsibility of Cal-Am and the maintenance of the casing will be the responsibility of County. In no event shall County be liable for any betterment, change, or alteration in said facility made by or at the request of Cal-Am for its benefit.

The provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

VI. INDEMNIFICATION

Cal-Am shall defend, indemnify and hold harmless County, its officers, employees and agents from and against any and all claims or actions arising out of or related to Cal-Am's performance of the work described above, except to the extent such claims or actions are the result of the sole negligence of County, its officers, employees or agents.

County has incorporated language into the construction contract requiring the contractor to defend, indemnify and hold harmless the County and Cal-Am, its officers, employees, and agents from and against any and all claims or actions arising out of or related to the Contractor's performance of the work shown on the plans and the Special Provisions, except to the extent such claims or actions are the result of the sole negligence of the County or Cal-Am, its officers, employees, or agents.

VII. WARRANTY

County shall assign all warranties related to the work performed on Cal-Am facilities to Cal-Am.

VIII. CONDITION OF TITLE

When County delivers the work to Cal-Am for Cal-Am's acceptance, County shall represent that title to the work is free of all liens, claims and other defects in title. Cal-Am shall accept and maintain the relocated water line system.

IX. INTERRUPTIONS IN SERVICE

County shall ensure that no aspect of the work under this Agreement shall interrupt or otherwise interfere with Cal-Am's operations. County shall construct any necessary temporary facilities to

ensure water service to Cal-Am's customer's remains within the standards prescribed by California Public Utilities Commission General Order 103A.

IN WITNESS WHEREOF, County and Cal-Am have executed this Agreement as of the day and year first above written.

COUNTY OF MONTEREY
By [Signature]
Acting Director of Public Works, Paul H. Greenway,
P.E.
Date: 4/18/12
Approved as to Form, County Counsel
By Cynthia L. Hasson
Cynthia L. Hasson, Deputy County Counsel
Name and Title
Date: 2-13-12
Approved as to Fiscal Provisions, Auditor-Controller
By [Signature]
Date: 2-8-12
Risk Management
COUNTEY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE
By Steven F. Mauck
Steven F. Mauck, Risk Manager
Name and Title
By: _____
Date: 3/12/12

CALIFORNIA AMERICAN WATER COMPANY
By [Signature]
Richard C. Svindland - V.P. Engineering
Name and Title
Date: 3/6/12
By [Signature]
David P. Stephenson
Signature of Secretary, Assistant Secretary, CFO, or
Assistant Treasurer
Date: MARCH 6, 2012

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and nonprofit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Distribution: 1) Cal-Am, 2) County, 3) DLAE -File, 4) District Utility Coordinator - File