

STANDARD UTILITY AGREEMENT

U-0030: **Level 3 Communications, LLC**
 County: Fort Bend
 Highway: FM 1093 Westpark Extension Phase II

This Agreement by and between the County of Fort Bend, Texas, ("**County**"), and **Level 3 Communications, LLC**, ("**Utility**"), acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the **County**.

WHEREAS, the **County** has deemed it necessary to make certain highway improvements as designated by the **County** and approved by the Federal Highway Administration within the limits of the highway as indicated above;

WHEREAS, the proposed highway improvements will necessitate the adjustment, removal, and/or relocation of certain facilities of **Utility** as indicated in the following statement of work: Relocation of assets into a predesignated corridor according to the following schedule:

Start Date – June 1, 2018
 Completion Date – November 30, 2018

and more specifically shown in **Utility's** Plans and Specifications, Estimated Costs, and Schedule which are attached hereto as Exhibits "A," "B" and "C."

WHEREAS, Subchapter E of Chapter 203 of the Texas Transportation Code regarding the relocation of utilities does not apply to this Project, but the **County** wishes to negotiate in good faith and enter into agreements with all affected utility companies for the participation in the costs of the adjustment, removal, and/or relocation of certain facilities as authorized under such subchapter.


WHEREAS, the **County**, upon receipt of evidence it deems sufficient, acknowledges **Utility's** interest in certain lands and/or facilities and determined it is appropriate to enter an agreement with **Utility** to govern the terms for participation in the costs of the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.


NOW, THEREFORE, BE IT AGREED:

The **County** will pay to **Utility** fifty percent (50%) of the documented actual costs incurred for relocation of the utility in adjustment, removal, and/or relocation of **Utility's** facilities up to the amount said costs may be eligible for **County** participation.

All conduct under this agreement, including but not limited to the adjustment, removal and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules and regulations, including, without limitation, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601, et seq., the National Environmental Policy Act, 42 U.S.C. §§ 4231, et seq., the Buy America provisions of 23 U.S.C. § 313 and 23 CFR 635.410, the Utility Relocations, Adjustments, and Reimbursements provisions of 23 CFR 645, Subpart A, and with the Utility Accommodation provisions of 23 CFR 645, Subpart B. **Utility** shall supply, upon request by the **County**, proof of compliance with the aforementioned laws, rules and regulations prior to the commencement of construction.

The **Utility** agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by **County**, or may, with the **County's** approval, accumulate actual direct and related indirect costs in accordance with an established accounting procedure developed by **Utility**. Bills for work hereunder will be submitted to **County** not later than 90 days after completion of the work.


 Initial Date
 Fort Bend County


 Initial Date
 Level 3 Communications, LLC

When requested, the **County** will make intermediate payments at not less than monthly intervals to **Utility** when properly billed and such payments will not exceed 90 percent (90%) of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment.

Upon execution of this agreement by both parties hereto, the **County** will, by written notice, authorize the **Utility** to perform such work diligently, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside **Utility's** control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the **County** or any other party with **Utility's** ability to proceed with the relocation, or any other event in which **Utility** has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of **Utility**.

The **County** will, upon satisfactory completion of the relocation or adjustment and upon receipt of final billing prepared in an approved form and manner, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for **County** reimbursement.

Unless an item below is stricken and initialed by the **County** and **Utility**, this agreement in its entirety consists of the following:

1. Standard Utility Agreement;
2. Plans & Specifications (Attachment "A");
3. Utility Construction Cost Estimate (Attachment "B");
4. Utility's Schedule of Work and Estimated Date of Completion (Attachment "C").

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **County** and **Utility**.

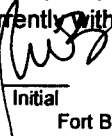
This agreement is subject to cancellation by the **County** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **County**. However, the **County** will review and reimburse the **Utility** for eligible costs incurred by the **Utility** in preparation of this Agreement.

