



Meeting Date: 7/13/2010

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	X Info/Consent
<input type="checkbox"/> Ord. No(s) _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s) _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Cynthia Daniels *[Signature]* Agenda Item No. I-3
 Reviewed By: City Manager *[Signature]* City Attorney S.M.F. Finance *[Signature]* Other None

DATE: June 28, 2010

TO: City Council

FROM: Cynthia Daniels, Project Manager *[Signature]*
Development Services Department

SUBJECT: Utility Agreements with Verizon California, Inc. at Rice Avenue/Santa Clara Avenue Interchange Improvements at Highway 101

RECOMMENDATION

That City Council:

1. Approve and authorize the Mayor to execute an agreement with Verizon California Inc. in the amount of \$797,596.35 to relocate telephone utility facilities within the existing and future right of way for Highway 101 at the Rice Avenue/Santa Clara Avenue interchange (Agreement No. A-7277).
2. Approve and authorize the Mayor to execute a first amendment to the agreement with Verizon California Inc. to increase the amount by \$154,879.06 (totaling \$708,613.19) to relocate telephone utility facilities at the Sakioka Farms and AMS Craig LLC property at the Rice Avenue/Santa Clara Avenue interchange improvements at U.S. Highway 101 (Agreement No. A-6900).

DISCUSSION

Verizon has several overhead telephone and fiber optic cable lines and poles affected by the reconstruction of the Rice Avenue/Santa Clara Avenue interchange at U.S. Highway 101. Many of the lines are hanging on poles shared by an agreement with Southern California Edison. Verizon's facilities cannot remain in place because of the construction. The City notified Verizon to relocate their telephone utility facilities in February 2009. The Verizon lines traverse three jurisdictions: the City, California Department of Transportation (Caltrans), and County of Ventura. The City does not have a franchise agreement with Verizon. The California Department of Transportation has a contract with Verizon that splits the cost of relocations equally. The City is required by Agreement No. A-5560 with Caltrans to contribute the State's 50 percent share of the cost of utility relocations within the Caltrans existing and future right of way. Agreement No. A-7277 authorizes the City to pay the State's share of the Verizon relocation expenses, and Verizon agrees to move the facilities during construction.

Although the agreement amount is \$797,596.35, the City's share is 50 percent of the expense, a total of \$398,798.17. The total is an estimate that may be revised at the end of the relocation. The agreement has a provision for a final bill and accounting.

Verizon and the City have a court settlement from the eminent domain case No. CIV 237760 to replace Verizon's property rights and reimburse its relocation expenses on the Sakioka Farms and AMS Craig LLC property in the southeast quadrant of the project area. City Council Agreement No. A-6900 approved on February 10, 2009 implemented the terms of the settlement. The First Amendment to Agreement A-6900 adds another easement needed by Verizon due to a change in the alignment of their utility relocation, and updates the cost estimate by \$154,879.06.

FINANCIAL IMPACT

The estimated expense of the telephone utility relocations is \$952,475.41 and the City's share is \$553,677.23. Funds are available through a State grant and local matching funds. There are sufficient funds in Account Nos. 210-9718-826-8604 and 354-9718-826-8605, Project No. 873114 to fund this request.

CD

Attachment #1 - Agreement No. A-7277
#2 - First Amendment to Agreement No. A-6900

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constitute an approved revision of the Plans. No work deviating from the Plans shall commence before OWNER receives such an approved revision of the Plans. If an approved revision to the Plans changes the scope of work therein and affects CITY's share of the cost of Owner's Work, such revision shall not become effective until Section VII E of this Agreement is amended to revise the estimated cost of Owner's Work to CITY and CITY has paid CITY's share of the additional cost of Owner's Work pursuant to Section IVA of this Agreement. All costs of Owner's Work that are not identified as CITY's liability will be charged to OWNER.

D. OWNER agrees to perform testing of soil and water and remediation of contaminated soil and/or water as required to complete Owner's Work. The subject of contaminated soil and/or water is addressed in Section III, Articles 12, 13 and 15 of the Cooperative Agreement between CITY and STATE dated September 24, 2008, which are incorporated herein by reference.

