



ALABAMA DEPARTMENT OF TRANSPORTATION

Local Transportation Bureau

1409 Coliseum Boulevard

Administrative Building, Room 110

Montgomery, Alabama 36110

Telephone: 334-353-6234/Fax: 334-353-6550

www.dot.state.al.us



Kay Ivey
Governor

RECEIVED
JUN 27 2019

John R. Cooper
Transportation Director

BY: *[Signature]*

March 15, 2019

Mr. Joey Nunnally, P.E.
Baldwin County Engineer
P.O. Box 220
Silverhill, Alabama 36576

RE: Utility Agreement

BR-0217(250)

BCP 02-45-17

Bridge Replacement on CR-9 over Barner Branch

Baldwin County

Attached is a copy of the **Approved Form 2 Reimbursable Utility Agreement** between **Baldwin County** and **Baldwin EMC** covering the adjustment of utilities on the above referenced project. This is your "Notice to Proceed" with the work included in your contract with the State of Alabama.

This copy is for your files and reference.

Sincerely,

D.E. Phillips, Jr., P.E.

State Local Transportation Engineer

By: *[Signature]*

Jeffrey McInerney

Local Transportation Bureau

DEP: JMM

Attachment

cc: **The Honorable Charles Gruber**

Mr. Matthew J. Ericksen, P.E.

Mr. Don Powell, P.E.

Mr. Clay P. McBrien, P.E.

Ms. Kelly Brendle, Director of Finance and Audits

Mr. John Whiteside, External Audits

Baldwin EMC

File



ALABAMA DEPARTMENT OF TRANSPORTATION

1409 Coliseum Boulevard, Montgomery, Alabama 36110



June 19, 2019

Kay Ivey
Governor

John R. Cooper
Transportation Director

MEMORANDUM

TO: Mr. D. E. Phillips, Jr., P.E.
State Local Transportation Engineer

FROM: Clay P. McBrien, P.E. *CPM*
State Office Engineer

RE: Project No. BR-0217(250)
BCP 02-45-17
Baldwin County



We are attaching a copy of FHWA letter of authorization effective April 5, 2019, for work on the subject project by the **Baldwin County** and **Baldwin EMC** covering adjustment to their facilities on the subject project. Based on your recommendations, the agreement is hereby approved.

This is your authority, insofar as Federal regulations are concerned, to notify the utility to proceed with the work.

CPM:JHL:agr
cc: File

FEDERAL-AID PROJECT AUTHORIZATION/MODIFICATION

MODIFICATION NUMBER: 1

STATE: ALABAMA

PROJECT: BR-0217(250)

COUNTY: BALDWIN

PROJECT DESC: BRIDGE REPLACEMENT ON CR-9 OVER BARNER BRANCH (BIN 004805; SUFFICIENCY RATING 8.7)

GENERAL DESCRIPTION OF WORK: BRIDGE REPLACEMENT

Limited Federal Indirect Cost - Project Rate: 0.1363

ER Code:

WORK TO BE AUTHORIZED:

<input type="checkbox"/> Preliminary Engineering:	<input checked="" type="checkbox"/> Construction:
<input type="checkbox"/> Location Only	<input type="checkbox"/> Local Let
<input type="checkbox"/> Preliminary Only	<input type="checkbox"/> Agreed Price/Force Account Basis
<input type="checkbox"/> Right-Of-Way Acquisition	<input checked="" type="checkbox"/> Advertise for Receipt of Bids
<input type="checkbox"/> Location and Preliminary	<input type="checkbox"/> Other
<input type="checkbox"/> Final Design only	
<input type="checkbox"/> Utility	

FHWA Project End Date: 6/30/2023

Demo ID:

REMARKS:

Any recipient or subrecipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A.

PCE TY 2 2/15/19
 STP-LOC - COUNTY

PHASE OF WORK	EFFECTIVE DATE	APPLICABLE PROJECT NUMBERS
PLANNING AND RESEARCH:		
PRELIMINARY ENGINEERING:		100066812
RIGHT-OF-WAY:		
CONSTRUCTION:		100068193
UTILITIES:		
OTHER:		

This modification is made for the following reason

Add Construction (Z240)

All other terms and conditions of the Project Agreement will remain in full force and effect.

