

FACILITIES RELOCATION AGREEMENT

First Amendment

This First Amendment to Facilities Relocation Agreement ("**First Amendment**") is made as of October 16, 2009 by and between Nevada Power Company, a Nevada corporation, d/b/a NV Energy ("**Utility**") and City of Las Vegas, Department of Public Works, a municipal corporation of the State of Nevada, ("**Applicant**"). The Parties are referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

- A. Utility and Applicant are Parties to the Facilities Relocation Agreement dated on or about October 14, 2009 ("**Agreement**").
- B. The Parties desire to further amend the Agreement on the terms and subject to the conditions set forth below in this First Amendment.

In consideration of the above recitals, the mutual covenants contained below, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Utility and Applicant agree as follows:

AGREEMENT

- 1. Recitals. The above recitals are an integral part of the agreement and understanding of Utility and Applicant and are incorporated into this First Amendment by reference.
- 2. Specific Amendments. Effective as of the date of this First Amendment the terms of the Agreement are amended as follows:
 - A. Recital D of the Agreement is amended and restated in its entirety as follows:
 - (D) Applicant proposes to construct a bus turnout on Charleston Boulevard on property commonly known as and further described as APN(s) 161-06-110-062 through 161-06-110-065. Because the Development conflicts with the Facilities, Applicant has requested that Utility modify a portion of the Facilities generally located on the south side of Charleston Boulevard between Laurel Avenue and Oahu Street ("**Original Location**"). The modification might include a relocation of certain Facilities.
 - B. Section 1.4 of the Agreement is amended and restated in its entirety as follows:
 - 1.4 Development: Applicant's project commonly known as the City of Las Vegas One Bus Turnout and generally located on the south side of Charleston Boulevard between May Avenue and June Avenue.
 - C. Section 2.1 of the Agreement is amended and restated in its entirety as follows:
 - 2.1 Utility's Scope of Work. Utility will, at Applicant's Cost, perform (or cause to be performed) the following in association with the Project:
 - (A) Perform engineering, survey, design and construction work in connection with the Project. Construction work includes but is not limited to:

FACILITIES RELOCATION AGREEMENT

First Amendment

- (1) Removing existing wood poles (structure nos. X9008 and X9009)
 - (2) Installing steel poles (structure nos. X24424 and X24425)
 - (3) Reframing insulators on existing structure nos. X9007 and X9010 to roadside insulators.
 - (B) Research land rights.
 - (C) Prepare this Agreement and the exhibits to it, including, but not limited to, the Plan and Profile.
 - (D) Transfer existing shield wire, transmission phase conductors, communications cable, and other electrical appurtenances as required.
 - (E) Provide notice to third parties that they must remove their Third-Party Attachments from certain Facilities.
- D. Section 4.5 of the Agreement is amended and restated in its entirety as follows:
- 4.5 Revisions to Improvement Plans; Additional Approvals Required. Before submitting revisions to the Improvement Plans to the appropriate government authority(ies) for approval, Applicant must submit all changes to the Improvement Plans to Utility's Land Services Department and Transmission Engineering Department for review and comment. Applicant must correct all deficiencies identified by Utility. Within five (5) business days after Utility's Land Services Department and its Transmission Engineering Department approve the location of the modified facilities in relation to the improvements identified on the revised Improvement Plans, Utility will notify Applicant of that approval in the form of Utility's standard government authorization letter or that no comment is required by Utility.
- E. Section 4.6 of the Agreement is amended and restated in its entirety as follows:
- 4.6 Executing Transmission Use Agreement. If any portion of the Facilities and modified facilities are on property owned or controlled by a private third party, Utility's consent to existing, approved improvements on that property will be documented through Utility's standard transmission use agreement, a copy of which is attached as Exhibit F. If Applicant is acquiring an easement for the modified facilities through private negotiation, Applicant must use commercially reasonable efforts to obtain a transmission use agreement from the third party. However, if Applicant is acquiring an easement for the modified facilities through condemnation, Applicant is not required to obtain a transmission use agreement from the third party.

FACILITIES RELOCATION AGREEMENT

First Amendment

F. Section 7.1 of the Agreement is amended and restated in its entirety as follows:

7.1 Responsibility for Costs

- (A) General Obligation. Applicant is responsible for all Costs associated with this Agreement.
- (B) Purchase Order. Applicant must deliver a purchase order to Utility in the amount of the Estimated Cost. Utility has no obligation to continue or begin any work in connection with this Agreement until after it receives the purchase order from Applicant.
- (C) Modified Purchase Order. At any time after Utility receives the purchase order required by Section 7.1(B), Utility may send Applicant a written request to increase the purchase order. Within thirty (30) days after the date identified on that request, Applicant must deliver the modified purchase order to Utility. If Applicant does not deliver the modified purchase order to Utility before that 30-day period expires, Utility (without liability to Applicant) may stop all work on the Project.
- (D) Increased Costs. If a condition in the field or some other event (such as surface or subsurface field conditions or conditions in a Permit) affects construction of the Project, affects Utility's ability to complete the Project or increases the Cost of the Project, Applicant is responsible for those increased Costs.