- (i) Contaminated soil and/or water contains constituents of potential concern above naturally occurring levels. These constituents may include, but are not limited to, petroleum, hydrocarbons, metals, pesticides and/or volatile organic compounds. Contaminated soil and/or water may or may not meet the definition of hazardous material.
- (ii) Some contaminated soil and/or water may qualify as hazardous material classified as HM-1 and HM-2. HM-1 hazardous material is defined as hazardous material (including but not limited to hazardous waste) that requires removal and disposal pursuant to federal or State law, whether it is disturbed by Owner's Work or not. HM-2 hazardous material is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal and State law, only if disturbed by Owner's Work.
- (iii) If in the course of performing Owner's Work, OWNER encounters contaminated soil and/or water, whether or not it qualifies as HM-1 or HM-2 hazardous material, OWNER will immediately notify CITY. If OWNER notifies CITY that HM-1 hazardous material was encountered within existing STATE highway right of way, CITY shall immediately notify STATE.
- (iv) CITY shall be responsible for the cost of remediation of HM-1 hazardous material located outside existing STATE highway right of way, and for the cost of remediation of HM-2 hazardous material and other non HM-1 contaminated soil and/or water located within or outside existing STATE highway right of way. STATE shall be responsible for the cost of remediation of HM-1 hazardous material located within existing STATE highway right of way.
- (v) If CITY is responsible for the cost of remediation, as set out in the foregoing subpart (iv), CITY shall pay OWNER for the proper remediation, transportation, and disposal of the contaminated soil and/or water, and CITY shall execute any hazardous waste

manifests and/or bills of lading as the generator of the contaminated soil and/or water. OWNER shall hire a qualified operator and transporter to handle any and all hazardous material, except HM-1 hazardous material found within existing STATE highway right of way, and deposit such material at a facility permitted to accept such material. OWNER shall select the facility permitted to accept such material.

II. LIABILITY FOR WORK

Liability for the cost of Owner's Work is 50 percent CITY and 50 percent OWNER as established by the Cooperative Agreement between STATE and CITY, dated September 2, 1998, and a Freeway Master Contract between STATE and OWNER, dated January 8, 2004. Notwithstanding the foregoing, the City shall be 100% responsible for all costs associated with the environmental testing and remediation work described in Section I D, except in the case when HM-1 hazardous material is found in the existing STATE highway right of way.

III. PERFORMANCE OF WORK

A. OWNER agrees to perform Owner's Work with its own forces or to cause such work to be performed by 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.

B. Prevailing Wage Requirements for Contracted Work

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.

IV. PAYMENTS FOR WORK

A. CITY shall pay the balance due of the estimated cost of CITY's share of Owner's Work identified in Section VII within 90 days of approval of this Agreement.

B. It is understood and agreed that CITY 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 CITY for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER.

C. OWNER shall submit a final bill to CITY within 180 days after the completion of Owner's Work. If the final bill is more than the estimated cost of CITY's share of Owner's Work, CITY shall pay its share of the actual cost of the work within 90 days after receipt of OWNER's itemized bill in quintuplicate, signed by a responsible official of OWNER's organization or prepared on OWNER's letterhead, compiled on the basis of the actual 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, whichever is applicable. If the final bill is less than CITY's share of the estimated cost of Owner's Work, OWNER shall, when submitting the final bill to CITY, refund to CITY the difference between the final bill and the estimated cost. If OWNER does not submit a final bill to CITY and the actual cost of CITY's share of Owner's Work is less than the estimated cost paid by CITY, OWNER shall refund the difference between the actual cost and the estimated cost to CITY within 180 days after the completion of the work.

