



Standard Utility Agreement Supplemental Agreement No. 1 to U Number N/A Utility ID U00017757

District: Dallas
ROW Project ID: R00002955
ROW CSJ: 0195-02-079
Construction CSJ: 0195-02-074
Proposed Highway Project Letting Date: 01/01/24

County: Denton
Highway: IH 35
From: US 77
To: Cooke County Line

THIS SUPPLEMENTAL AGREEMENT by and between the State of Texas ("**State**") and The City of Sanger Electric ("**Utility**") shall be effective upon the date of acceptance and execution by and on behalf of the **State**.

WHEREAS, the **State** and **Utility** executed a Standard Utility Agreement on July 9, 2023 concerning the adjustment, relocation, or removal of certain of the **Utility's** facilities;

WHEREAS, said Standard Utility Agreement limits the required scope of work and/or the amount of eligible reimbursement;

WHEREAS, due to newly discovered information by the **Utility** deemed sufficient by the **State**, the **State** and **Utility** agree that supplementation to the Standard Utility Agreement is necessary; and

WHEREAS, the statement of work contained in the Standard Utility Agreement shall be supplemented to include the reason the supplemental is needed and the change in cost: A supplemental agreement is required due to material cost increases that occurred after the original estimate was prepared. The most significant increase was associated with the self-supporting poles identified as "Self Supporting Pole 45' EQ" and "Self Supporting Pole 50' EQ." At the time of purchase, market conditions had caused substantial increases in material pricing. In addition, the contractor initially believed they had approximately 18 months to procure materials but later learned the materials would need to be obtained within 6 months to maintain the project schedule. To ensure timely delivery and avoid project delays, the contractor was required to expedite the order and pay a significant premium for the poles. Due to market conditions at the time, the overall cost of materials and labor increased after the time the estimate was written, which is more specifically shown in **Utility's** plans, specifications, estimated costs, and schedule, which are attached to this supplemental agreement as Attachment "A."

NOW, THEREFORE, BE IT AGREED:

The statement of work contained in the Standard Utility Agreement is supplemented to include the additional adjustment, relocation, or removal found in Attachment "A."

The estimated cost of the adjustment, relocation, or removal is ☒ increased or ☐ decreased to a total of \$4,703,960.80, or ☐ no change to the Total Cost Estimate. The parties agree that the approval of estimated costs in no way indicates the eligibility of said costs for reimbursement.

All conditions and agreements contained in the Standard Utility Agreement, except those specifically included in this document, remain in effect.

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

Initial Date
TxDOT

Initial Date
Utility

UTILITY

Utility: The City of Sanger Electric

By: _____

Title: City Manager

Date: _____

EXECUTION RECOMMENDED:

Director of TP&D (or designee), Dallas District

THE STATE OF TEXAS

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
District Engineer (or designee)

Date: _____

Initial Date
TxDOT

Initial Date
Utility

Attachment “A” Plans, Specifications, and Estimated Costs

☐ Not Applicable

All material items within the cost estimate that must meet Buy America or Steel and Iron Preference Provision requirements must be indicated with an asterisk (*).

- ☐ Currently, **this project does not plan to use** iron and steel subject to Buy America requirements. In the event that Buy America regulated materials are used during the construction of this project, compliance documentation will be provided.
- ☐ There are non-domestic iron and steel materials in this project that fall under the De Minimis equation. Calculations showing the total cost does not exceed one-tenth of one percent (0.1 %) of the individual utility agreement amount or \$2,500.00, whichever is greater is required.
- ☒ We understand the Buy America Compliance Requirements for iron and steel and will supply the required documentation to TxDOT indicating compliance with this provision. The following documents will be supplied prior to the installation of the materials:

- 1) Form 1818 - Material Statement
- 2) Material Test Reports or Certifications

Initial Date
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Initial Date
Utility

Attachment “A” (Continued) Plans, Specifications, and Estimated Costs

☒ Not Applicable

All construction material and manufactured items within the cost estimate that must meet Build America, Buy America (BABA) compliance must be indicated with a double asterisk (**).

☐ This is to acknowledge that the material(s) listed/marked in the cost estimate will be in conformance with the governing specification(s) and that at least the final manufacturing processes and the immediately preceding manufacturing stage for the manufactured and construction material occurred in the United States of America. Alterations to this document by any agency other than the Utility Company/Supplier will void the certification.

Per 2 CFR 184.3, manufactured products means:

(1) Articles, materials, or supplies that have been:

(i) Processed into a specific form and shape; or

(ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

(2) If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under § 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under § 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.

