

**STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION
UTILITY RELOCATION AGREEMENT**

PROJECT NO. _____ JOB PIECE NO. _____ UTILITIES _____ COUNTY _____

THIS AGREEMENT, made and entered into by and between the Department of Transportation acting for and on behalf of the State of Oklahoma, hereinafter called the "State" and _____
(Company Name/Address)

hereinafter called the "Utility Owner".

WITNESS TO THAT

WHEREAS, the State proposed to improve _____ Highway No. _____ and such improvements will necessitate rearrangement of facilities by said Utility Owner (state scope and nature of work on reverse side), and

WHEREAS, it is understood that if said project is to be financed in part from funds appropriated by the United States and expended under its regulations, that acceptance of work and procedure in general are subject to Federal Laws, Rules, Regulations, Orders, and Approvals applying to it as a Federal Project, and that costs for items entering into the improvement are reimbursable to the State in such amounts and forms as are proper and eligible for payment from Federal Funds. Reference is made to U.S. Department of Transportation, Code of Federal Regulations, Title 23, Parts 645A, 645B and 635.410, included in the Right-of-Way and Utilities Division Policies and Procedures, and

WHEREAS, it is understood that Title 69, O. S., § 1205 and 1403 each as amended, define the extent to which the State and the Utility Owner may be obligated in the costs of utility rearrangements, and the utility locations on all highways are governed by Regulations and Policies adopted by the State Transportation Commission for the protection and maintenance of the highways, and for the safety of the highway users, and

WHEREAS, the State reserves the right to cancel this Agreement at any time prior to the beginning of the adjustment or relocation of the facilities of this Utility Owner, and

WHEREAS, the State agrees to pay the Utility Owner for the proportionate share of the actual cost to prepare approved preliminary engineering plans and estimates at the State's request, if for any reason the State cancels this Agreement.

WHEREAS, this project has a federal action and hence requires compliance with all regulations and permits associated with it.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Utility Owner agrees:

1. To prepare a detailed estimate of the cost of work to be performed in accordance with the Department's Right-of-Way and Utilities Division Policies and Procedures, and such estimate of cost must be attached and be a part of this Agreement. The estimate will include: (1) The accounting system to be used in computing the relocation costs; (2) Credit for Expired Service Life setting forth therein the conditions on which such credit was determined or complete justification if the credit is not applicable; and; (3) Whether equipment costs are developed from experience records.
2. To include the costs for backfill and compaction of any trenches or holes within the right-of-way limits in the estimate of costs. The backfill will be placed and compacted to a density as directed by the Resident

Engineer/Manager, but will not be compacted to less than that of the adjacent soil.

3. Any and all existing fencing that may require alteration during the utility relocation process shall be restored to its original condition during and after the time of utility relocation/rearrangement. It is the responsibility of the utility owner to ensure that the integrity of the fencing is not compromised at any time to an extent in which it prevents the fencing from performing its intended purpose.
4. To prepare drawings showing the present, temporary and proposed location of its facilities with reference to the centerline of survey and/or the new or existing right-of-way lines using highway stationing in both plan and profile. Delineate details, including date of installation, class, and type of present facility. To comply with all applicable laws and regulations necessary to meet the Oklahoma Department of Environmental Quality (DEQ) requirements for pollution prevention, including discharges from storm water runoff on this project. Further, agrees to secure a Storm Water Permit from the DEQ, when required. It is agreed that the project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work, the storm water pollution prevention plans and the appropriate location map contained in the plans constitute the Storm Water Management Plan for the project previously described in the document. Agrees to have daily operational control of those activities, at the site, necessary to ensure compliance with plan requirements and permit conditions. Agrees to file the Notice of Intent (NOI), when required, for a general construction Oklahoma Pollutant Discharge Elimination System Permit with DEQ, which authorizes discharges of storm water associated with construction activity from the project site identified in this document. Such drawings will be attached to and become a part of this agreement.
5. To begin the process of adjustment or relocation of the facilities as shown on the plans and covered by this Agreement within a reasonable time, depending on the availability of material and work forces, but the actual time must not exceed thirty (30) days after receipt of notice from the state to do so, and in no event proceed with any adjustment or relocation work until such notice is received. To inform the State's Resident Engineer/Manager of: (1) The proposed starting date, prior to commencing work, and continually maintaining liaison with his/her office for the duration of the physical relocation; (2) The materials to be disposed of by scrapping, or sale, and to inform him/her of a time and place for his/her inspection thereof; (3) The date work is completed.
 - a. Buy America requirements are in effect only on federal projects as identified in this agreement. The utility owner is responsible for meeting the Buy America requirements specified in the ODOT Special Provision 106-5 for Buy America. After work is completed on the project, the Contractor must submit a notarized or electronically verified certification signed by the Contractor's authorized agent to the Engineer with the following information:
 - i. Buy America does not apply to assembly materials, attachment materials, housing encasements, or miscellaneous electronics, as defined below.

