

**ALABAMA DEPARTMENT OF TRANSPORTATION  
PERMIT AGREEMENT FOR THE ACCOMMODATION OF UTILITY  
FACILITIES ON PUBLIC RIGHT-OF-WAY**

County \_\_\_\_\_  
Route Number \_\_\_\_\_  
Milepost \_\_\_\_\_  
Bond Number \_\_\_\_\_

<i>FOR OFFICIAL USE ONLY</i>
DATE RECEIVED FROM APPLICANT: ___/___/___
PERMIT NUMBER: _____
PROJECT NUMBER: _____
P.E. PROJECT NUMBER: _____

Bonding Agency \_\_\_\_\_

Associated Permits and/or Documents \_\_\_\_\_

\_\_\_\_\_

THIS AGREEMENT is entered into this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Alabama Department of Transportation acting by and through its Transportation Director hereinafter referred to as ALDOT and \_\_\_\_\_, hereinafter referred to as the UTILITY.

WITNESSETH

WHEREAS, the UTILITY desires to have its facilities accommodated on public highway right-of-way in \_\_\_\_\_ County, Alabama consisting approximately of the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ; and

WHEREAS, ALDOT hereby grants to UTILITY approval to cross or locate its facilities on the public right-of-way at the location and in the manner hereinafter set forth:

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. The UTILITY will install its facilities on public right-of-way in accordance with plans and specifications of the UTILITY as approved by ALDOT which plans and specifications are hereby made a part of this permit by reference.
2. In the installation of facilities and performing work under this agreement, the UTILITY will conform to the provisions of the latest edition of the Alabama Department of Transportation Utility Manual, which manual is of record in ALDOT and is hereby made a part of this permit by reference.
3. The national Manual on Uniform Traffic Control Devices, ALDOT approved edition, is hereby made a part of this permit by reference and will be conformed to as the provisions thereof are applicable to such work. Such Manual is of record in ALDOT at the execution of this Agreement.

4. The Federal Water Pollution Control Act, The Federal Insecticide, Fungicide, and Rodenticide Act, The Alabama Water Pollution Control Act, The Alabama Environmental Management Act, The Clean Water Act (1987), and the Alabama Nonpoint Source Management Program (1989) are hereby made a part of this permit by reference.

5. The UTILITY will conform to the regulations of the Environmental Protection Agency (EPA) and of the Alabama Department of Environmental Management (ADEM), latest edition, for both installation and maintenance of such facilities.

The UTILITY will provide proof of applicable permit coverage and conform to the above referenced regulations for both the facility installation and maintenance of permitted facilities and areas of rights-of-way. The APPLICANT must provide a copy of the Notice of Intent (NOI) issued by ADEM. This will assure compliance with Phase II of stormwater construction requirements. In the event a NOI is not required, UTILITY must submit to ALDOT a Best Management Practices (BMP) plan to control sediment run-off.

6. In the event that ALDOT is issued a citation or any other enforcement document by ADEM/EPA for failure to comply with applicable requirements, it shall be the responsibility of the UTILITY to bring all BMPs into compliance and to pay for any fines, assessments, etc. that may be issued to ALDOT by ADEM/EPA.

7. Underground Damage Prevention Legislation, Alabama Act 94-487, is hereby made a part of this permit by reference. The UTILITY will conform to the above referenced regulations for both the facility installation and maintenance of permitted facilities and areas of rights-of-way. Should the permitted work require a locate request ticket, no work shall begin until a copy of such ticket is obtained and the UTILITY shall keep a copy of such ticket at the site of work.

8. If hazardous materials, wastes, substances, or as otherwise defined by Code of Alabama § 6-5-332.1 (a)(2) (1993 Repl. Vol.) are encountered in the execution of this Agreement it will be the responsibility of the UTILITY to notify the proper agency responsible for said hazardous materials and to comply with any and all environmental regulations as established by the Environmental Protection Agency (EPA), Alabama Department of Environmental Management (ADEM), and of the Occupational Safety and Health Administration (OSHA) in the proper disposition of the hazardous materials encountered.

9. This permit is valid for the contract period which is defined as follows: All proposed work as described and submitted in the permit documents must be completed within one year from the approved date of the permit and for a period covering one year from ALDOT acceptance of proposed work.

