

# Executive Summary

The Executive Summary is a summation of this agreement and is not intended to be used as the agreement between the Department (North Carolina Department of Transportation) and the Party (Entity).

**Entity:** \_\_\_\_\_

**County:** [Select County]

**TIP / WBS Element:**

**TIP:** \_\_\_\_\_

**WBS Element:** \_\_\_\_\_

**Scope:** The Project consists of \_\_\_\_\_

**Funding:**

**Type:** Receivable

**Total Cost:** \$ \_\_\_\_\_

**Responsibilities:**

**Adjustment and relocation of utility lines:**

The \_\_\_\_\_ shall be responsible for \_\_\_\_\_ cost.

Upon completion of the utility lines relocation and adjustment covered under this Agreement; the \_\_\_\_\_ shall assume normal maintenance operations for these utility lines.

NORTH CAROLINA

**UTILITY AGREEMENT**

[SELECT COUNTY] COUNTY

DATE: 7/18/2013

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

Project: \_\_\_\_\_

AND

WBS Elements: \_\_\_\_\_

\_\_\_\_\_

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the \_\_\_\_\_, hereinafter referred to as the "Agency";

**WITNESSETH:**

WHEREAS, the Department has prepared and adopted plans to make certain street and highway improvements under Project \_\_\_\_\_, in [Select County] County, said plans consists of \_\_\_\_\_; [Select County] County; said project having a right-of-way width as shown on the project plans on file with the Department's office in Raleigh, North Carolina; and,

WHEREAS, the parties hereto wish to enter into an agreement for certain utility work to be performed by the Department's construction contractor with full reimbursement by the Agency for the costs thereof as hereinafter set out.

NOW, THEREFORE, it is agreed as follows:

1. The Department shall place provisions in the construction contract for Project \_\_\_\_\_ [Select County] County, for the contractor to adjust and relocate \_\_\_\_\_. Said work shall be accomplished in accordance with project special provisions attached hereto as Exhibit "A", cost estimate attached hereto as Exhibit "B" and the plan sheets attached hereto as Exhibit "C".
2. The Agency shall be responsible for \_\_\_\_\_ cost as shown on the attached Exhibit "C". The estimated cost to the Agency is \$\_\_\_\_\_ as shown on the attached Exhibit "B". It is understood by both parties that this is an estimated cost and is subject to change. The Agency shall reimburse the Department for said costs as follows:

- A. Upon completion of the highway work, the Department shall submit an itemized invoice to the Municipality for cost incurred. Billing will be based upon the actual bid prices and actual quantities used.
  - B. Reimbursement shall be made by the Municipality in one final payment within sixty (60) days of said invoice.
  - C. If the Municipality does not pay said invoice within sixty (60) days of the date of the invoice, the Department shall charge interest on any unpaid balance at a variable rate of the prime plus (1%) in accordance with G.S. 136-27.3.
  - D. Said interest rate shall be set upon final execution of the Agreement by the Department. The Municipality will be notified of the set interest rate by the Department's approval letter upon receipt of the fully executed agreement.
  - E. Any cost incurred due to additional utility work requested by the Municipality after award of the construction contract, shall be solely the responsibility of the Municipality. The Municipality shall reimburse the Department 100% of the additional utility cost.
3. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment hereinabove provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by North Carolina General Statute, Section 136-41.1, until such time as the Department has received payment in full.
4. Upon the satisfactory completion of the relocations and adjustments of the utility lines covered under this Agreement, the Agency shall assume normal maintenance operations to the said utility lines. Upon completion of the construction of the highway project, the Agency shall release the Department from any and all claims for damages in connection with adjustments made to its utility lines; and, further, the Agency shall release the Department of any future responsibility for the cost of maintenance to said utility lines. Said releases shall be deemed to be given by the Agency upon completion of construction of the project and its acceptance by the Department from

its contractor unless the Agency notifies the Department, in writing, to the contrary prior to the Department's acceptance of the project.

5. It is further agreed that the following provisions shall apply regarding the utilities covered in this Agreement.
  - A. The Agency obligates itself to service and to maintain its facilities to be retained and installed over and along the highway within the Department's right-of-way limits in accordance with the mandate of the North Carolina General Statutes and such other laws, rules, and regulations as have been or may be validly enacted or adopted, now or hereafter.
  - B. If at any time the Department shall require the removal of or changes in the location of the encroaching facilities which are being relocated at the Agency's expense, the Agency binds itself, its successors and assigns, to promptly remove or alter said facilities, in order to conform to the said requirement (if applicable per G.S. 136-27.1), without any cost to the Department.
6. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Agency by authority duly given.

L.S. ATTEST: \_\_\_\_\_

BY: \_\_\_\_\_ BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by \_\_\_\_\_ of the local governing body of the \_\_\_\_\_ as attested to by the signature of Clerk of said governing body on \_\_\_\_\_(Date)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

\_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
(CHIEF ENGINEER)

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_ (Date)