ALABAMA DEPARTMENT OF TRANSPORTATION

U.S. DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION

By/For Clay P. McBrien
 Clay McBrien
 State Office Engineer

By/For Mark D. Bartlett
 Mark D. Bartlett
 DIVISION ADMINISTRATOR

06/10/2019
 DATE

6/14/19
 DATE

REIMBURSABLE AGREEMENT
FOR RELOCATION OF UTILITY FACILITIES
ON PRIVATE OR PUBLIC RIGHT-OF-WAY

<u> </u> Private Right-of-Way	PROJECT NUMBER	<u>BR-0217(250)</u>
<input checked="" type="checkbox"/> Public Right-of-Way	COUNTY NUMBER	<u>BCP-02-045-17</u>
	COUNTY	<u>Baldwin</u>

THIS AGREEMENT is entered into by and between the County of Baldwin acting by and through its County Commission, hereinafter referred to as the COUNTY, and Baldwin EMC, hereinafter referred to as the UTILITY.

WITNESSETH:

WHEREAS, the COUNTY proposes a project of certain highway improvements in Baldwin County, Alabama, said project being designated as Project No. BR-0217(250) and consisting approximately of the following: Bridge Replacement on County Road 6 over Barner Branch; and

WHEREAS, the UTILITY is the owner of certain facilities located on private or public right-of-way, as applicable, at places where they will interfere with the construction of said project unless said facilities are relocated; and

WHEREAS, the COUNTY has determined that the relocation of the facilities hereinafter referred to is necessitated by the construction of said project and has requested or ordered, as applicable, the UTILITY to relocate same; and

WHEREAS, the Alabama Department Of Transportation will use Federal funds allocated to the County, if available, that are provided to it by the Federal Highway Administration pursuant to 23 CFR 645 to reimburse the County's expenses incurred in adjusting the utilities facilities;

NOW, THEREFORE, the parties hereto agree as follows:

1. The UTILITY will relocate its facilities presently located within the right-of-way limits of the above referenced project in accordance with the UTILITY'S plans and specifications as approved by the COUNTY, so as to occasion the least possible interference with the progress of the project. The UTILITY'S plans, specifications and estimate of relocation cost are transmitted herewith and made a part hereof by reference.
2. The UTILITY will conform to the provisions of the latest edition of the State of Alabama Department of Transportation Utility Manual, as the provisions thereof are applicable hereto, for both installation and maintenance of such facilities. Such Utility Manual is of record within the Alabama Department of Transportation at the execution of this Agreement and is hereby made a part hereof by reference.
3. The UTILITY will conform to the provisions of the Federal Highway Administration Manual on Uniform Traffic Control Devices (MUTCD), latest edition, as the provisions thereof are applicable hereto, for both installation and maintenance of such facilities. Such manual is of record within the Alabama Department of Transportation at the execution of this Agreement and is hereby made a part hereof by reference.
4. Code of Federal Regulations 23 CFR 645 is hereby made a part hereof by reference and will be conformed to by the UTILITY as the provisions thereof are applicable hereto.
5. The UTILITY will observe and comply with the provisions of all Federal, State and Municipal laws and regulations as the provisions thereof are applicable hereto in the performance of work hereunder, including the Clean Water Act of 1987, the Alabama Nonpoint Source Management Program of 1989, and the regulations of the Environmental Protection Agency (EPA) and the Alabama Department of Environmental Management (ADEM). The UTILITY will procure and pay for all licenses and permits that are necessary for its performance of the work.

6. The UTILITY will perform the work of relocation:
- (a) X by UTILITY'S own forces
 - (b) by contract let by the UTILITY
 - (c) by an existing written continuing contract where the work is regularly performed for the UTILITY
 - (d) by combination of the preceding (as shown in detail on the estimate).

7. The detailed relocation cost estimate will be itemized and attached to this agreement. With respect to facilities located on the UTILITY'S private right-of-way, the COUNTY will reimburse the UTILITY for the actual cost of relocation, as may be adjusted below. With respect to facilities located on public right-of-way, the COUNTY will reimburse the UTILITY for all or part of the actual cost of relocation as required by the laws of Alabama, as may be adjusted below.

- a. The STATE'S share of the engineering charges shall be limited to the "in-kind" work only.
- b. The total actual cost of relocation, including Engineering, whether the facilities are on private or public right-of-way, shall be adjusted for betterment, if any, as defined and provided for in 23 CFR 645 above noted. Excluding betterment costs, the total estimated cost of relocation, including Engineering, is \$ 5,674.98. The total estimated cost including betterment is \$ 5,674.98.
- c. If an adjustment for betterment is applicable, the COUNTY will reimburse the UTILITY for 100 percent of the actual cost of relocation and the remaining 0 percent thereof shall be for the account of the UTILITY for betterment. If there are changes during construction and/or the actual construction cost percentage becomes substantially different from the construction estimate, the COUNTY reserves the right to recalculate the percentages at any time.