The **Utility** acknowledges to and for the benefit of the **County** and State of Texas that it understands the project under this Agreement is eligible for Federal-aid highway funds and as such, requires all of the iron, steel, and manufactured goods used in the project be produced in the United States ("Buy American Requirements"); including iron, steel, and manufactured goods provided by the **Utility** pursuant to this Agreement.

The State Auditor may conduct an audit or investigation of any entity receiving funds from the **County** directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with these funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

The **Utility** by execution of this agreement does not waive any of the rights which **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, or relocation at its own risk, and that Fort Bend County, Texas makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

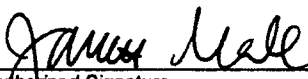

Initial _____
Date 11/8/19
Fort Bend County


Initial _____
Date 10/30/18
Level 3 Communications, LLC

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

UTILITY

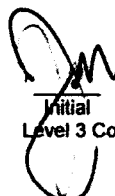
Utility: Level 3 Communications, LLC
Name of Utility

By: 
Authorized Signature
James Male
Print or Type Name

Title: VP Network Maintenance

Date: 10/30/18

 11/8/19
Initial Date
Fort Bend County

 10/30/18
Initial Date
Level 3 Communications, LLC

EXECUTION RECOMMENDED:

COUNTY

By:

KP George
KP George, County Judge

Date:

January 29, 2019

ATTEST:

By:

Laura Richard
Laura Richard, County Clerk



APPROVED:

By:

Richard W. Stolleis
Richard W. Stolleis, P.E., County Engineer

APPROVED AS TO LEGAL FORM:

By:

Marcus D. Spencer
Marcus D. Spencer, First Assistant County Attorney

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 130,075.⁷⁰ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

Robert Ed Sturdivant

RS
Initial
Fort Bend County

1/8/19
Date

gm
Initial
Level 3 Communications, LLC

10/30/18
Date

Exhibit A

Plans & Specifications

W8 11/8/19
Initial Date
Fort Bend County

Jim 12/30/18
Initial Date
Level 3 Communications, LLC

Exhibit B

Construction Cost Estimate

WBS 11/8/19
Initial Date
Fort Bend County

JM 10/30/18
Initial Date
Level 3 Communications, LLC

Level 3 Communications, LLC - U-0030 - Project Estimated Cost for Actual Costs

County Project Name	FM 1093 Westpark Extension - Phase II
Level 3 Project Name	SC108894 - FM 1093 Westpark Tollway Extension - Phase 2A, Fort Bend County, TX (U-0030)
Date	10/10/2018

