

**Reimbursement Agreement
Between the Alameda Corridor Transportation Authority
and the City of Long Beach**

32818

This REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this 1st day of June 2012, by and between the Alameda Corridor Transportation Authority, a joint powers authority acting by and through its Chief Executive Officer ("ACTA"), and the City of Long Beach, a municipal corporation, 211 E. Ocean Blvd., Long Beach, California 90802, ("COLB").

WHEREAS, ACTA is assisting the California Department of Transportation ("Caltrans") in the construction of a project known as the "Schuyler Heim Bridge Project" ("Project") located on property owned by COLB within the Port of Long Beach; and

WHEREAS, State of California ("State") and ACTA have entered into District Agreement No. 07-4872 wherein ACTA has agreed to make the necessary arrangements with owners of utility facilities located within the Project area for the timely removal, relocation or protection of said facilities, as may be necessary for the Project; and

WHEREAS, COLB owns pipeline facilities located adjacent to and passing over or under the property for the Project; and

WHEREAS, COLB has entered into Utility Agreement No. ACTA-UA-47-002 with ACTA as agent for Caltrans, in order to relocate, remove and protect existing underground and above ground pipeline systems ("Work") in order to resolve areas of conflict with the Project; and

WHEREAS, in furtherance of ACTA's Agreement with the State, ACTA requires, and COLB has agreed to: 1) timely perform the Work as shown on the attached drawings "Utility Plan U-8 and U-9" (Exhibit "A") or as shown on the drawings attached to the Utility Agreement prepared by COLB, 2) complete detailed engineering plans and specifications ("Plan") for the Work, and 3) provide an estimated budget for the Work; and

WHEREAS, ACTA hereby agrees to reimburse COLB for all costs associated with the Work.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. GENERAL CONDITIONS

1. Utility Agreement No. ACTA-UA-47-002 between ACTA as agent for Caltrans and COLB is hereby referenced and incorporated herein ("Utility

Agreement"). See Exhibit "B". In the event of any discrepancy between this Agreement and the Utility Agreement, the terms and conditions of this Agreement shall prevail. Payment for betterments and capacity enhancements shall be governed by the Utility Agreement.

2. COLB has provided to ACTA a preliminary estimate for all costs related to the Work, which is provided in Exhibit "C". Pursuant to the terms herein, COLB shall provide a revised estimate for costs related to the Pipeline Relocation following development of the Plan, which shall be labeled as Exhibit "C-1" and substituted for Exhibit "C" to this Agreement.

3. COLB shall cause the Plan and Work to be performed by its own forces or those of its contractor, Tidelands Oil Production Company ("Tidelands") or its contractors.

4. COLB and ACTA hereby acknowledge that Tidelands is the contractor for COLB and it is authorized to act on behalf of COLB in completing the Plan and the Work, submitting invoices, and directly receiving reimbursement from ACTA for said work pursuant to the terms of this Agreement.

5. COLB shall obtain any and all required permits, including but not limited to, harbor development permits, encroachment permits, zoning permits, or other written authorizations or grants of easements required from all governmental agencies claiming jurisdiction over the Work to be done by COLB pursuant to this Agreement and the Utility Agreement. ACTA agrees that it shall reasonably assist and cooperate with COLB in obtaining all required permits for the performance of the Work.

6. COLB and Tidelands shall be responsible to verify the location of their existing equipment and facilities as depicted on drawings U-8 and U-9 by potholing or other suitable methods, as well as to identify any other of their equipment and facilities that might be required to be removed, relocated or protected for the Project. COLB and Tidelands shall also be responsible to verify the suitability, serviceability, and constructability of the locations for the relocated facilities, if or as depicted on the project drawings, including identifying any potential underground interferences and accordingly advise ACTA as to the appropriate new recommended location.

II. Scheduling and Payment of Costs

1. Within 10 working days or 14 calendar days after receipt of Notice to Proceed No. 1 ("NTP 1"), COLB, through Tidelands, and its consultants, contractors and subcontractors, shall initiate the Plan. COLB shall within 10 working days after the completion of the Plan provide to ACTA a cost estimate, including an appropriate additional contingency line item not to exceed 25%, and schedule for the Work. This revised cost estimate shall be labeled as "Exhibit C-1" and shall replace

Exhibit C to this Agreement.

2. COLB and Tidelands shall make all reasonable efforts in developing the Work schedule to accommodate the proposed schedule of Caltrans' SR47 Heim Bridge contractor.