- D. If CITY 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 CITY has delivered to OWNER fully executed deeds, Consents to Common Use, or Joint Use Agreements as required for OWNER's facilities, CITY 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 payment for all remaining costs will be deemed to have been abandoned by OWNER.
- E. OWNER's final cost billing shall be in the form of an itemized statement of the total costs and credits applied to CITY's share of Owner's Work, including a credit for CITY's share of the estimated cost paid by CITY. However, CITY shall not pay final bills that exceed the estimated cost of CITY's share of Owner's Work set out in Section VII E of this Agreement without documentation of the reason for the increase of said cost from OWNER. If the final bill exceeds the estimated cost of CITY's share 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.
- F. If the final bill exceeds 125% of the estimated cost of CITY's share of Owner's Work, as set out in Section VII of this Agreement, an amended Agreement shall be executed by the parties to this Agreement before payment of 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 CITY.
- G. Detailed records from which the billing is compiled shall be retained by OWNER for a period of three years from the date of the final bill and will be available for audit by CITY, STATE, and federal auditors. OWNER agrees to comply with audit principles and standards as set forth in 48 CFR, Chapter 1, Part 31.

V. INSURANCE

- A. OWNER shall obtain and maintain during the performance of Owner's Work the insurance coverages as specified in Exhibit INS-E, attached hereto and incorporated herein by this reference, issued by a company satisfactory to CITY's Risk Manager, unless CITY's Risk Manager waives, in writing, the requirement that OWNER obtain and maintain such insurance coverages.

- B. OWNER shall, prior to performance of Owner's Work, file with CITY's Risk Manager evidence of Owner's insurance coverage as specified in Exhibit INS-E. Evidence of insurance coverage shall be forwarded to CITY's Risk Manager, addressed as specified in Exhibit INS-E.
- C. Maintenance of proper insurance coverages by OWNER is a material element of this Agreement. OWNER's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

VI. INDEMNITY

- OWNER agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by OWNER or its agents, employees, contractors, consultants, subconsultants, subcontractors, and other persons acting on OWNER's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, or acts for which OWNER or its agents, employees, subconsultants, contractors, subcontractors, consultants and other persons acting on OWNER's behalf would be held strictly liable.

VII. GENERAL CONDITIONS

- A. All costs accrued by OWNER as a result of CITY's request of October 11, 2005 and August 15, 2008 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.
- B. If the Project is canceled or modified so as to eliminate the necessity of some or all construction and inspection work by OWNER and CITY respectively, CITY will notify OWNER in writing and CITY reserves the right to terminate this Agreement by amendment. The amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.
- C. OWNER shall submit a Notice of Completion to CITY within 30 days of the completion of the work described herein.
- D. It is understood that Highway 101 is a Federal aid highway and accordingly 23 CFR 645 is hereby incorporated into this Agreement.
- E. The estimated cost of Owner's Work is \$797,596.35. The estimated cost to CITY for its share of Owner's Work is \$398,798.17. The estimated cost to OWNER for its share of Owner's Work is \$398,798.17. In addition, the City shall be responsible for 100% of the

costs associated with the environmental testing and remediation work described in Section I D, except in the case when HM-1 hazardous material is found in the existing STATE highway right of way.

- F. Easements will not be issued for Owner's Work performed within right of way owned by CITY, STATE, or the County of Ventura. CITY will issue an encroachment permit for Owner's Work within CITY's right of way. OWNER shall comply with the STATE and County of Ventura's ordinances and regulations for Owner's Work within the STATE and County of Ventura's right of way, respectively. OWNER shall obtain an encroachment permit from STATE for Owner's Work before beginning Owner's Work.
- G. Either party may waive the satisfaction or performance of any terms or conditions of this Agreement that have been included in this Agreement for its benefit, so long as such waiver is in writing, specifies the waived term or condition and is delivered to the other party.
- H. All notices under this Agreement shall be in writing and shall be effective upon actual receipt, and shall be delivered by (a) personal delivery, (b) legible facsimile, provided that the sender receives confirmation of transmission, (c) reputable overnight courier, (d) United States registered or certified mail, return receipt requested, postage prepaid, or (e) email, provided that such email is followed within one (1) day with delivery by one of the other methods set forth in this Section VII H, in each case address as follows:

If to OWNER: Verizon California Inc.
 201 Flynn Road
 Camarillo, CA 93012-8058
 Attention: Robert Musgrove
 Telephone: (805) 388-2240
 Facsimile: (805) 482-7588
 Email: Robert.musgrove@verizon.com

With a copy to: William J. Balcerski
 Assistant General Counsel
 Verizon
 One Verizon Way
 VC54N070A
 Basking Ridge, New Jersey 07920-1097

If to CITY: Development Services Department
 Transportation Planning
 Attention: Cynthia Daniels, Project Manager
 214 South C Street, Room 307
 Oxnard, CA 93030
 Telephone: (805) 385-7871
 Facsimile: (805) 385-3954
 Email: Cynthia.daniels@ci.oxnard.ca.us

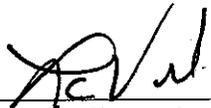
With a copy to: City Attorney's Office
300 West Third Street
Oxnard CA 93030
Telephone: (805) 385-7483
Facsimile: (805) 385-7423

- I. This Agreement may be amended only by written agreement signed by both of the parties.
- J. Time and each of the terms and conditions of this Agreement are hereby expressly made of the essence.
- K. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.
- L. This Agreement shall be governed by the laws of the State of California, without reference to its choice of law provisions.
- M. The parties agree to execute all documents and instruments reasonably required in order to consummate the transactions contemplated in this Agreement.
- N. The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against either of the parties. The language of this Agreement and all documents and instruments referred to in this Agreement have been prepared, examined, negotiated and revised by each party and its legal counsel, and no implication shall be drawn and no provision shall be construed against any party by virtue of the purported identity of the drafter of this Agreement. The section headings of this Agreement are for purposes of reference only and shall not be used for limiting or interpreting the meaning of any section of this Agreement. When required by the context, whenever the singular is used in this Agreement, the same shall include the plural, and the plural shall include the singular, the masculine gender shall include the feminine and neuter genders, and vice versa.

CITY OF OXNARD:

OWNER

Dr. Thomas E. Holden, Mayor

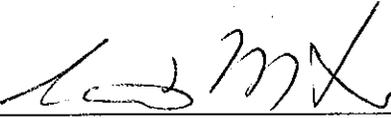


Larry Vail, Section Manager
Verizon California Inc.

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

APPROVED AS TO CONTENT:



Cynthia Daniels, Project Manager

**INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS
(WITH BUILDER'S RISK REQUIREMENT)**

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors having less than \$500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one-year extended reporting period, or longer upon request.

d. Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.

e. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant.

2. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-E. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be forwarded to the Risk Manager, addressed as follows:

City of Oxnard
Risk Manager
Reference No. A-7277
300 West Third Street, Suite 302
Oxnard, California 93030

3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-E or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-E.doc

ACCORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
CODE	SUB-CODE	COMPANIES AFFORDING INSURANCE COVERAGE	
INSURED		COMPANY LETTER A	SPECIFY COMPANY NAMES IN THIS SPACE
		COMPANY LETTER B	

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$2,000,000 PRODUCTS COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000 Course of Construction Completed Value of Project

SAMPLE

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS	
CERTIFICATE HOLDER City of Oxnard Attn: Risk Manager Reference No. A-7277 300 W. Third Street, Suite 302 Oxnard CA 93030	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE

ATTACHMENT 1
PAGE 11 OF 13

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City") **SUBMIT IN DUPLICATE**

ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____

PRODUCER

Telephone: _____

NAMED INSURED

POLICY INFORMATION:
Insurance Company: _____
Policy No.: _____
Policy Period: (from) _____ (to) _____
LOSS ADJUSTMENT EXPENSE Included in Limits
 In Addition to Limits

Deductible Self-Insured Retention (check which) of \$ _____
with an Aggregate of \$ _____ applies to _____
coverage. Per Occurrence Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

COMMERCIAL AUTO POLICY
 BUSINESS AUTO POLICY
 OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

\$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
Telephone: (____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
 - b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No. A-7277
300 W. 3rd Street, Suite 302
Oxnard, CA 93030

AUTHORIZED REPRESENTATIVE

Broker/Agent Underwriter _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: (____) _____ Date Signed _____

FIRST AMENDMENT TO UTILITY AGREEMENT

This First Amendment to Utility Agreement No. A-6900 ("the Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2010, by and between the City of Oxnard, a municipal corporation ("CITY"), and Verizon California, Inc. ("OWNER"). This First Amendment amends the Agreement entered into on February 10, 2009 by CITY and OWNER.