Project Activities	Capability	Activity	Act. ID	Unit of Measure	Estimate			Explanation
					Unit Cost	Number of Units	Total Spend	
Engineering		Engineering/Design & Draft Underground New Build Greater Than 1500 FT	10040	LF	\$0.95	8,283	\$7,849.85	Engineering/Design & Draft Underground New Build Greater Than 1500 FT
Engineering		Engineering/Design & Draft Underground For Fiber Installed within Existing Infrastructure Greater Than 1500 FT	10060	LF	\$0.65	2,000	\$1,300.00	Engineering/Design & Draft Underground For Fiber Installed within Existing Infrastructure Greater Than 1500 FT
Engineering		As-Built/Electronic Records Facilities	10140	LF	\$0.10	10,663	\$1,066.30	As-built documentation
Engineering		Permit Acquisition	10150	EA	\$280.00	2	\$560.00	Permit Acquisition
Engineering		OSP Project Manager	10250	HRS	\$80.00	40	\$3,200.00	OSP Project Manager
Engineering		OSP Engineer	10280	HRS	\$70.00	64	\$4,480.00	OSP Engineer
Engineering		Lead Inspector	10500	HRS	\$68.00	450	\$30,600.00	Lead Inspector - 10hrs X 45 days = 450 hrs
Underground		Directional Bore Greater Than 1500' Directional Bore greater than 1500' Additional HDPE conduit up to 2"	30700	FT	\$0.3063	41,315	\$12,654.78	Directional Bore Greater Than 1500' Directional Bore greater than 1500' Additional HDPE conduit up to 2" (Level 3 pro-rata share)
Underground		Directional Bore Greater Than 1500' Directional Bore greater than 1500' 3 HDPE conduits up to 2"	30710	FT	\$2.375	8,263	\$19,624.63	Directional Bore Greater Than 1500' Directional Bore greater than 1500' 3 HDPE conduits up to 2" (Level 3 pro-rata share)
Underground		Rod & Proof Existing Conduit	30820	FT	\$0.92	2,000	\$1,840.00	Rod & Proof Existing Conduit
Underground		Place up to 288 count FOC in conduit, up to 1500'	30960	FT	\$1.10	10,663	\$11,729.30	Place 96 count FOC in conduit
Underground		Place up to 288 count FOC in conduit, Each Additional Cable	30970	FT	\$0.80	10,663	\$8,530.40	Place 144 count FOC in conduit
Underground		Remove and dispose of cable	31060	FT	\$0.75	10,483	\$7,847.25	Remove and dispose of cable
Underground		Remove and dispose of cable, each additional cable	31070	FT	\$0.55	10,663	\$5,864.65	Remove and dispose of cable, each additional cable
Underground		Place New - 30"x60"x36" - Non-concrete Manhole / Handhole	31270	EA	\$189.00	12	\$2,268.00	Place New - 30"x60"x36" - Non-concrete Manhole / Handhole (Level 3 pro-rata share)
Underground		Remove Existing - 30"x60"x36" - Non-concrete Manhole / Handhole	31360	EA	\$396.00	4	\$1,544.00	Remove & Replace Existing - 30"x60"x36" - Non-concrete Manhole / Handhole
Underground		Excavate Small Pit: 6'x4'x5'	31640	EA	\$104.375	2	\$208.75	Excavate Small Pit: 6'x4'x5' (Level 3 pro-rata share)
Underground		Place Locate Marker Post	31990	EA	\$87.75	29	\$2,544.75	Place Locate Marker Post
Underground		Place Locate Test Station	32000	EA	\$87.75	1	\$87.75	Place Locate Test Station
Splicing and Testing		Splice Enclosure Install (new)	50010	EA	\$224.02	2	\$448.04	Splice Enclosure Install (new)
Splicing and Testing		OSP Cable Prep - Add Cable to splice enclosure	50020	EA	\$144.45	4	\$577.80	Prep cables into new enclosures
Splicing and Testing		Enter existing Splice Enclosure	50080	EA	\$155.56	2	\$311.12	Enter existing Splice Enclosure
Splicing and Testing		OSP Setup/Takedown per location	50080	EA	\$175.40	4	\$701.60	OSP Setup/Takedown per location
Splicing and Testing		Splice OSP loose tube 25 to 96 per location	50130	EA	\$28.63	192	\$5,496.96	Splicing 96 fibers on each end = 96 x 2 = 192
Splicing and Testing		Splice OSP loose tube 97 to 288 per location	50140	EA	\$23.91	288	\$6,886.08	Splicing 144 fibers on each end = 144 x 2 = 288
Splicing and Testing		FOA Fiber Test per Fiber, greater than 72	50320	EA	\$10.15	144	\$1,461.60	Testing 144 fibers.
Splicing and Testing		Real Test Fiber Test per Fiber	50360	EA	\$6.57	240	\$1,576.80	Real test reits of 96 & 144 count cables.
Splicing and Testing		ADDER After Hours 6PM to 6AM includes weekends	50410	HRS	\$104.21	6	\$6,252.66	ADDER for splicing 96 count cable
Splicing and Testing		ADDER After Hours 6PM to 6AM includes weekends	50410	HRS	\$159.48	6	\$9,568.80	ADDER for splicing 144 count cable
Sub							\$142,842.55	