3. Upon acceptance of the estimate and schedule by ACTA, COLB and Tidelands, will receive a Notice to Proceed No. 2 ("NTP 2") from ACTA to commence the Work and shall thereafter use reasonable efforts to diligently pursue same to completion in coordination with ACTA and Caltrans contractor. Notwithstanding the foregoing, COLB and Tidelands shall not commence any Work until receipt of: (i) the necessary permits for the Work; and (ii) payment described in Paragraph 5 below.

4 Pursuant to the terms of this Agreement, ACTA agrees to pay COLB one hundred percent (100%) of the actual costs associated with development of the Plan and the performance of the Work outlined in Exhibit C-1, including but not limited to (a) engineering, (b) material procurement, (c) field construction and inspection, (d) overhead and supervision at a supportable percentage of direct costs, and (e) insurance and bonds.

5. ACTA shall advance to COLB, or at COLB's direction advance to Tidelands, the following amounts:

PHASE	AMOUNT	TIMING
Phase 1 - Plan Development	As stated for Engineering in Exhibit C or as modified by C-1	5 Days after NTP 1 (includes amounts for preliminary engineering prior to NTP 1)
Phase 2 – Material Procurement	As stated for Procurement in Exhibit C or as modified by C-1	5 Days prior to purchase order
Phase 3 – Construction Installation	Total Estimate in Exhibit C or as modified by C-1 less funds distributed in Phases 1 and 2	5 Days prior to commencing installation

6. COLB or Tidelands shall submit monthly invoices for completed work to ACTA so that ACTA can seek reimbursement from Caltrans, unless otherwise

approved.

7 COLB shall provide reasonable notice to ACTA in the event that it determines incurred costs will exceed the cost estimate, including contingency (described in Exhibit C-1) by more than 10%. Tidelands shall be paid for all verifiable and reasonable costs which exceed the total estimated costs in Exhibit C-1, provided they are supported by reasonable documentation.

8. COLB shall deliver to ACTA documentation confirming that COLB has authorized Tidelands and its consultants and contractors to perform the Work or otherwise procured a different company to provide services for the Work for approximately the cost set forth pursuant to Paragraph 1 and Exhibit C-1. Construction contracts awarded by COLB or Tidelands shall be competitively bid and awarded to the lowest responsible bidder who meets all specifications and COLB or Tidelands supplier qualification criteria.

9. ACTA shall be authorized to request additional documentation evidencing cost increases, which COLB and Tidelands shall not unreasonably refuse to provide.

- a. In the event that ACTA objects to any such cost increase, ACTA shall notify COLB in writing within five (5) business days, whereupon COLB shall cease any work until such time as COLB and ACTA agree upon revised Projected Costs.
- b. In the event that the parties cannot agree on any such cost increase, COLB shall be entitled to keep funds only for costs provided for pursuant to this Agreement and paid by ACTA in connection with the Work as of the date COLB provided ACTA notification of the cost increase as required in this Paragraph.

10. Upon completion of each Phase as set forth in Exhibit C-1, COLB or Tidelands shall submit an itemized statement of the total costs for that completed Phase. In the event that excess money is available, any remaining amounts shall be allocated to ACTA's payment for the next Phase of the Work.

11. COLB or Tidelands shall submit timely monthly invoices, and a final reconciled invoice to ACTA within 180 days after the completion of the Work. The final billing shall be in the form of an itemized statement of the total costs for the Work, less any amounts covered by advance payments.

- a. ACTA shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase and approval of said increase in accordance with the terms of this Agreement.
- b. Any advanced funds held by COLB or Tidelands in excess of the total

actual cost for the three phases shall be returned to ACTA within 30 days after the completion of the final phase and any necessary final adjustments shall be made after ACTA's receipt of the final invoice.

III. Indemnification and Insurance

1. Indemnification:

Except for the sole negligence or willful misconduct of ACTA, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, COLB undertakes and agrees to defend, indemnify and hold harmless ACTA and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney's fees (outside counsel only) and cost of litigation (including all actual litigation costs incurred by ACTA, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including COLB's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by COLB or its agents or subcontractors of any tier. Rights and remedies available to ACTA under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States and the State of California.