8. The UTILITY will keep accurate and true records of all expenditures made by it in the process of such relocation. Records will be kept in accordance with 23 CFR 645 above noted, or in accordance with Part 30 and 31, Federal Acquisition Regulations, or in accordance with accounting practices acceptable to the STATE.

9. The UTILITY will, during the progress of the work and for three years from the date final payment is made, make its records available during normal working hours for examination and audit by representatives of the STATE and of the Federal Highway Administration to verify amounts and items covered in the reimbursement for relocation of facilities covered herein. Said records will be available for examination at

Baldwin EMC

19800 State Highway 59

Summerdale Alabama, 36580

10. The UTILITY will, within six (6) months following completion of the relocation, furnish the COUNTY such papers, records, supporting documents and invoices as may be required by the State showing the cost of said relocation. The UTILITY will furnish the COUNTY a copy of its "as built" plans for the STATE'S records.

11. Upon receipt of such documents and accounts as may be required by the preceding paragraph and upon completion and acceptance of such verification as the COUNTY may deem necessary, the COUNTY will reimburse the UTILITY for the actual cost of such relocation as verified by the COUNTY. In the event the actual verified cost, as accepted, exceeds the estimated cost, the COUNTY may require a Supplemental Agreement to be executed between the parties prior to reimbursement of any amount in excess of the estimated cost.

12. Paragraphs numbered 13 through 17 set forth below are applicable to this Agreement only if some or all of the UTILITY facilities to be relocated hereunder are located on private right-of-way of the UTILITY; otherwise, such paragraphs are considered inapplicable to this Agreement and null and void.

13. Where the UTILITY has a compensable property interest in its existing location (herein referred to as private right-of-way) by reason of holding the fee, an easement or other property interest, evidence of such compensable property interest will be submitted to the COUNTY by the UTILITY for review and approval.

14. If the UTILITY is required to move all of its facilities from a portion of its private right-of-way, upon completion of the relocation provided for herein, the UTILITY will convey to the COUNTY by Quitclaim Deed the portion of its private right-of-way located within the right-of-way limits of the above referenced project.

15. In the event the UTILITY is not required to relocate any of its facilities which are located on its private right-of-way, the following provisions shall apply:

- a. To the extent the UTILITY has the right to so agree the COUNTY will have the right to construct, operate and maintain a highway over and along the portion of the UTILITY'S private right-of-way located within the right-of-way limits of the above referenced project.
- b. The subordination of the UTILITY'S private right-of-way to the right of the COUNTY to construct, operate, and maintain said highway will be effective and operative only to such air, surface and sub-surface rights as may reasonably be required and are necessary for the construction, operation, and maintenance of said highway, and to enable the COUNTY to control access to the highway where such control is established; otherwise this subordination agreement will in no wise affect and impair the rights of the UTILITY, its successors and assigns, in or to its private right-of-way, including but not limited to the right to install additional facilities over, under and across the highway; provided, however, that any installation of additional facilities will be subject to the STATE'S responsibility and right to make prior determination that any such additional facilities are located so as not to impair the highway or any planned highway improvement and so as not to interfere with the free and safe flow of traffic thereon.
- c. It is mutually understood that the terms of this Agreement do not subordinate, affect or impair the rights of the UTILITY for reimbursement of the cost of such future relocation as may be required and necessitated by highway construction at some future date, as fully as if no subordination existed; however, such relocation will be in accordance with an additional agreement to be entered into at that time between the UTILITY and the COUNTY.

16. If the UTILITY is required to relocate any of its facilities which are located on its private right-of-way to a new location on the same private right-of-way, the following provisions shall apply:

- a. To the extent the UTILITY has the right to so agree, upon completion of the relocation provided for herein, the COUNTY will have the right to construct, operate and maintain a highway over and along the portion of the UTILITY'S private right-of-way located within the right-of-way limits of the above referenced project.
- b. The subordination of the UTILITY'S private right-of-way to the right of the COUNTY to construct, operate and maintain said highway will be effective and operative only to such air, surface and sub-surface rights as may reasonably be required and are necessary for the construction, operation and maintenance of said highway, and to enable the COUNTY to control access to the highway where such control is established; otherwise this subordination agreement will in no wise affect and impair the rights of the UTILITY, its successors and assigns, in or to its private right-of-way, including but not limited to the right to install additional facilities over, under and across the highway; provided, however, that any

installation of additional facilities will be subject to the COUNTY'S responsibility and right to make prior determination that any such additional facilities are located so as not to impair the highway or any planned highway improvement and so as not to interfere with the free and safe flow of traffic thereon.

