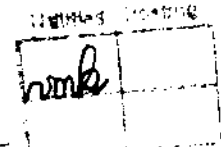


STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
DIVISION OF ROAD OPERATIONS

UTILITY JOINT PROJECT MASTER AGREEMENT
JOINT POLE USE
Reimbursable - Private Utility



THIS AGREEMENT, made and entered into this 22nd day of February,
1980, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION,
hereinafter called the DEPARTMENT, and
CLAY ELECTRIC COOPERATIVE, INC.,
a corporation organized and existing under the laws of FLORIDA,
with its principal place of business in the City of KEYSTONE HEIGHTS,
County of CLAY, State of FLORIDA, hereinafter called the COMPANY.

WITNESSETH:

WHEREAS, the DEPARTMENT proposes to engage in certain projects for construction, reconstruction or other change of portions of the State Highway System which shall call for the installation or attachment of DEPARTMENT poles and/or equipment within certain areas of the COMPANY'S pole line,

AND WHEREAS, the COMPANY occupies public ways, streets and private properties with an unspecified number of poles upon which are attached electric transmission and distribution lines, street lighting systems, communications lines, and appurtenances; and the DEPARTMENT also similarly occupies public ways with poles upon which are attached traffic control systems and street lighting systems.

AND WHEREAS, the parties hereto desire to cooperate in jointly using each other's poles under one or more of the above conditions when the conditions determining the necessity or desirability of joint use depend upon the requirements to be met by both parties, including considerations of safety and economy, and each party should be the judge of what the character of its circuits should be to meet its requirements and as to whether or not these requirements can be properly met by the joint use of poles,

AND WHEREAS, the plans for the said construction, reconstruction or other changes to be made, as above described, are to be reviewed by the DEPARTMENT and the COMPANY said above described joint use arrangement to hereinafter be designated as "Relocation Work,"

AND WHEREAS, under the laws of the State of Florida the expense of said "Relocation Work" may qualify for reimbursement to the COMPANY where COMPANY'S facilities lie on property in which the COMPANY holds a compensable interest,

AND WHEREAS, the term "cost of relocation" shall include the entire amount paid by the COMPANY properly attributable to each such relocation after deducting therefrom any increase in the value of the new facility and any salvage of materials recovered from the old facility,

NOW, THEREFORE, in consideration of the mutual undertaking as herein set forth, the parties hereto agree as follows:

1. When the DEPARTMENT and COMPANY have mutually agreed regarding joint use of the COMPANY'S facilities along, over and under property in which the COMPANY holds a compensable interest, and DEPARTMENT has issued a change order placing those facilities under the terms of this agreement, the COMPANY hereby agrees to relocate the necessary parts of said facilities in accordance with the provisions set forth in DEPARTMENT Rule 014-46.01 "Utility Accommodation Guide," Florida Administrative Code, dated May 4, 1970; any supplements thereto or revisions thereof as of the date of this Agreement, which, by reference hereto, are made a part of this Agreement; and the plans, designs and specifications of the DEPARTMENT for the construction or reconstruction of said portions of the State Highway System, prior to the advertising for bid on said project. The COMPANY further agrees to do all of such work with its own forces or by a contractor paid under a contract let by the COMPANY, all under the direction of the DEPARTMENT'S engineer. The COMPANY'S use of the poles subject to this Agreement shall be confined to the transmission and distribution of electricity, street lighting and/or communications facilities in pursuit of its business of serving the public; and the DEPARTMENT'S use of the poles subject to this Agreement shall be confined to that necessary for the operation and support of traffic control systems, street light systems, and luminaries as the case may be.

2. The COMPANY further agrees to fully comply with the provisions of Title VI of the Civil Rights Act of 1964 in connection with the "Relocation Work" covered by this agreement, and such compliance will be governed by the applicable method described hereafter:

a. When the COMPANY will perform all or part of such "Relocation Work" by a Contractor paid under a contract let by the COMPANY, then the Appendix "A" of Assurances attached to this agreement will be included in said contracts let by the COMPANY.

b. When the COMPANY will perform all of such "Relocation Work" entirely with COMPANY'S forces, then Appendix "A" of Assurances is not required.

c. When the "Relocation Work" involved is agreed to by way of just compensation for the taking of COMPANY'S facilities located on right of way in which the COMPANY holds a compensable interest, then Appendix "A" of Assurances is not required.

d. When the COMPANY will perform all such "Relocation Work" entirely by continuing contract, which contract to perform all future "Relocation Work" was executed with COMPANY'S Contractor prior to August 3, 1965, then Appendix "A" of Assurances is not required.