2. Insurance. For the purpose of the Agreement, COLB agrees to ACTA's minimum insurance requirements for its contractors as follows:

COLB agrees to maintain at its sole cost and shall require its agent and contractors to maintain at their sole cost at all times while performing under this Agreement, the following minimum insurance coverage by an insurer or insurers with a current A.M. Best rating of no less than A-VI:

2.1 Commercial General Liability insurance shall be provided on Insurance Services Office (ISO) CGL Form No. CG 00 01 or the equivalent, including provisions for defense of additional insureds and defense costs in addition to limits. Policy limits shall be no less than one million dollars (\$1,000,000) per occurrence for all coverage provided and two million dollars (\$2,000,000) general aggregate. The policy shall not limit coverage for the additional insured to "ongoing operations" or in any way exclude coverage for completed operations. Coverage shall be included on behalf of the insured for claims arising out of the actions of independent contractors. The policy shall contain no provisions or endorsements limiting coverage for contractual liability or third party over action claims, and defense costs shall be excess of limits. If the COLB Contractor is using Subcontractors the policy must include work performed "by or on behalf" of the COLB Contractor. Coverage shall apply on a primary non-

contributing basis in relation to any other insurance or self-insurance, primary or excess, available to COLB or any employee or agent of COLB. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall not exclude contractual liability, restrict coverage to the sole liability of the COLB Contractor or contain any other exclusion contrary to this Agreement.

If this coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the Agreement with COLB and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

Coverage shall contain no contractors' limitation or other endorsement limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

Coverage shall be provided for property damage or bodily injury that occurs on or within fifty feet of railroad property using ISO CG 24 17 (10 01) or its equivalent.

The policy of insurance required above shall be endorsed as follows:

Additional Insured: ACTA, COLB, its Board of Harbor Commissioners, employees and agents shall be added as additional insured with regard to liability and defense of suits or claims arising from the operations and activities performed by or on behalf of the Named Insured using ISO Forms CG 20 10 (2004) and CG 20 37 (2004) or their equivalent. Additional Insured endorsements shall not: 1) be limited to "on-going operations", 2) exclude "Contractual Liability", 3) restrict coverage to the sole liability of the contractor, or 4) contain any other exclusion contrary to the Agreement.

Cancellation: The policy shall not be cancelled or the coverage reduced by endorsement until a thirty (30) day written notice of cancellation has been served by the COLB Contractor upon ACTA, except ten (10) days shall be allowed for non-payment of premium.

2.2 Automobile Liability Insurance shall be written on ISO Business Auto Coverage Form CA 00 01 or the equivalent, including symbol (1) (any Auto). Limit shall be no less than one million dollars (\$1,000,000) combined single limit per accident. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to COLB or any employee or agent of COLB. If COLB Contractor does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies provided that a separate policy limit is provided for this coverage as required by this Agreement.

The policy of insurance required above shall be endorsed as follows:

Additional Insured: ACTA, COLB, its Board of Harbor Commissioners, employees and agents shall be added as additional insured with regard to liability

and defense of suits or claims arising from the operations and activities performed by or on behalf of the Named Insured. Additional Insured endorsements shall not: 1) be limited to "on-going operations", 2) exclude "Contractual Liability", 3) restrict coverage to the sole liability of the contractor, or 4) contain any other exclusion contrary to the Agreement.

Cancellation: The policy shall not be cancelled or the coverage reduced by endorsement until a thirty (30) day written notice of cancellation has been served by the COLB Contractor upon ACTA, except ten (10) days shall be allowed for non-payment of premium.

2.3 Workers' Compensation Insurance, as required by the State of California, and Employer's Liability Insurance with a limit of not less than one million dollars (\$1,000,000) per accident for bodily injury and disease.

The policy of insurance required above shall be endorsed, as follows:

Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against ACTA, COLB, and its Board of Harbor Commissioners, employees and agents.

Cancellation: The policy shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served by the COLB Contractor upon ACTA, except ten (10) days shall be allowed for non-payment of premium.

2.4 Time Element Pollution Liability insurance shall be provided on a Pollution Liability policy form or other policy form acceptable to COLB providing coverage for liability caused by pollution conditions arising out of the operations of the COLB Contractor. Coverage shall apply to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. The policy limit shall be no less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) general aggregate. Coverage shall be included on behalf of the COLB Contractor for covered claims arising out of the actions of independent contractors. If the COLB Contractor is using Subcontractors the policy must include work performed "by or on behalf" of the insured. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to COLB or any employee or agent of COLB.

If this coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the Agreement with COLB and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

The policy of insurance required above shall be endorsed as follows:

Additional Insured: ACTA, COLB, its Board of Harbor Commissioners, employees and agents shall be added as additional insured with regard to liability and defense of suits or claims arising from the operations and activities performed by or on behalf of the Named Insured. Additional Insured endorsements shall not: 1) be limited to "on-going operations", 2) exclude "Contractual Liability", 3) restrict coverage to the sole liability of the contractor, or 4) contain any other exclusion contrary to the Agreement.

Cancellation: The policy shall not be cancelled or the coverage reduced by endorsement until a thirty (30) day written notice of cancellation has been served by the COLB Contractor upon ACTA, except ten (10) days shall be allowed for non-payment of premium.