- c. It is mutually understood that the terms of this Agreement do not subordinate, affect or impair the rights of the UTILITY for reimbursement of the cost of such future relocation as may be required and necessitated by highway construction at some future date, as fully as if no subordination existed; however, such relocation will be in accordance with an additional agreement to be entered into at that time between the UTILITY and the COUNTY.

17. If the UTILITY is required to relocate any of its facilities which are located on its private right-of-way to a new location on public right-of-way or if any such facilities are to be retained in place within the public right-of-way due to this project, the following provisions will apply

- a. The cost of relocation will include reimbursement for acquisition of right-of-way by the UTILITY to place necessary guy wires and anchors on private lands adjacent to the highway right-of-way and the rights to cut, trim and remove, initially and from time to time as necessary, trees on private lands adjacent to the highway right-of-way which might then or thereafter endanger the facilities of the UTILITY.
- b. Reimbursement for future relocation of the UTILITY'S facilities will be in accordance with State laws in effect at the time such relocation is made; provided, however, the UTILITY will be reimbursed for the cost of any future relocation of the facilities, including the cost of acquisition of equivalent private right-of-way if such future relocation is outside the highway right-of-way and such relocation is required by the COUNTY, and provided that the prior relocation from private right-of-way to public right-of-way was without compensation to the UTILITY for its compensable property interest in its private right-of-way.

18. The UTILITY will be obligated for the payment of damages occasioned to private property, public utilities or the general public, caused by the legal liability (in accordance with Alabama and/or Federal law) of the UTILITY, its agents, servants, employees or facilities.

19. The UTILITY will have a copy of this Agreement on the project site at all times while work is being performed under this Agreement.

20. Nothing contained in this Agreement, or in its execution, shall be construed to alter or affect the title of the COUNTY to the public right-of-way nor to increase, decrease or modify in any way the rights of the UTILITY provided by law with respect to the construction, operation or maintenance of its facilities on the public right-of-way.

21. Paragraph 22 set forth below is applicable to this Agreement only if Federal appropriated funds are available or will be available in the project by which the relocation required by this Agreement is necessitated.

22. In the event any Federal Funds are utilized for this work, the following certification is made:

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, officials or persons thereunto duly authorized, and this agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the State Local Transportation Engineer.

The County requests that (_____ 100% County funds; X Federal participation) be used for utility work in this agreement.

WITNESS


: 

Brett Morrow

Baldwin EMC

(Legal Name of Utility)

BY:


(Signature)

Johnny Brinkman

(Type or Printed Name)

Supervisor of Staking

(Type or Printed Title)

19600 State Highway 59

(Address)

Summerdale, AL 36580

(Address)

251-510-1483

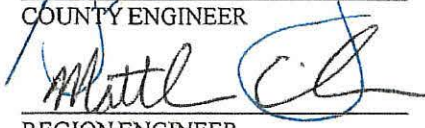
(Telephone)

RECOMMENDED FOR APPROVAL:

BY:


COUNTY ENGINEER

BY:


REGION ENGINEER

COUNTY OF

Baldwin

BY:


CHAIRMAN, COUNTY COMMISSION

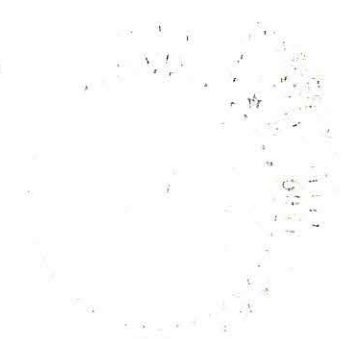
APPROVED:

BY:


STATE LOCAL TRANSPORTATION ENGINEER


DATE:

4/4/19





BALDWIN EMC

Your Touchstone Energy Cooperative 

P.O. Box 220
Summerdale, AL
36580-0220
(251) 989-6247

www.baldwinemc.com

County Rd 9 Bridge Replacement

February 20, 2019

TO:

Baldwin County Highway Department

Units	Description	Price	Total
1	Bore under County Road 9 to replace overhead power with underground power for bridge construction	\$5,674.98	\$5,674.98
TOTAL AMOUNT DUE			\$5,674.98

County Rd 9 South of County Rd 28 Bridge Replacement

Make all checks payable to Baldwin EMC
Send to the attention of: **Johnny Brinkman**