3. The DEPARTMENT hereby agrees to reimburse the COMPANY for all costs incurred by it in each such relocation of said facilities, in accordance with the provisions set forth in DEPARTMENT Procedure No. 132-046 "Reimbursement for Utility and Railroad Relocation," dated October 1, 1973, and any supplements or revisions thereof. It is understood and agreed by and between the parties that preliminary engineering costs not incorporated in the COMPANY'S plans and estimates, as approved by the DEPARTMENT, shall not be subject to payment by the DEPARTMENT.

4. Plans and specifications of the work to be performed by the COMPANY on each project contemplated under the terms of this agreement are made a part hereof by reference, upon approval by the DEPARTMENT. All work performed by the COMPANY pursuant hereto shall be performed according to these plans and specifications as approved by the DEPARTMENT, and all subsequent plan changes shall likewise be approved by the DEPARTMENT. All "Relocation Work" covering facilities to be relocated to a position within the highway right of way will be accommodated in accordance with the provisions of said "Utility Accommodation Guide," and any supplements thereto or revisions thereof.

5. All labor, services, materials and equipment furnished by the COMPANY in carrying out the work to be performed hereunder on each project shall be billed by the COMPANY direct to the DEPARTMENT. Separate records as to the cost of contract bid items and force account items performed for the COMPANY on each project shall also be furnished by the COMPANY to the DEPARTMENT.

6. The COMPANY and the DEPARTMENT agree that the method to be used in developing the relocation or adjustment cost may be any of the following:

a. Actual and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by the applicable Federal or State regulatory body.

b. Actual and related indirect costs accumulated in accordance with an established accounting procedure developed by the COMPANY and approved by the DEPARTMENT.

c. An agreed lump sum as supported by a detailed analysis of estimated cost, such specific sum and analysis to be attached to the COMPANY'S plans and specifications and approved by the DEPARTMENT (Note: This method is not applicable where the estimated cost of the proposed adjustment exceeds \$10,000).

The COMPANY shall clearly state the applicable method in its plan, specifications and estimates as submitted to the DEPARTMENT.

7. The DEPARTMENT and the COMPANY agree that the adjustment of the COMPANY'S facilities on individual projects may require the operation of the old facility until the new facility is functioning. If the old facility must remain in operation until the new facility is functioning, the reason(s) must be clearly stated in the COMPANY'S plans, estimates and specifications as submitted to the DEPARTMENT.

8. The DEPARTMENT and the COMPANY agree that the proposed new facilities on individual projects to be installed in the COMPANY'S system may remain in useful service beyond the time when the overall (old) facility, of which it is a part, is replaced. If the new facility will remain in useful service as above and indicated in the COMPANY'S plans and specifications, or if an entirely new facility is constructed and the old facility retired, credit for expired service life will apply and the estimated or actual credit must appear in COMPANY'S plans and estimates.

9. The adjustment of the COMPANY'S facility on each project may involve additional "Relocation Work" over and above the minimum reimbursable requirements of the DEPARTMENT; which condition shall be clearly stated in the COMPANY'S plans, estimates and specifications. If upgrading or nonreimbursable "Relocation Work" is involved at the option of the COMPANY on any project, then credit against the cost of the project is required and will be governed by the applicable method described hereafter:

a. A certain percentage being applied to the final billing of work actually accomplished to determine required credit for betterment, expired service life or nonreimbursable segments; such percentage to be clearly stated and explained in COMPANY'S plans and estimates.

b. All "Relocation Work" involving nonreimbursable segments being performed by special COMPANY work or job order number apart and separate from reimbursable "Relocation Work," such work or job order number to be clearly stated in COMPANY'S plans, estimates and specifications as submitted to the DEPARTMENT. The COMPANY further agrees to clearly identify such work areas in the COMPANY'S plans and specifications for the "Relocation Work" covered under this agreement.

c. A certain lump sum credited for betterment, expired service life or nonreimbursable segments in accord with Article 6(c) hereinabove and clearly stated in the COMPANY'S plans and estimates.