WHEREAS, the Agreement provides for OWNER to relocate its telephone facilities from an existing easement to a new easement CITY acquired on behalf of OWNER; and

WHEREAS, the easement shown in Exhibit A of the Agreement must be expanded to include the easement shown in Exhibit B, added by this First Amendment; and

WHEREAS, the Agreement provides that CITY will do some of Owner's Work, which OWNER now proposes to accomplish without CITY; and

WHEREAS, OWNER will excavate an underground trench in order to relocate its facilities and must perform environmental testing of soil and water and remediation as necessary, and CITY will pay the cost thereof;

NOW, THEREFORE, CITY and OWNER agree that the Agreement is amended as follows:

1. In the last sentence of the second paragraph of the Agreement, the reference to "Exhibit A" is supplemented to add a reference to "Exhibit 76A and 76B."
2. A new last sentence is added to the second paragraph of the Agreement, to read: "CITY also acquired the easement described in Exhibit 76A and shown in Exhibit 76B, attached hereto and incorporated herein by reference, to accommodate the relocation."
3. In Section 1A of the Agreement, the second and third sentences are deleted.
4. In Section 1B of the Agreement, the period at the end of the first sentence is changed to a semicolon and the following material is added: "and plans labeled as W.O. 722-8POA0BD, revision date March 16, 2010, consisting of 7 sheets."
5. In the penultimate sentence of section 1C, the words "Owner's Portion of" are deleted before "Owner's Work pursuant to Section IVA of this Agreement."
6. A new section 1D is added, to read:

"OWNER agrees to perform testing of soil and water and remediation of soil and/or water as required to complete Owner's Work. Contaminated soil and/or water contains constituents of potential concern above naturally occurring levels. These constituents may include, but are not

limited to, petroleum, hydrocarbons, metals, pesticides and/or volatile organic compounds. Contaminated soil and/or water may or may not meet the definition of hazardous material. CITY shall be responsible for ownership of such soil and/or water, and CITY shall pay OWNER for the proper remediation, transportation, and disposal of such material. CITY shall execute any hazardous waste manifests and/or bills of lading as the generator of any hazardous material that must be removed. OWNER shall hire a qualified operator and transporter to handle any and all hazardous material, and deposit such material at a facility permitted to accept such material. OWNER shall select the facility permitted to accept such material."

7. Section IIA is amended to read: "Liability for the cost of Owner's Work is 100 percent CITY, as established by Stipulation, within the areas identified in Exhibits A, 76A, and 76B."

8. Section IIB is amended to read: "Owner's Work requires the abandonment of OWNER's existing easement and the acquisition of new easements, as shown in Exhibits A, 76A, and 76B. At CITY's expense, CITY has acquired the new easements shown in Exhibits A, 76A, and 76B and will provide OWNER with deeds for such easements. Any other easements acquired by CITY for OWNER outside the areas shown in Exhibits A, 76A, and 76B may be purchased by OWNER at CITY's cost if mutually beneficial to do so, and CITY will provide OWNER with deeds for such easements."

9. In section IIIA, the words "Owner's Portion of" are deleted before "Owner's Work."

10. Section IVA is amended to read: "CITY shall pay the balance due of the estimated cost to CITY of Owner's Work identified in Section VII within 90 days of approval of this Agreement, or an amendment increasing the estimated cost to CITY."

11. In sections IVB, IVC, IVD, IVE and IVF, the words "Owner's Portion of" are deleted before "Owner's Work."

12. In Sections VA and VB, the words "Owner's Portion of" are deleted before "Owner's Work."

13. Section VIIF is amended to read: "The estimated cost to CITY for its share of Owner's Work is \$708,613.19. In addition, CITY shall be responsible for 100% of the cost of environmental testing, remediation, and removal described in section I D."