Assembly Materials (miscellaneous steel) – The collection of miscellaneous materials used to fasten, hold, attach, secure and/or assemble materials including but not limited to nuts, bolts, U-bolts, screws, washers, clips, fittings, sleeves, lifting hooks, mounting brackets, pole steps, clamps, brackets, mountings, straps, fasteners, hooks, pins, braces, disks, clevises, couplers, swivels, snaps, crimps, trunnions, dead-ends, compression swages and other miscellaneous materials used to assemble.

Attachment Materials – Items or material that is not an integral part or permanently attached to a pole, pipe or valve. Attachment materials include, but are not limited to cross arm bracing, insulators, avian equipment, miscellaneous hardware (as defined below), fittings, racks, ladders, encasements, guy wire, strand, conductors and tubing 0.75-inch or less in diameter.

Housing Encasements – Include cabinets, housings, boxes, vaults, covers, shelves and other items use to protect or house equipment or miscellaneous electronics.

Miscellaneous Electronics – Manufactured products or assemblies consisting of many components such as electronic equipment, routers, switches, radios, processors, power supplies, batteries, antennas, splice cases, pre-connected hubs and terminals, and cross-boxes.

- b. I hereby certify that all construction materials furnished to the Oklahoma Department of Transportation for the construction of the above referenced project that are required to be compliant with the Buy America Act have been produced in the United States of America as defined by §70912 “Definitions” of the Infrastructure and Investment Jobs Act (IIJA) (Public Law 117-58 - Nov. 15, 2021). I further certify that all supporting documentation is on file and will be maintained for a period of three (3) years after project completion.
 - c. I also hereby certify that all manufacturing processes of all products permanently incorporated into this Oklahoma Department of Transportation referenced project including protective coating are procured in the USA and are in accordance with 23 CFR 635.410
 - d. The Utility Owner may maintain this documentation electronically or in paper format. The Department or FHWA may request to review the Utility Owner’s supporting documentation to verify compliance with the Buy America provisions at any time. The Utility Owner shall provide the supporting documentation within five (5) business days of the request. The burden of proof to meet the Buy America provisions rests on the Utility Owner. If the supporting documentation does not undeniably demonstrate to the Department or FHWA that the manufactured products, or construction materials identified in the Certificates of Compliance were produced in the United States of America, then such manufactured products or construction materials will be considered unacceptable and must be replaced at no cost to the Department.
6. That no contract with any individual will be entered into without meeting the requirements of the Department’s Right-of-Way and Utilities Division Policies and Procedures.
- a. That contract work for technical services, professional services or other labor classifications involved in the rearrangement of the facility proposed under this Agreement will be supported by a statement to the effect that, “The Utility Company is not adequately staffed or equipped to perform such work with its own forces.” Proper approval must be obtained in accordance with the Right-of-Way and Utilities Division Policies and Procedures prior to executing a contract with any outside firm **or continuing contractor**.
7. To submit to the State, withing ninety (90) days after satisfactory completion of rearrangement of their facilities under this Agreement, a claim using *ODOT Claim Form 324A*, with a certified statement of costs in accordance with the provisions of the aforementioned memorandums.

It is understood this Agreement does not change the rights or obligations of the Utility Owner as they exist in accordance with present State Law.