10. It is specifically agreed by and between the DEPARTMENT and the COMPANY that the DEPARTMENT shall receive fair and adequate credit for any salvage which shall accrue to the COMPANY as a result of the above relocation work.

11. It is further agreed that the cost of all improvements made during the relocation work on each project shall be borne by the COMPANY, subject only to the DEPARTMENT bearing such portion of this cost as represents the cost of relocation of previously existing facility, less salvage credit as set forth in the immediately preceding paragraph.

12. The DEPARTMENT hereby agrees to install, construct and maintain its attachments with its own qualified electrician or by a qualified electrical contractor paid under a contract let by the DEPARTMENT all in accordance with the safety requirements as approved by the Florida Public Service Commission at the time of installation, to comply at all times with generally accepted safety practices of the electric utility and/or communications industry and the regulations of the Florida Department of Commerce as they exist or as they are subsequently revised, amended or superseded; and that utility service connections shall in all cases be performed by the COMPANY when the COMPANY is expected to supply a utility service. It is further understood and agreed by the DEPARTMENT that the said installation, construction and maintenance of such attachments within six (6) feet of the power utilities primary conductors (which shall herein be defined as all conductors with voltage potentials exceeding 750v) shall be performed only with prior consent of the COMPANY when pole ownership lies with the DEPARTMENT. When the pole ownership lies with the COMPANY, all installations, construction and maintenance of DEPARTMENT attachments shall be subject to the approval of the COMPANY within its sole and absolute discretion and shall conform with any other joint use agreement now in effect between the COMPANY and other joint users.

13. The DEPARTMENT also agrees to require that the local Governmental Agency charged with the responsibility of maintaining the DEPARTMENT'S attachments shall comply with the generally accepted practices of the electric utility and/or communications industries and the regulations of the Florida Department of Commerce as they exist or as they are subsequently revised, amended or superseded. The DEPARTMENT further agrees to require the local Governmental Agency to notify the COMPANY and obtain the COMPANY'S approval prior to performing maintenance work within six (6) feet of the primary conductors while the COMPANY agrees to provide direction and assistance to the same local Governmental Agency in making the work area safe when the COMPANY finds it necessary and advisable.

14. The DEPARTMENT will require in any agreement entered into with another governmental agency for maintenance by that agency of any installation on the state highway system, where such installation involves use of COMPANY poles, that the governmental agency must obtain an Owners and Contractors Protective Liability Policy naming the COMPANY as the named insured in the amount of \$1,000,000.00. Said policy shall be endorsed to be primary to any other insurance carried by the COMPANY. Said policy shall also cover the named insured for bodily injury or property damage arising out of acts of omissions, including negligence of the named insured or any of his employees. Copies of the policy shall be provided upon request by the COMPANY.

15. The DEPARTMENT agrees to include the following indemnification in all contracts with contractors who perform construction or maintenance work on poles owned by the COMPANY:

“The (contractor), hereby agrees to indemnify, defend, save and hold harmless the DEPARTMENT and any owner of equipment attached to or supported by a jointly used pole from all claims, demands, liabilities and suits whether or not due to or caused by negligence of the DEPARTMENT or joint pole equipment owners for bodily injuries or death to persons or damage to property resulting in connection with the performance of the described work by (contractor), its subcontractors, agents or employees.” This indemnification shall not exceed the sum of \$1,000,000.00 for bodily injury or death of persons for any one occurrence or \$300,000.00 for property damage for any one occurrence.

16. It is mutually agreed that the COMPANY'S plans, maps or sketches showing any such facility or utility to be adjusted, changed or relocated on any individual “Relocation Work” project are, when approved by the DEPARTMENT, made a part hereof by reference. The DEPARTMENT agrees to furnish the COMPANY with all necessary highway construction plans that are required by the COMPANY to facilitate the COMPANY'S “Relocation Work.”

