

UTILITY AGREEMENT

RW 13-05 (REV 12/2016)

DISTRICT 01	COUNTY MEN	ROUTE 1	POST MILE 61.99/62.26	PROJECT ID 0100000672
FEDERAL AID NUMBER N/A		OWNER'S FILE NUMBER 421008.030		

FEDERAL PARTICIPATION/FEDERALLY ELIGIBLE/NEPA DOCUMENT

On the Project Yes No On the Utilities Yes No

Owner Payee Data No. VC0000020188 or Form STD 204 is attached.

UTILITY AGREEMENT NO. 01-UT-2355-1 **DATE** 06/03/2021

The State of California, acting by and through the Department of Transportation, hereinafter called "STATE," proposes to widen Pudding Creek Bridge and upgrade bridge rails

and

NAME City of Fort Bragg

ADDRESS 416 Franklin St, Fort Bragg, CA 95437

hereinafter called "OWNER," owns and maintains
12" HDPE Sewer Force Main

within the limits of STATE's project which requires
relocation

to accommodate STATE's project.
It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner No. 1-2355 dated 06/02/2021, OWNER shall provide all materials and hardware necessary to facilitate the relocation of OWNER's 12" HDPE Sewer Force Main. All work shall be performed substantially in accordance with OWNER's Plan No. 421008.030 dated May 2021, and approved by STATE on 06/01/2021, consisting of two sheets, a copy of which is on file in the District office of the Department of Transportation at 1835 Sixth St, Eureka, CA 95501. Deviations from the OWNER's plan described above initiated by either the STATE 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 STATE 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.

It is mutually agreed that the STATE will include the work of physically relocating OWNER'S 12" HDPE Sewer Force Main as part of the STATE's highway construction contract. OWNER shall have access to all phases of the work to be performed by the STATE for the purpose of inspection to ensure that the work being performed for the OWNER is in accordance with the specifications contained in the highway contract. Upon completion of the work performed by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities, except in the case of liability determined pursuant to Water Code 7034 or 7035.

II. LIABILITY FOR WORK

The existing facilities are located within the STATE's right of way under permit and will be relocated at OWNER's expense under the provisions of Section (673) (680) of the Streets and Highways Code.

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact the Forms Management Unit at (916) 445-1233, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

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01-UT-2355-1**III. PERFORMANCE OF WORK**

OWNER shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

OWNER agrees to perform the herein described work, excepting that work being performed by the STATE's highway contractor, 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.

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.

IV. PAYMENT FOR WORK

The OWNER shall pay its share of the actual cost of said work included in the STATE's highway construction contract within 45 days after receipt of STATE's bill, compiled on the basis of the actual bid price of said contract. The estimated cost to OWNER for the work being performed by the STATE's highway contractor is \$225,000.00. In the event actual final relocation costs as established herein are less than the sum of money advanced by OWNER to STATE, STATE hereby agrees to refund to OWNER 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 STATE, in accordance with the provisions of this Agreement, OWNER hereby agrees to reimburse STATE said deficient costs upon receipt of an itemized bill as set forth herein.

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 STATE 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 STATE within 360 days after the completion of the work described in Section I above. If the STATE 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 STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements, if required for OWNER's facilities, STATE 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. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

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 STATE 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 STATE. 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 either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

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 STATE.

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 State and or Federal auditors. In performing work under this Agreement, OWNER agrees to comply with the Uniform System 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, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and 2CFR, 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 State/Local Public Agency (LPA) to comply with applicable laws, regulations, and ordinances, then State/LPA will ensure that OWNER is compensated for actual cost in performing work under this agreement.

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V. GENERAL CONDITIONS

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 Buy America requirements are further specified in Moving Ahead for Progress in the 21st 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.

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

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

STATE:

OWNER:

By _____
Name BRYAN REYNOLDS Date _____
Title Senior Right of Way Agent

By _____
Name _____ Date _____
Title _____

APPROVAL RECOMMENDED:

By _____
Name DAVID DOMINICK Date _____
Title Associate Right of Way Agent

By _____
Name _____ Date _____
Title _____

THIS AGREEMENT SHALL NOT BE EXECUTED BY THE STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION UNTIL FUNDS ARE CERTIFIED.

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CT DOCUMENT	EVENT TYPE	DEPT	UNIT	PROJECT ID	PHASE	REPORTING	OBJ CODE (N)	BFY	AMOUNT
	C401	2660				9			
	C401	2660				9			
	C401	2660				9			

PROJECT ID FUNDING VERIFIED:	
Sign:	
Print:	
R/W Planning and Management	Date

REVIEW / REQUEST FUNDING:	
Sign:	
Print: DAVID DOMINICK	
Utility Coordinator	Date

THE ESTIMATED COST TO THE STATE FOR ITS SHARE OF THE ABOVE-DESCRIBED WORK IS _____

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
R/W Planning and Management				Date
ITEM	CHAP	STAT	FY	AMOUNT

FUND TYPE	PROJECT ID	AMOUNT
Design Funds		\$
Construction Funds	0100000672	\$ 225,000
R/W Funds		\$

Distribution: 2 originals to R/W Accounting
1 original to Utility Owner
1 original to Utility File