2.5 Self-Insurance. COLB shall retain the right to self-insure any or all of the insurance required above.

IV. Miscellaneous Provisions

1. Notices: Any notice provided for or permitted to be given by any Party to the other Parties and their agents hereunder shall be in writing and delivered in person or by United States Mail, registered or certified, postage prepaid, return receipt requested, addressed to the Party for whom intended, as follows:

To ACTA:

Alameda Corridor Transportation Authority
ATTN: John Doherty, P.E. - CEO
One Civic Plaza, Suite 350
Carson, CA 90745

To COLB:

COLB of Long Beach, Oil and Gas Department
ATTN: Kevin Tougas, P.E. - Manager Oil Operations Bureau
211 E. Ocean Blvd. Suite 500
Long Beach, CA 90802

2. Force Majeure: The performance of the obligations of the Parties under this Agreement except for the payment of monies owed, shall be excused while, and to the extent that, a Party is prevented from complying therewith, in whole or in part, by a strike, fire, war, civil disturbance, act of God; by federal, state or municipal law; by any rule, regulation or order of a governmental agency, by inability to secure equipment and materials; or any other cause or causes beyond the reasonable control of that Party. None of the Parties shall be required, against their respective wills to adjust or settle any labor dispute in order to meet any obligation imposed hereunder.

3. Interpretation: Neither this Agreement nor any provision hereof shall be interpreted for or against any of the parties on the basis that said party or parties drafted the provision in question, nor on the basis of a previous draft or drafts of the provision in question.

4. Successors and Assigns: This Agreement and all of its terms, provisions, covenants and conditions, except as otherwise expressly provided in this Agreement, shall inure to the benefit of and be binding upon the personal representatives, successors and assignees of the Parties hereto.

5. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

6. This Agreement may be modified only by written agreement of all parties.

IN WITNESS WHEREOF, this Agreement shall become effective as of the date and year above written.

ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

By: [Signature]
John T. Doherty Chief Executive Officer

Date: 7/27/12

Approved as to Form
CARMEN A. TRUTANICH, Los Angeles City Attorney

By: [Signature]
ACTA Co-General Counsel

Date: July 27, 2012

CITY OF LONG BEACH, a Municipal Corporation

By: [Signature] Assistant City Manager

Date: 9.6.12

Name: Patrick H. West City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

Attest: _____

Date: _____

Name: _____

Approved as to Form
Bob Shannon, Long Beach City Attorney

By: [Signature]

Date: 8.16.12

Assistant City Attorney
Deputy

Attachments: Exhibit "A" - Utility Plan U-8 and U-9

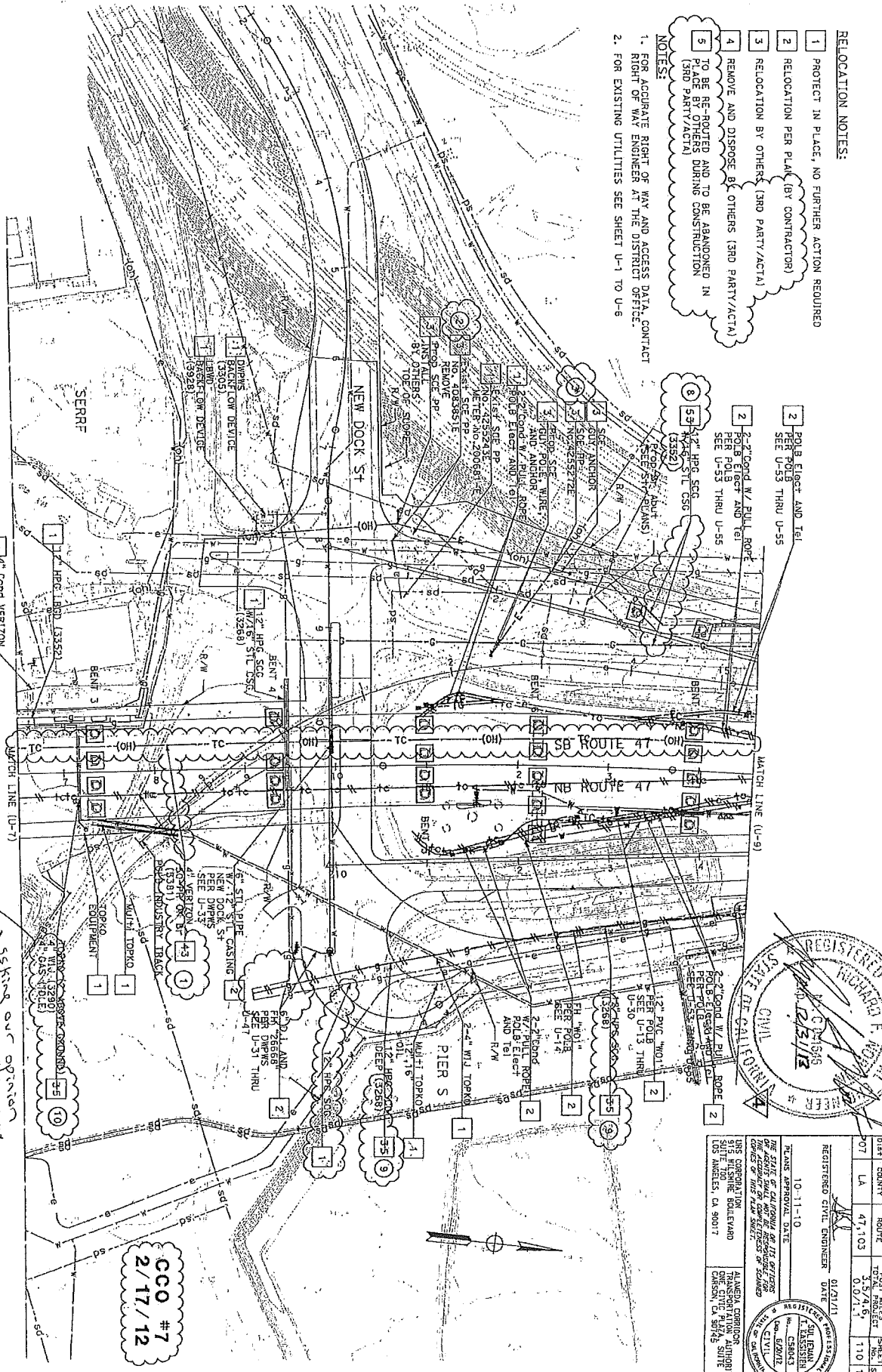
Exhibit "B" – Utility Agreement ACTA-UA-47-002