G. Section 7.2 of the Agreement is amended and restated in its entirety as follows:

- 7.2 Estimated Cost. The estimated Cost is \$258,039.00 ("**Estimated Cost**"). Applicant must pay the Estimated Cost to Utility when Applicant delivers the signed Agreement to Utility. The actual Costs might be more or less than the Estimated Cost and it is possible that not all Costs are identified on Exhibit B; however, Applicant is required to pay the actual Costs.

H. A new Section 7.9 is added to the Agreement as follows:

- 7.9 Applicant's Obligation to Pay Tax Effect. It is Utility's understanding that the modifications to the Facilities are not necessary to support electric load increases and will not be used to provide service to Applicant's Development and that Utility is modifying its Facilities so that Applicant may expand, modify or relocate a public roadway. Utility therefore believes the payments from Applicant to Utility under this Agreement will not subject Utility to income tax liability pursuant to section 118 of the Internal Revenue Code of 1954. Accordingly, Utility has not requested that Applicant advance Utility the Tax Effect. However, if the Internal Revenue Service later determines that Utility – because of the modifications to the Facilities – is subject to such tax liability, Applicant

FACILITIES RELOCATION AGREEMENT

First Amendment

must pay Utility the Tax Effect, including interest and penalties; the estimated Tax Effect is \$35,867.42.

- I. Exhibit B to the Agreement is deleted in its entirety and replaced with the "Exhibit B" that is attached to this First Amendment as "Exhibit 1 to the First Amendment".
 - J. Exhibit E to the Agreement is deleted in its entirety and replaced with the "Exhibit E" that is attached to this First Amendment as "Exhibit 2 to the First Amendment".
 - K. Except for the page numbering, the footers in the Agreement are deleted in their entirety and replaced with the following:

NV Energy Contract No. 07-01014FRA
Facilities Relocation (First Amendment)
CLV One Bus Turnout
3. Effect of First Amendment. Except as modified in this first Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between the terms of the Agreement and this First Amendment this first amendment shall control. In addition, except as otherwise stated in the First Amendment, all initially capitalized terms will have the same respective meaning stated in the Agreement. This First Amendment shall not be effective and binding unless and until it is fully-executed and delivered by both Utility and Applicant. Each Party represents and warrants to the other that the entity signing this First Amendment on behalf of the Party is duly authorized to execute and deliver this first Amendment to legally bind the party on whose behalf this First Amendment is signed to all of the terms, covenants and conditions contained in this First Amendment.

[signature page to follow]

FACILITIES RELOCATION AGREEMENT
First Amendment

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed by their duly authorized representative.

NEVADA POWER COMPANY
d/b/a NV Energy

By: _____
Kip Jackson
Director, Major Projects

Date: _____

CITY OF LAS VEGAS

By: _____
Oscar B. Goodman
Mayor

Date: _____

ATTEST:

By: _____
Beverly K. Bridges, MMC
City Clerk

Date: _____

APPROVED as to form:

By: John S. Ridilla
John S. Ridilla
Deputy City Attorney

Date: 11/5/09

FACILITIES RELOCATION AGREEMENT
First Amendment

Exhibit 1 to First Amendment

[Attached]

Exhibit B

Estimated Cost

Description	Estimated Cost
Engineering Labor	\$ 56,086.00
Material	\$ 95,405.00
Installation	\$ 54,719.00
Removals	\$ 2,236.00
A&G Loadings	\$ 5,953.00
Project Supervision	\$ 21,227.00
Subtotal	\$ 235,626.00
Project Labor Expense	\$ 22,413.00
Total Estimated Cost	\$ 258,039.00

(10/2009)

FACILITIES RELOCATION AGREEMENT
First Amendment

Exhibit 2 to First Amendment

[Attached]

VICINITY MAP
NOT TO SCALE

COVERSHEET LEGEND

TRANSMISSION LINE

SECTION LINE

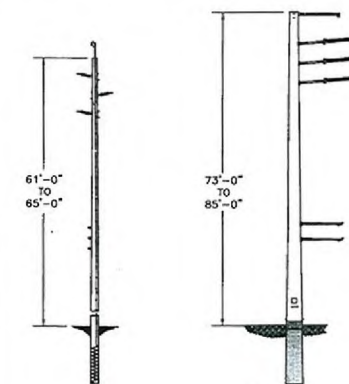
SHEET INDEX

PLAN & PROFILE LEGEND

TRANSMISSION LINE

RIGHT OF WAY LINE

CENTER LINE



**TYPICAL REMOVED
WOOD STRUCTURE**

**PROPOSED STEEL
STRUCTURE
TO BE INSTALLED**

NEVADA POWER COMPANY
RIGHT OF WAY AGENT
6226 WEST SAHARA AVENUE
LAS VEGAS, NEVADA 89146
MS 09

[illegible]**NVEnergy™**

69KV TRANSMISSION LINE
OLIVE - PRINCE
COVER SHEET

SCALE: NONE

REF.	
PROJ.	10# TL 329TOCBT

DWG. NO. 441.69.011 NDOT

Exhibit E

SHEET NO.
1
OF
2