In consideration of the faithful performance by the Utility Owner of the foregoing, the State agrees:

To reimburse the Utility Owner for the actual costs of work completed, prorated on the basis of the following percentage or for the lump sum as proposed:

(1) Utility Owner Share of Cost	_____ %	Estimated Utility Owner Cost	\$ _____
(2) State Share of Cost	_____ %	Estimated State Cost	\$ _____
<u>OR</u>			
(3) Lump Sum Proposal		State Cost	\$ _____

Nothing herein shall in any way be construed to relieve the Utility Owner from its liability, if any, for payment of a portion of these costs pursuant to 69 O.S. 2001 § 1205, as amended.

IN WITNESS WHEREOF, the parties hereto have caused this Utility Relocation Agreement to be executed by their duly authorized officers on the day and year last below written.

APPROVAL RECOMMENDED:

Resident Engineer/Manager Date

Name: Utility Owner

District Engineer Date

Signature: Utility Owner/Agent Date

Chief, Right-of-Way & Utilities Division Date

DEPARTMENT OF TRANSPORTATION FOR THE STATE
OF OKLAHOMA (ACTING FOR AND ON BEHALF OF THE
STATE OF OKLAHOMA)

Director of Project Delivery Date

(State scope and nature of work in space provided below)

DATE:

FROM:

SUBJECT:

I hereby certify this project will meet the requirements of Buy America in accordance with the Federal Regulations (23 USC § 313 and 23 CFR § 635.410) and ODOT Special Provision 106-5. Buy America requires all manufacturing processes, including the application of a coating, for all predominantly steel or iron products permanently incorporated into the project shall have occurred in the United States.

A product is considered to be manufactured “predominantly of steel and iron” if the product is at least 90% steel or iron content (measured by weight) when it is delivered to the job site for installation.

“All manufacturing processes” are defined as any process required to change the raw ore or scrap metal into the finished steel or iron product (smelting, rolling, extruding, bending, etc.).

“Coating” is defined as any process which protects or enhances the value of the steel or iron product to which the coating is applied (epoxy, galvanizing, painting, etc.).

I understand that I must comply with Buy America and provide all required documentation prior to incorporating any steel or iron products into the project. Any noncompliance will be justification for rejection of the steel and/or iron products or nonpayment of the work.

I the undersigned hereby certify that I am an authorized agent of:

(Company Name)

Sincerely:

(Name/Title)

State of _____)
County of _____) §

Subscribed and sworn to before me this ____ day of _____, 20____ by _____.

(SEAL)

Notary Public

My Commission Expires: _____

My Commission No.: _____

CERTIFICATE OF MATERIALS ORIGIN

PROJECT NO: _____

CONTRACT ID: _____

COUNTY: _____

J/P: _____

RESIDENCY: _____

CONTRACTOR: _____

DATE: _____

BID ITEM NAME & NO: _____

QUANTITY: _____

DOMESTIC MATERIALS SOURCE (NAME AND ADDRESS) TO INCLUDE SUPPLIER, FABRICATOR, AND MANUFACTURER

DOMESTIC MATERIALS DESCRIPTION

DOMESTIC ENTITIES INVOLVED IN OTHER MANUFACTURING PROCESSES (I.E.: GALVANIZATION, EPOXYCOATING, WELDING, BENDING, ETC.)

DESCRIPTION OF MATERIALS OF UNKNOWN ORIGIN OR FOREIGN MATERIALS DELIVERED TO THE PROJECT

This certification is made for the purpose of establishing the materials acceptance under the Buy America Certification (23CFR 635.410) and the Contract Special Provisions. All iron and steel manufacturing processes, including protective coating, for the domestic materials described above occurred in the United State of America.

Manufacturer's certificates verify the origin above described in the domestic materials will be kept on file for three years by the supplier following the final payment. Copies will be provided to the Oklahoma Department of Transportations upon their request: I declare under the penalty of perjury under the Oklahoma and Federal Laws that the foregoing is true and correct;

Supplier Name and Address

Authorized Representative

Name: _____

Title: _____

Signature

Date