Exhibit "C" – Projected Costs for the Pipeline Relocation

EXHIBIT "A"

4 REVISED PER ADDENDUM No. 4 DATED APRIL 8, 2011

THIS PLAN ACCURATE FOR UTILITY CONSTRUCTION ONLY



- RELOCATION NOTES:
- PROJECT IN PLACE, NO FURTHER ACTION REQUIRED
 - RELOCATION PER PLAN (BY CONTRACTOR)
 - RELOCATION BY OTHERS (3RD PARTY/ACTA)
 - REMOVE AND DISPOSE OF OTHERS (3RD PARTY/ACTA)
 - TO BE RE-ROUTED AND TO BE ABANDONED IN (3RD PARTY/ACTA)
- NOTES:
- FOR ACCURATE RIGHT OF WAY AND ACCESS DATA, CONTACT RIGHT OF WAY ENGINEER AT THE DISTRICT OFFICE.
 - FOR EXISTING UTILITIES SEE SHEET U-1 TO U-6

Seeking out opinion on if we need to mark it.

UTILITY PLAN
RELOCATION
SCALE: 1" = 50'
U - 8

REGISTERED PROFESSIONAL CIVIL ENGINEER
 RICHARD E. RICHARDS
 No. C-24765
 2/21/12
 STATE OF CALIFORNIA
 REGISTERED CIVIL ENGINEER
 RICHARD E. RICHARDS
 1115 WILSHIRE BOULEVARD
 LOS ANGELES, CA 90017

COUNTY	ROUTE	POST MILES	SHEET TOTAL
LA	47, 103	0.0 / 4.0	110 / 1003
DATE			
REGISTERED CIVIL ENGINEER			
10-11-10			
REGISTERED CIVIL ENGINEER			
10-11-10			
REGISTERED CIVIL ENGINEER			
10-11-10			
REGISTERED CIVIL ENGINEER			
10-11-10			

CGO #7
2/17/12

RELOCATION NOTES:

- 1 PROJECT IN PLACE, NO FURTHER ACTION REQUIRED
- 2 RELOCATION PER PLAN (BY CONTRACTOR)
- 3 RELOCATION BY OTHERS (3RD PARTY/ACTA)
- 4 REMOVE AND DISPOSE BY OTHERS (3RD PARTY/ACTA)
- 5 TO BE RE-ROUTED AND TO BE ABANDONED IN PLACE BY OTHERS DURING CONSTRUCTION (3RD PARTY/ACTA)

NOTES:

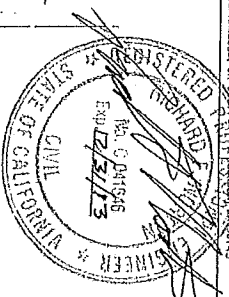
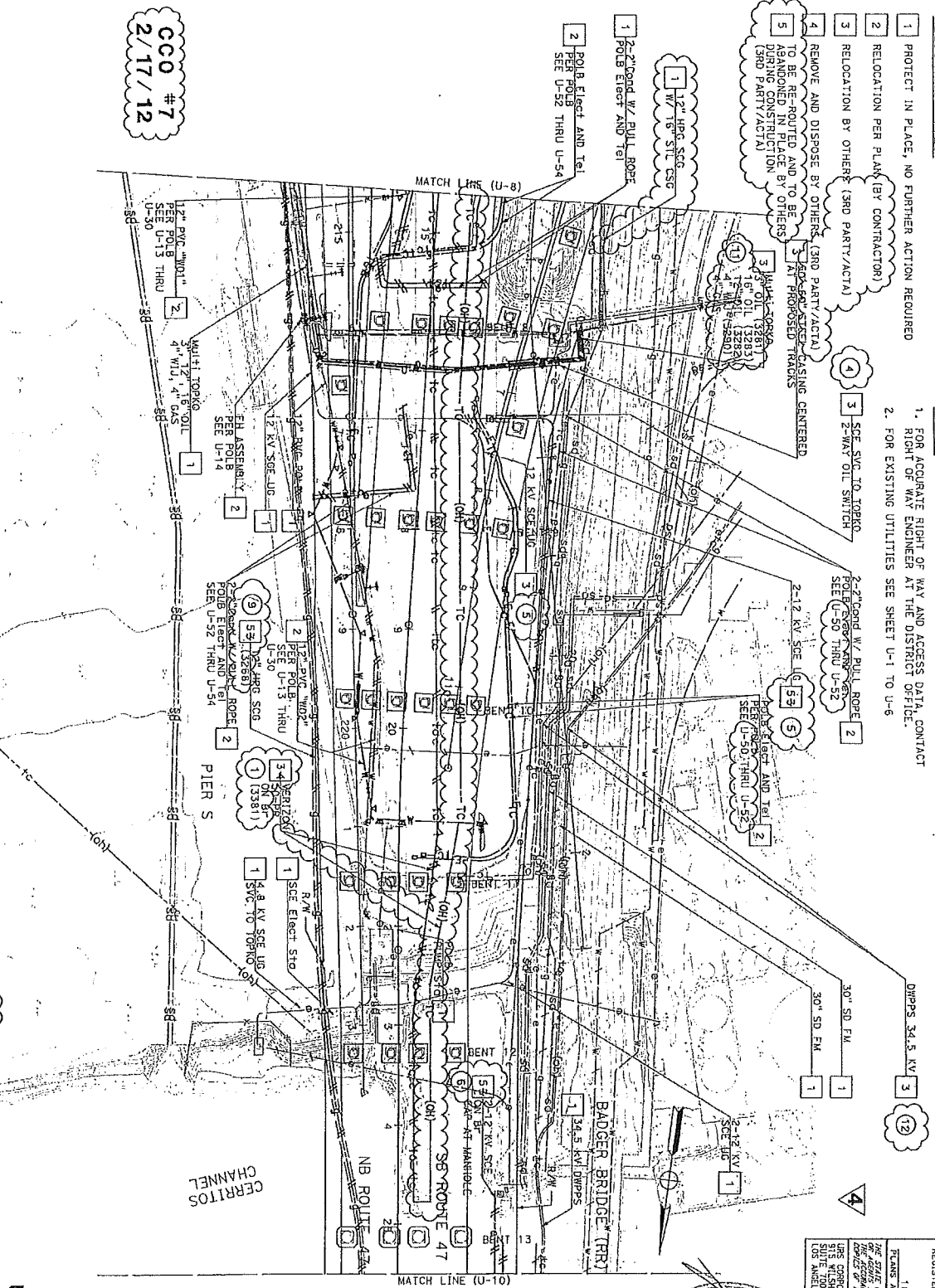
1. FOR ACCURATE RIGHT OF WAY AND ACCESS DATA, CONTACT RIGHT OF WAY ENGINEER AT THE DISTRICT OFFICE.
2. FOR EXISTING UTILITIES SEE SHEET U-1 TO U-6

