



## Town Council Agenda Report

---

Date: March 10, 2020 Item No. 10

To: Honorable Mayor and Town Council

Subject: UTILITY AGREEMENT WITH SOUTHERN CALIFORNIA EDISON FOR THE SR18 / APPLE VALLEY ROAD INTERSECTION IMPROVEMENTS PROJECT.

From: Douglas Robertson, Town Manager

Submitted by: Brad Miller, Town Engineer  
Engineering Department

Budgeted Item:  Yes  No  N/A

---

### RECOMMENDED ACTION

Approve the Utility Agreement with Southern California Edison for the SR18 / Apple Valley Road intersection improvements project.

### BACKGROUND

As a result of the upcoming State Route 18/Apple Valley Road Intersection Realignment Project, the State Department of Transportation (Caltrans) required that the Town execute a Utility Agreement with Southern California Edison (SCE). This agreement, between SCE and the Town, establishes construction scope, liability, performance and payment responsibilities for relocation of existing electrical facilities both overhead and underground within the project's footprint.

The Town agrees to pay for its share of the actual cost of the relocation work.

SCE agrees to cause the relocation work to be performed by a contract with the lowest qualified bidder, selected pursuant to a valid competitive bidding procedure, and to furnish or cause to be furnished all necessary labor, materials, tools and equipment required, diligently to completion.

### ANALYSIS

Engineering Department staff has reviewed the Utility Agreement with Southern California Edison for the SR18 / Apple Valley Road intersection improvements project and verified that the information contained therein is correct.

For the reason mentioned above, staff recommends that Council approves the Utility Agreement with Southern California Edison for the SR18 / Apple Valley Road intersection improvements project and that the Mayor signs it.

**FISCAL IMPACT**

Funding for this project has been appropriated in the adopted Budget for FY 19-20.

**ATTACHMENTS**

- A. Utility Agreement with SCE;

Attachment A

Utility Agreement with SCE

DISTRICT 8	COUNTY San Bernardino	ROUTE 18	POST MILE 94.2/94.6	PROJECT ID 0818000194
FEDERAL AID NUMBER N/A		OWNER'S FILE NUMBER 2074		
FEDERAL PARTICIPATION/FEDERALLY ELIGIBLE/NEPA DOCUMENT				
On the Project <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
On the Utilities <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Owner Payee Data No. TD16616118 or Form STD 204 is attached.

UTILITY AGREEMENT NO. 1783.4 DATE 03/04/2020

The Town of Apple Valley, acting by and through the Transportation Department, hereinafter called "Local Public Agency (LPA)", in cooperation with Caltrans, herein called "STATE", proposes to construct the Highway 18 and Apple Valley Road Intersection Realignment Project,

and

Southern California Edison, 12353 Hesperia Road, Victorville, CA 92395 hereinafter called "OWNER," owns and maintains electrical facilities within the limits of the TOWN's project which requires relocation to accommodate LPA's project.

To accommodate LPA's project, it is hereby mutually agreed that:

**I. WORK TO BE DONE**

In accordance with Notice to Owner No. 1783.4 dated 03/06/20, OWNER shall relocate existing electrical facilities. All work shall be performed substantially in accordance with OWNER's Plan No. 1745315 dated 02/26/20 consisting of 2 sheets, a copy of which is on file in the LPA's office of Engineering Services at 14975 Dale Evans Parkway, Apple Valley, CA 92307. Deviations from the OWNER's plan described above initiated by either the LPA 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 LPA 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.

**II. LIABILITY FOR WORK**

LPA chooses to have the utility company relocate their facilities underground at the cost of the Local Agency funds only. This relocation work is not federally eligible for reimbursement and does not meet the criteria to be mitigated any other way.

**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 LPA'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. 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 the 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 45 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.

**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.

**UTILITY AGREEMENT**

RW 13-05 (REV 12/2016)

UTILITY AGREEMENT NO.

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 all 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 LPA 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 LPA within 360 days after the completion of the work described in Section I above. If the LPA 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 LPA has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities; LPA 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 LPA 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 LPA. 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 LPA.

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 LPA 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 LPA upon receipt of LPA billing. If OWNER is subject to repayment due to failure by 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 LPA's request of 07/25/19 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 LPA's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, LPA will notify OWNER in writing and LPA 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 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.

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

LPA represents and warrants that this Utility Agreement is not subject to 23 CFR 635.410, the Buy America provisions.

THE ESTIMATED COST TO LPA FOR THE ABOVE DESCRIBED WORK IS \$ 335,000.00.

UTILITY AGREEMENT NO. \_\_\_\_\_

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

LPA: TOWN OF APPLE VALLEY

OWNER: SOUTHERN CALIFORNIA EDISON

By \_\_\_\_\_  
Name Scott Nassif Date \_\_\_\_\_  
Title Mayor

By Cindy Quinn 3/4/2020  
Name Cindy Quinn Date \_\_\_\_\_  
Title Project Manager

APPROVAL RECOMMENDED:

By \_\_\_\_\_  
Name Brad Miller Date \_\_\_\_\_  
Title Town Engineer

By \_\_\_\_\_  
Name Eric Espinoza Date \_\_\_\_\_  
Title Project Engineer

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