17. The DEPARTMENT further agrees to require its contractor to furnish liability insurance, including Broad Form Contractual Coverage, for the protection of the COMPANY from all claims, actions, damages and expenses of litigation resulting in connection with the performance of the described work under this agreement and providing for a limit of not less than \$1,000,000 for all damages arising out of bodily injuries to or death of one person or any one occurrence, and regular Protective Property Damage Liability Insurance providing for a limit of not less than \$300,000 for all damages arising out of injury to or destruction of property. This insurance shall be maintained in effect during the term of the contract. However, should the insurance be terminated, altered or reduced, 30 days notice shall be given the DEPARTMENT and COMPANY. No work may be performed in the absence of said insurance.

18. The COMPANY hereby agrees to install or attach the necessary parts of its facilities along said Road in accordance with the provisions set forth in DEPARTMENT Procedure 132-046 “Reimbursement for Utility and Railroad Relocation,” dated October 1, 1973, and any supplements or revisions thereof, which, by reference hereto, are made a part hereof. The COMPANY further agrees to do all of such work with its own forces or by a contractor paid under contract let by the COMPANY, all under the supervision and approval of the DEPARTMENT.

19. Upon completion of the work on each project the COMPANY shall, at the earliest date practicable, and in no event later than one hundred eighty (180) days following the date of completion of the “Relocation Work” by the COMPANY, furnish the DEPARTMENT with two (2) copies of its final and complete billing of all costs incurred in connection with the work on each project performed hereunder, such statement to follow as closely as possible the order of the items contained in the

COMPANY'S estimate as approved by the DEPARTMENT. Upon the COMPANY'S failure to submit proper billing within the 180 day period, the DEPARTMENT may, at its discretion, audit the COMPANY'S records and thereby determine the reimbursable amount. The COMPANY hereby waives any right of appeal or protest of such amount as determined by audit. The totals for labor, overhead, travel expense, transportation, equipment, material and supplies, handling costs, and other services on each project shall be shown in such a manner as will permit ready comparison with the approved plans and estimates. Materials shall be itemized where they represent major components or costs in the relocation, following the pattern set out in the approved estimate as closely as possible. Salvage credits from recovered and replaced permanent and recovered temporary materials shall be reported in said bill in relative position with the charge for the replacement or the original charge for temporary use.

The final billing shall show the description and site of each project: the date on which the first work was performed, or, if preliminary engineering right of way items are involved, the date on which the earliest item of billed expense was incurred: the date on which the last work was performed or the last item of billed expense was incurred, and the location where the records and accounts billed can be audited. Adequate reference shall be made in the billing to the COMPANY'S record, accounts, and other relevant documents. All cost records and accounts shall be subject to audit by a representative of the DEPARTMENT. Upon receipt of invoices prepared in accordance with the provisions of the DEPARTMENT Procedure No. 132-046, the DEPARTMENT agrees to reimburse the COMPANY in the amount of such actual costs as approved by the DEPARTMENT'S auditor. The DEPARTMENT shall retain ten percent from any progress payments.

20. It is understood and agreed that either party hereto may at any time and whether with or without cause terminate joint usage for any pole or poles by mailing to the other a written notice of its intent to do so. The party desiring termination may then remove its attachments and facilities from said joint use pole or poles defined in the notice of termination. The title to and maintenance responsibility for said pole or poles and accessory attachments such as guy wires, anchors and pole foundations shall revert to the party retaining use of said pole or poles.

21. The COMPANY covenants to indemnify, defend, save harmless and exonerate the DEPARTMENT of and from all liability, claims, and demands arising out of the work undertaken by the COMPANY pursuant to this agreement, due to the negligent actions, delays, or omissions done or committed by the COMPANY, its subcontractors, employees, agents or representatives. It is specifically understood and agreed that this indemnification agreement does not cover nor indemnify the DEPARTMENT for its own negligence or breach of this contract.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers, and their official seals hereto affixed, the day and year first above written.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: Larry K. O'Dell (SEAL)
Director of Administration

ATTEST: Robin Johnson
Executive Secretary

COMPANY: CLAY ELECTRIC COOPERATIVE, INC.,

BY: Russell P. Lee (SEAL)
(Title: General Manager of Engineering)

ATTEST: Thomas E. Lewis, Chief
Right of Way Division

Approved as to Form, Legality and Execution
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

BY: YAK