CCO #7
2/17/12

4 REVISED PER ADDENDUM NO. 4 DATED APRIL 8, 2011

THIS PLAN ACCURATE FOR UTILITY RELOCATION ONLY

UTILITY PLAN
RELOCATION
SCALE: 1" = 50'
U-9



REGISTRATION DATE	10-11-10	REGISTERED CIVIL ENGINEER	02/23/11
REGISTERED CIVIL ENGINEER	SHAHRAM VAHDAT	DATE	02/23/11
REGISTERED CIVIL ENGINEER	SHAHRAM VAHDAT	DATE	02/23/11
REGISTERED CIVIL ENGINEER	SHAHRAM VAHDAT	DATE	02/23/11

DATE	COUNTY	ROUTE	SHEET NUMBER
07	LA	47 103	111
		TOTAL PROJECT	111
		TOTAL SHEETS	1002

EXHIBIT "B"

UTILITY AGREEMENT

RW 13-5 (REV 6/2010)

Dist 7	County LA	Rte 47 103	KP (P.M.) 3.5/4.6, 0.0/1.1	EA 07/138 202/9S
Federal Aid No.: ALNH P47 (109)		Owners File Number: Util. Relo. P47-002		
FEDERAL PARTICIPATION: On the Project: X Yes o No On the Utilities: X Yes o No				

Owner Payee Data No. NA or Form STD 204 is attached **UTILITY AGREEMENT NO. ACTA-UA-47 – 002****DATE July 25, 2012**

The Alameda Corridor Transportation Authority acting as Caltrans Local Agency by and through the Department of Transportation pursuant to that certain Cooperative Agreement No. 07-4872 dated July 16, 2009 between State of California and Alameda Corridor Transportation Authority, hereinafter called "LOCAL AGENCY ACTA," proposes to facilitate and coordinate the utility relocation of facilities in conflict with the replacement of the existing Schuyler Heim lift bridge spanning the Cerritos Channel with a fixed bridge because of seismic concerns, maintenance costs and substandard lane configurations (Construction will be in two phases; one, build out of the eastern half of the new bridge and two, demolition of the existing bridge and building of the remaining half of the new bridge),

And

City of Long Beach (COLB), through its Oil and Gas Department located at 211 E. Ocean Boulevard, Long Beach, California, 90802 owns and maintains various surface and below ground oil pipelines and appurtenances in separate locations adjacent to and passing under the existing and proposed bridge locations and the proposed right of way for SR-47 and SR-103 northerly of the Cerritos Channel, within the limits of LOCAL AGENCY ACTA's project. COLB is the real property and oil rights owner pursuant to Grant Deed recorded March 19, 1986 as Instrument No. 86-340230 and Grant Deed recorded March 22, 1994 as Instrument No. 94-559636. LOCAL AGENCY ACTA requires relocation of these oil pipelines and appurtenances to accommodate LOCAL AGENCY ACTA's project

It is hereby mutually agreed that:

I WORK TO BE DONE

In accordance with Notice to Owner–Third Notice No. UR47-002 dated August 5, 2010, COLB, or a third-party as agent for COLB, shall determine and prepare a Relocation Plan ("Plan") for and shall relocate, remove and protect the existing underground and above ground oil pipeline systems of various sizes (e.g. 3 inch, 12 inch and 16 inch pipelines) that will resolve the areas of conflict with the proposed south bound off ramp to New Dock Street and the future rail alignment of the existing Long Beach Pier "S" rail tracks.

Any revision to the Plan, after approval by the LOCAL AGENCY ACTA, shall be agreed upon by both parties hereto under a Revised Notice to Owner [13.07-2 REV7/2005]. Such Revised Notice to Owner approved by the LOCAL AGENCY ACTA and agreed to and acknowledged by COLB, will constitute an approved revision of the Plan. No redesign or additional engineering after approval by the LOCAL AGENCY ACTA shall commence prior to written execution by COLB and may require an amendment to this Agreement, in addition to the revised Notice to Owner.

Deviations from the Plan described above initiated by either the LOCAL AGENCY ACTA or COLB, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the LOCAL AGENCY ACTA and acknowledged by COLB, 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 receipt by COLB 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. The LOCAL AGENCY ACTA shall have the right to inspect the work by COLB's contractor during construction.

II. LIABILITY FOR WORK

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

UTILITY AGREEMENT NO.

ACTA-UA-47 - 002

III. PERFORMANCE OF WORK

COLB agrees to cause the described work in the Plan to be performed by its own forces, those of its agent, or 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 therefore, and to prosecute all 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 COLB'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. COLB 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.

Pursuant to Public Works Case No. 2001-059 determination by the California Department of Industrial Relations dated October 25, 2002, work performed by COLB, its agent or COLB's contractor is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. COLB shall verify compliance with this requirement in the administration of its contracts referenced above.