CITY and OWNER agree that as so amended, the Agreement remains in full force and effect.

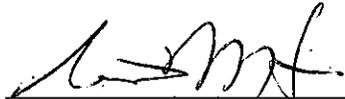
CITY OF OXNARD:

Dr. Thomas E. Holden, Mayor

ATTEST:

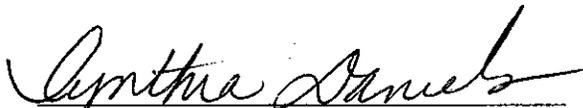
Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

APPROVED AS TO CONTENT:



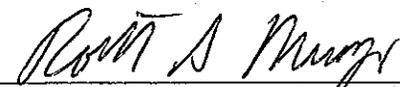
Cynthia Daniels, Project Manager

OWNER



Larry Vail, Section Manager
Verizon California, Inc.

APPROVED AS TO CONTENT:



Robert Musgrove, Lead Network
Engineer

Exhibit B

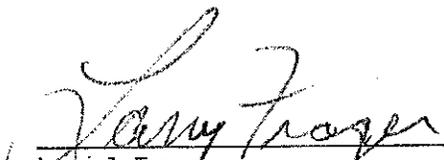
EXHIBIT "76-A"

LEGAL DESCRIPTION

That portion of Parcel "D" of the Resubdivision of Subdivisions 45, 46 and a part of 49, Rancho el Rio de Santa Clara o'la Colonia, in the City of Oxnard, County of Ventura, State of California, as per map filed in Book 2, Page 43 of Records of Survey in the office of the County Recorder of Ventura County, described as follows:

Beginning at a point in the line described in the eighteenth course, Parcel 6 (Permanent Utility Easement 25) of the Order for Prejudgment Possession recorded December 30, 2005, as Document No. 20051230-0320112 of Official Records of Ventura County, said point bears North 88°45'13" East 137.883 meters from the westerly terminus of said line; thence continuing along said line,

- 1st: North 88°45'13" East 29.716 meters; thence,
- 2nd: South 1°14'47" East 4.513 meters; thence,
- 3rd: South 88°45'13" West 9.467 meters; thence,
- 4th: North 78°40'55" West 20.746 meters to the point of beginning.



Larry J. Frager
L.S. 7998 (Expires 12/31/10)

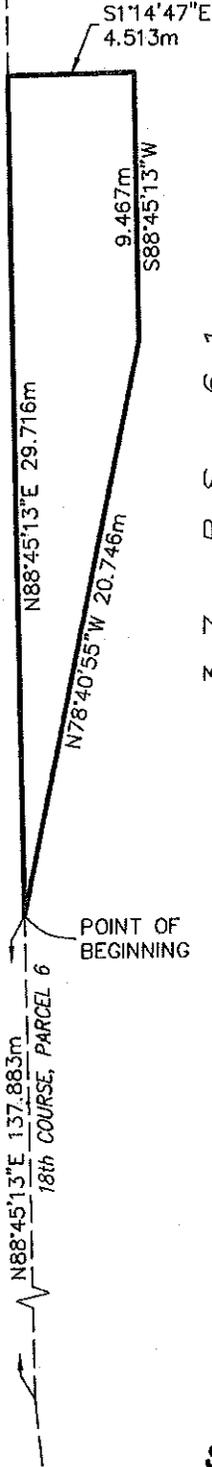
2/24/10
Date



REF: 08181LD76.DWG
DATE: 2/11/10
APN: 216-0-030-06 (UTILITY)

STATE HIGHWAY 101

PARCEL 6 (20051230-0320112, OR)



3 7 R S 6 1



1:250
METRIC SCALE

PREPARED BY:
BENNER AND CARPENTER, INC.
506 EAST MAIN STREET
SANTA PAULA, CA 93060
(805) 525-3396

EXHIBIT '76-B'
SKETCH TO ACCOMPANY
LEGAL DESCRIPTION