

The City of Los Angeles Harbor Department
UTILITY AGREEMENT

Harbor Department
 Agreement **13-3185**
 City of Los Angeles

County	Route	P.M.	Project #
Los Angeles	I-110	2.5/3.0	700000494
Fed. Aid. No.: STPL-5006761			
Owner's File: VHB60			
FEDERAL PARTICIPATION:			
On the Project : Yes			
On the Utilities: No			

UTILITY AGREEMENT NO. _____

The City of Los Angeles Harbor Department, acting by and through the Board of Harbor Commissioners ("LOCAL AGENCY"), proposes the Interchange Improvements Project, in the City of Los Angeles on Interstate 110 from 0.30 miles south of C Street to 0.20 miles north of C Street, in Los Angeles County

and: City of Los Angeles Department of Water and Power – Water Systems
 111 N. Hope Street, Room 1425
 Los Angeles, CA 90012

hereinafter called "OWNER," owns and maintains water facilities "FACILITIES"; within the limits of LOCAL AGENCY's project that requires relocation of said facilities in order to accommodate LOCAL AGENCY's project as described in Exhibit A.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner No. 12-3875 dated December 24, 2012, OWNER shall relocate OWNER'S potable water facilities in accordance with OWNER'S Utility Plan Permit No. 19637 dated June 13, 2013, as shown in Exhibit B. 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 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 Utility Agreement ("Agreement") in addition to the revised Notice to Owner.

II. LIABILITY FOR WORK

The existing facilities are located in their present position pursuant to prescriptive rights prior and superior to those of the LOCAL AGENCY and will be relocated at LOCAL AGENCY's expense.

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. The term of this Agreement shall begin upon the date it is executed by the Executive Director of the LOCAL AGENCY following Board of Harbor Commissioners approval and terminate upon completion of work as set forth in OWNER'S Utility Plan.

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.

Engineering services for locating, making of surveys, preparation of plans, specifications, estimates, supervision, and construction are to be furnished by the OWNER and approved by the LOCAL AGENCY. Cost principles for determining the reasonableness and allowability of OWNER's costs shall be determined in accordance with 48 CFR, Chapter 1, Part 31.

IV. PAYMENT FOR WORK

Payment for work will be made in accordance with Interdepartmental Order (IDO) 015914 and 016014 both dated September 24, 2013 in the amount of one million five hundred eighteen thousand and three hundred and eleven dollars and seventy cents (\$1,518,311.70) total. The LOCAL AGENCY shall pay its share of the actual and necessary cost of the herein described work within ninety (90) days 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, if 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 on 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 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 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, 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.

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.

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 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 the 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, Part 31 by LOCAL AGENCY and/or Federal Auditors.

V. GENERAL CONDITIONS

All construction costs accrued by OWNER as a result of LOCAL AGENCY's request of September 16, 2013 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 Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

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

It is understood that this project applies to a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 and 23 U.S.C., Section 313 (Buy America provisions) are applicable. However, pursuant to the US Department of Transportation, Federal Highway Administration Memorandum dated July 11, 2013 from Gloria M. Shepherd, Acting Associate Administrator for Infrastructure, a copy of which is attached, the Buy America provisions do not apply to this non-Federally funded project-specific Utility Agreement when executed prior to December 31, 2013.

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

THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

Dated: 10-29-2013

By 
Executive Director

Attest: 
Secretary

DATED: _____

CITY OF LOS ANGELES,
DEPARTMENT OF WATER AND POWER


JOE A. CASTRUITA
Director of Water Distribution


APPROVED AS TO FORM AND LEGALITY

10-10, 2013
MICHAEL N. FEUER, City Attorney
Janna B. Sidley, General Counsel

By 
Helen J. Sok, Deputy City Attorney

Account #	<u>57060</u>	W.O. #	<u>24852</u>
Ctr/Div #	<u>1172</u>	Job Fac. #	<u>203-26</u>
Proj/Prog #	<u>000</u>		
Budget FY:		Amount:	
	<u>13/14</u>		<u>1,085,841</u>
	<u>14/15</u>		<u>432,471</u>
	TOTAL		<u>1,518,312</u>

For Acct/Budget Div. Use Only

Verified by: 

Verified Funds Available: for Annie G

Date Approved: 10/10/13