IV. PAYMENT FOR WORK

The LOCAL AGENCY ACTA shall pay its share as indicated herein (100%) of the actual and necessary cost of the described work in the Plan within 45 days after receipt of five (5) copies of COLB's itemized bill for work performed, signed by a responsible official of COLB's organization and prepared on COLB'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 by the California Public Utilities Commission, Federal Regulatory Commission or Federal Communications Commission, whichever is applicable. COLB's first invoice may be submitted together with a fully signed copy of this Agreement and will include all "historical costs" incurred prior to the actual signing on the Agreement, including, but not limited to, preparation of a relocation plan and a scope of work for the project.

It is understood and agreed that the LOCAL AGENCY ACTA will not pay for any betterment or increase in capacity of COLB's facilities in the new location and that COLB shall give credit to the LOCAL AGENCY ACTA for the "used life" or accrued depreciation of the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by COLB. No depreciation is required for crossing relocations.

COLB will prepare and submit progress bills not more frequently than once a month, but at least quarterly, for costs incurred not to exceed COLB's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills that do not 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 the LOCAL AGENCY ACTA of documentation supporting the cost increase and after a written Amendment to this Agreement has been executed by the parties to this Agreement.

COLB shall submit a final bill to the LOCAL AGENCY ACTA within 360 days after the completion of the work described in Section I above. If the LOCAL AGENCY ACTA has not received a final bill within 360 days after notification of completion of COLB's work described in Section I of this Agreement and LOCAL AGENCY ACTA has delivered to COLB fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements, if required for COLB's facilities, the LOCAL AGENCY ACTA will provide written notification to COLB 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 LOCAL AGENCY ACTA processes a final bill for payment more than 360 days after notification of completion of COLB's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

UTILITY AGREEMENT NO.
ACTA-UA-47 - 002

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, if any, and less any amounts covered by progress billings. However, the LOCAL AGENCY ACTA 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 COLB, approval of said documentation by the LOCAL AGENCY ACTA and after a written Amendment to this Agreement has been executed by the parties to this Agreement. Except, if the final bill exceeds COLB'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.

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 the LOCAL AGENCY ACTA through execution of a Revised Notice to Owner.

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 COLB'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 the LOCAL AGENCY ACTA."

Detailed records from which the billing is compiled shall be retained by COLB 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. COLB agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and/or 18 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, COLB agrees to reimburse the LOCAL AGENCY ACTA upon receipt of the LOCAL AGENCY ACTA billing.

V. GENERAL CONDITIONS

All costs accrued by COLB as a result of the LOCAL AGENCY ACTA's requested RELOCATION CLAIM LETTER TO OWNER, dated March 2, 2010 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 the LOCAL AGENCY ACTA's project which precipitated this Agreement is cancelled or modified so as to eliminate the necessity of work by COLB, the LOCAL AGENCY ACTA will notify COLB in writing and the LOCAL AGENCY ACTA reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for payment of work performed prior to termination of the Agreement and any other related terms as may be deemed necessary by the parties.

All obligations of the LOCAL AGENCY ACTA under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

It is understood that said Schuyler Heim Lift Bridge Project is a part of a Federal Aid Highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

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

THE ESTIMATED COST TO LOCAL AGENCY ACTA FOR THE ABOVE DESCRIBED WORK IS \$3,000,000.

FUND TYPE: Design Funds = \$ 378,000 Construction Funds = \$2,622,000 R/W Funds = \$ na

UTILITY AGREEMENT NO.
ACTA-UA-47-002

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

Alameda Corridor Transportation Authority:

City of Long Beach:

By [Signature]
John T. Doherty, Chief Executive Officer

By [Signature] Assistant City Manager
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

Date 7/26/12

Name Patrick H. West

Title City Manager

Date 9.6.12

Approved As To Form

Approved As To Form

CARMEN A. TRUTANICH, Los Angeles City Attorney

BOB SHANNON, Long Beach City Attorney

By [Signature]

By [Signature]

Name Heather M. McCloskey

Name Rich Anthony

Title Deputy City Attorney

Title Deputy City Attorney

Date July 26, 2012

Date August 16, 2012

Exhibit "C"

Projected Costs

The Parties agree that the estimated Projected Costs for the pipeline relocation are as follows:

		<u>COLB Costs</u>
<u>Phase 1</u>	<u>Engineering</u>	\$378,000
<u>Phase 2</u>	<u>Procurement</u>	\$465,000
<u>Phase 3</u>	<u>Construction</u>	\$1,557,000
<u>Subtotal</u>		\$2,400,000
<u>Overall Contingency (not to exceed 25%)</u>		\$600,000
<u>Total Estimate</u>		<u>\$3,000,000</u>