Per 2 CFR 184.3 and 2 CFR 184.6, construction material includes:

- *Non-ferrous metals*
- *Glass (including optic glass)*
- *Optical fiber*
- *Lumber*
- *Engineered wood*
- *Drywall*
- *Fiber optic cable (including drop cable)*
- *Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)*

Authorized Utility Owner Representative:

Signature

Title

Initial Date
TxDOT

Initial Date
Utility

Attachment “B” Accounting Method

☒ Not Applicable

☐ **Actual Cost Method of Accounting**

The Utility accumulates cost under a work order accounting procedure prescribed by the Federal or State regulatory body and proposes to request reimbursement for actual direct and related indirect costs.

☐ **Lump Sum Method of Accounting**

The Utility proposed to request reimbursement based on an agreed lump sum amount supported by a detailed cost analysis.

Initial Date
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Attachment “C” Schedule of Work

☐ Not Applicable

Estimated Start Date: 07/09/2023 , subject to physical work restrictions prior to the issuance of environmental clearance as required by the provisions of this agreement. (If construction will be joint bid and included in the highway contract, enter the project let date.)

Estimated Duration (number of days): 845

Estimated Completion Date: 10/30/2025

Initial Date
TxDOT

Initial Date
Utility

Attachment “D” Statement Covering Contract Work

☒ Not Applicable

Construction Contract: Complete form ROW-U-48 and ROW-U-48-1 if applicable.

- ☐ The Utility will use its own personnel (supporting documentation will be required at the time of billing, See ROW Utilities Manual, Chapter 11).
- ☐ The Utility will use third party contractors to perform the adjustment and complete the attached ROW-U-48 with ROW-U-48-1 (joint bid), if appropriate. (verification of continuing contract rate sheets or copy of bid tabulation will be required at the time of billing)

Engineering Contract:

- ☐ The Utility will use its own personnel (supporting documentation will be required at the time of billing, See ROW Utilities Manual, Chapter 11).
- ☐ The Utility will use a consultant contract (verification of fee schedule is required).
- ☐ TxDOT will procure a utility engineering consultant.

Initial Date
TxDOT

Initial Date
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Attachment “E” Utility Joint Use Agreement – (ROW-U-JUA) and/or RULIS Permit

☒ Not Applicable

- ☐ Utility Joint Use Agreement (ROW–U–JUA)
 - ☐ Plans with joint use area highlighted are included.
- ☐ RULIS Permit Number:
The utility should obtain an approved permit before the start of construction inside of the highway right of way.
- ☐ Quitclaim will be submitted at the Final Billing

Initial Date
TxDOT

Initial Date
Utility

Attachment “F” Eligibility Ratio

☒ Not Applicable

Eligibility Ratio established: _____ %

- ☐ Non-interstate Highway (Calculations attached)
- ☐ Interstate Highway
- ☐ Toll Road (Minimum of 50%)
- ☐ SP2125 Approved Application (100%)
Minute Order #: _____
- ☐ Master Utility Agreement

Initial Date
TxDOT

Initial Date
Utility

Attachment “G” Betterment Calculation and Estimate

☒ Not Applicable

- ☐ Elective Betterment Ratio established: _____ %
☐ Calculation is attached and the justification is included below
☐ A betterment and an in-kind estimate are included
- ☐ Forced Betterment
☐ To comply with regulated industry standards, laws, and regulations. (Supporting documentation required)
☐ To comply with published current design practice followed by the utility in its own work. (Supporting documentation required)
☐ Due to proposed roadway design. (Provide explanation below)
- ☐ Not Applicable

A statement explaining Elective and/or Forced Betterment:

Initial Date
TxDOT

Initial Date
Utility

Attachment “H” Proof of Property Interest

☒ Not Applicable

☐ Supporting documentation of compensable property interest that establishes reimbursement eligibility as referenced in Texas Transportation Code §203.092.

☐ Property interest is documented through applicable affidavits and required attachments.

☐ ROW-U-Affidavit (See ROW Utilities Manual, Chapter 9, Section 3)

☐ The roadway improvement project is designated as an Interstate Highway project; therefore, no supporting documentation for compensable interest is required. Supporting documentation for existing easements is required for easement replacement.

☐ Toll Road (Supporting documentation of compensable property interest required if more than 50% eligibility ratio is applied)

☐ SP2125

☐ Master Utility Agreement

Initial Date
TxDOT

Initial Date
Utility