

COUNTY OF LAKE – DEPARTMENT OF PUBLIC WORKS
UTILITY AGREEMENT

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**County of Lake
Department of Public Works
255 North Forbes Street
Lakeport, CA 95453**

COUNTY	STREET	LLCW Project #
Lake	Clayton Creek Road	PW17-5583
Federal Aid No. BRLO-5914(077)		
Date: 1/20/21	"On-System" Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

**To: Billy Inman
General Manager
Lower Lake County Waterworks Dist No. 1
9800 State Hwy 53, Suite B,
Lower Lake, CA 95457**

The County of Lake Department of Public Works hereinafter called "LOCAL AGENCY" proposes to replace the existing bridge over Clayton Creek on Clayton Creek Road in Lower Lake, Lake County, California.

And Lower Lake County Waterworks District No.1 hereinafter called "OWNER" owns and maintains a 10" water main within the limits of LOCAL AGENCY's project that requires relocation of said facilities to accommodate LOCAL AGENCY's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE:

LOCAL AGENCY shall relocate OWNER's 10" water main as shown on LOCAL AGENCY's contract plans for the improvement of Clayton Creek Road, which by this reference are made a part hereof. OWNER hereby acknowledges review of LOCAL AGENCY's plans for 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 Notices to Owner, approved by the LOCAL AGENCY and agreed to/acknowledged by the OWNER, will constitute an approved revision of the 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. OWNER shall have the right to inspect the work during construction. Upon completion of the work by LOCAL AGENCY, OWNER agrees to accept ownership and maintenance of the constructed water facilities, and relinquishes to LOCAL AGENCY ownership of the replaced facilities except in the case of liability determined pursuant to Water Code 7034 or 7035."

II. LIABILITY FOR WORK

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

III. PERFORMANCE OF WORK

"OWNER shall have access to all phases of the relocation work to be performed by LOCAL AGENCY, 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 LOCAL AGENCY's Resident Engineer for their evaluation and final disposition."

IV. PAYMENT FOR WORK

"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 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; 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 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 Principles 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, 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 OWNER 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."

"All obligations of LOCAL AGENCY under the terms of this Agreement are subject to the acceptance of the Agreement by LOCAL AGENCY Board of Supervisors or the Delegated Authority (as applicable), the passage of the annual Budget Act by the State Legislature, and the allocation of those funds by the California Transportation Commission."

V-2. For All Owners - Notice of Completion:

"LOCAL AGENCY's liability for the new rights of way will be at the proration shown for the relocation work involved under 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."

"Upon completion of the work to be done by 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."

"If, in connection with OWNER's performance of the Work hereunder, LOCAL AGENCY provides to OWNER any materials that are subject to the Buy America Rule, LOCAL AGENCY acknowledges and agrees that LOCAL AGENCY shall be solely responsible for satisfying any and all requirements relative to the Buy America Rule concerning the materials thus provided (including, but not limited to, ensuring and certifying that said materials comply with the requirements of the Buy America Rule)."

"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."

VI. ACCEPTANCE OF PLANS AND SPECIFICATIONS:

The completed plans as described above for the water main relocation have been prepared in conformance with OWNER Improvement Standards and the requirements of the District's General Manager and are in a form acceptable to same.

CONSTRUCTION: LOCAL AGENCY shall, without expense to OWNER, construct the water main pursuant to the accepted plans or any approved modification thereof. LOCAL AGENCY shall provide in any contract for construction of the water main relocation that any contractor's materials supplier's guarantees thereunder, including a one (1) year warranty on the completed improvements, shall inure to the benefit of OWNER after the works constructed thereunder have been conveyed to OWNER as provided for in 6050.39, below. LOCAL AGENCY shall also provide in any contract for construction of the water main that the contractor's public liability and property damage insurance shall be extended to cover LOCAL AGENCY and OWNER and their agents, officers and employees as additional insured with liability and bodily injury limits of not less than \$1,000,000 and property damage coverage of not less than \$300,000.

INSPECTION OF CONSTRUCTION: The District's General Manager or his/her Lead Operator shall inspect the construction of the water main to assure that the works are installed in accordance with the accepted plans. Said inspection shall be funded by an inspection fee paid by LOCAL AGENCY as specified in OWNER's Improvement Standards. Construction of the water main shall not commence until said inspection fee is paid. The District's General Manager shall notify LOCAL AGENCY as to any deviation or failure to construct pursuant to the accepted plans as soon as such deviation or failure is brought to his/her attention, and LOCAL AGENCY shall correct such deviation or failure.

LOCAL AGENCY shall provide OWNER with one set of 24"x 36" reproducible "as built" drawings of the completed project on matte mylar (5 mil minimum)

CONVEYANCE: After OWNER's acceptance of the water main LOCAL AGENCY shall have no obligation for the operation, maintenance, repair or replacement of said water main.

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

County Of Lake

Lower Lake County Water Works Dist. 1

Chair of the Board

Frank Hoas
COTB

Date: _____

Date: FEB 18TH 2021

ATTEST: CAROL J. HUCHINGSON
CLERK TO THE BOARD

By: _____

APPROVED AS TO FORM:
ANITA L. GRANT
COUNTY COUNSEL

Anita L. Grant

Distribution: 1) Owner, 2) Utility Coordinator – File, 3) RE – File
4) DLAE – File, 5) District Utility Coordinator - File