Capability	Activity	Act. ID	Unit of Measure	Unit Cost	Number of Units	Total Spend	Explanation
Underground Construction	Level 3 Fiber Material	A501	FT	\$1.28	10,663	\$13,648.64	96 count fiber optic cables
Underground Construction	Level 3 Fiber Material	A501	FT	\$1.70	10,663	\$18,127.10	144 count fiber optic cables
Underground Construction	Conduit: 1 1/2" HDPE SDR-11	90080	FT	\$0.065	66,104	\$4,296.76	Conduit: 1 1/2" HDPE SDR-11 (Level 3 pro-rata share)
Underground Construction	Tier 15 30"x60"x36" - With knock-outs and racking - Including Cover	90970	EA	\$265.630	12	\$3,187.56	Tier 15 30"x60"x36" - With knock-outs and racking - Including Cover (Level 3 pro-rata share)
Underground Construction	Warning Sign and/or Post	92070	EA	\$85,000	29	\$2,465.00	Warning Sign and/or Post
Underground Construction	Test Stations - Marker Post w/ Removable Top	92080	EA	\$85,000	1	\$85.00	Test Stations - Marker Post w/ Removable Top
Splicing and Testing	Splice Enclosures	A507	EA	\$750.00	2	\$1,500.00	Purchase Splice Enclosure
Sub							\$43,310.06
Total							\$242,743.00
Capability	Activity	Act. ID	Unit of Measure	Percentage	Total Spend	Total Reimbursement Amount	Explanation
	County Reimbursement Amount			50.00%	242,743.00	\$121,371.50	

Level 3 Communications, LLC - U-0030 - Project Estimated Cost for Actual Costs

County Project Name	FM 1093 Westpark Extension - Phase II
Level 3 Project Name	SC108894 - FM 1093 Westpark Tollway Extension - Phase 2A, Fort Bend County, TX (U-0030) REPLACE DAMAGED HHs IN PHASE 1
Date	10/10/2018

Project Activities		Estimate					
Capability	Activity	Act. ID	Unit of Measure	Unit Cost	Number of Units	Total Spend	Explanation
Underground	Remove and Replace 30"x60"x36" - Non-concrete Manhole / Handhole	31270	EA	\$925.00	3	\$2,775.00	Place New - 30"x60"x36" - Non-concrete Manhole / Handhole
Sub						\$2,775.00	
Capability	Activity	Act. ID	Unit of Measure	Unit Cost	Number of Units	Total Spend	Explanation
Underground Construction	Tier 15 30"x60"x36" - With knock-outs and racking - Including Cover	90970	EA	\$1,000.00	3	\$3,000.00	Tier 15 30"x60"x36" - With knock-outs and racking - Including Cover
Underground Construction	Select Fill	92060	SGFY	\$75.00	12	\$900.00	Select Fill
Sub						\$3,900.00	
Capability	Activity	Act. ID	Unit of Measure	Unit Rate	Number of Units	Total Spend	Explanation
Indirect Costs	Level 3 G&A Expense	L3601	Overhead	30.40%	6675.00	\$2,029.20	Field Operations Support in Construction, Engineering & Permitting, Splicing, Testing and Acceptance, Headquarters Support in Scheduling, Fiber planning, Engineering Review, Project Analysis, CAD support, Network Access, Testing and Acceptance Review and Approval, Project Manager Support, Legal Support, Legal Review of Documents.
Total						\$8,704.20	
Capability	Activity	Act. ID	Unit of Measure	Percentage	Total Spend	Total Reimbursement Amount	Explanation
	County Reimbursement Amount			100.00%	8704.20	\$8,704.20	DAMAGED HHs IN PHASE 1

Exhibit C

Schedule of Work and Estimated Dates of Completion

(As Shown Below)

Construction Schedule:

Begin Construction: June 1, 2018
Complete Construction: November 30, 2018

 1/8/19
Initial Date
Fort Bend County

 10/30/18
Initial Date
Level 3 Communications, LLC