10. The UTILITY will perform or cause to be performed the work applied for in this permit contract and will restore the highway in the work area in as good condition as the same was prior to the work and will maintain the accomplished work and highway work area in a condition satisfactory to ALDOT. Should the UTILITY not maintain the work or create an unsafe condition during the contract period, ALDOT reserves the right to remove any work and restore the ROW to a safe condition at the expense of the UTILITY and the UTILITY agrees to pay ALDOT all such costs as a result.

11. Once work is begun, the UTILITY shall pursue the work continuously and diligently until completion. Should the UTILITY feel that the work cannot be completed in a one year period, they shall submit in writing (30 days prior to the termination date) to ALDOT the reasons for an extension of time. ALDOT will determine whether an extension may be approved.

12. For Small Wireless Facility applications, the UTILITY hereby enters into the following permit tolling agreement with ALDOT upon its execution of this Agreement:

Any written request from ALDOT for revision, addition, or clarification related to a complete application shall toll the processing deadline of said permit until the UTILITY provides written response properly addressing ALDOT's request. Failure by the UTILITY to address the request(s) within thirty (30) days will result in the denial of the application.

13. The UTILITY will file with ALDOT an acceptable certified check or bond in the penal amount of \$ \_\_\_\_\_ (Bond Number: \_\_\_\_\_) to guarantee the faithful performance of this permit contract in its entirety during the contract period as defined in item 9. Upon satisfactory completion and acceptance of all work provided for in this permit contract, the check or bond, as applicable, will be returned to the UTILITY; otherwise, the proceeds from the check, or any amount received by ALDOT as a result of the bond, will be applied to complete and fulfill the permit contract terms. In the instance that ALDOT determines a bond on record is necessary, the UTILITY shall provide such bond to ALDOT. The bond amount shall be determined by ALDOT.

14. The work approved by this Permit Agreement will be performed by the UTILITY at no cost to ALDOT during design or construction of Project No. \_\_\_\_\_. No reimbursement will be made to the UTILITY for the relocation of any facility installed under this Permit Agreement if such facility conflicts with work required by said construction project. Reimbursement for future relocations of the UTILITY'S facilities on future projects will be in accordance with State law in effect at the time such relocations are made.

15. Indemnification Provisions. Please check the appropriate type of applicant:

By entering into this agreement, the UTILITY is not an agent of the State, its officers, employees, agents or assigns. The UTILITY is an independent entity from the State and nothing in this agreement creates an agency relationship between the parties.

\_\_\_\_\_ If the UTILITY is an incorporated municipality or gas district then:

Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the UTILITY shall defend, indemnify, and hold harmless the State of Alabama, ALDOT, its officers, officials, agents, servants, and employees, in both their official and individual capacities, from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the UTILITY, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the UTILITY pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorneys' fees, caused by the negligent, careless or unskillful acts of the UTILITY its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the UTILITY, its agents, servants, representatives or employees, or anyone for whose acts the UTILITY may be liable.

\_\_\_\_\_ If the UTILITY is county government then:

The UTILITY shall be responsible at all times for all of the work performed under this agreement and, as provided in Ala. Code § 11-93-2 (1975), the UTILITY shall protect, defend, indemnify and hold harmless the State of Alabama, The Alabama Department of Transportation, its officials, officers, servants, and employees, in their official capacities, and their agents and/or assigns.

For all claims not subject to Ala. Code § 11-93-2 (1975), the UTILITY shall indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, the officials, officers, servants, and employees, in both their official and individual capacities, and their agents and/or assigns from and against any and all action, damages, claims, loss, liabilities, attorney's fees or expense whatsoever or any amount paid in compromise thereof arising out of, connected with, or related to the (1) work performed under this Agreement, (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the UTILITY pursuant to the terms of this agreement, or (3) misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the UTILITY, its agents, servants, representatives, employees or assigns.

\_\_\_\_\_ If the UTILITY is a state governmental agency or institution then:

The UTILITY shall be responsible for damage to life and property due to activities of the UTILITY of employees of UTILITY in connection with the work or services under this Agreement. The UTILITY agrees that its contractors, subcontractors, agents, servants, vendors or employees of UTILITY shall possess the experience, knowledge and skill necessary to perform the particular duties required or necessary under this Agreement. The UTILITY is a state institution and is limited by the Alabama Constitution in its ability to indemnify and hold harmless another entity. The UTILITY maintains self-insurance coverage applicable to the negligent acts and omissions of its officers and employees, which occur within the scope of their employment by the UTILITY. The UTILITY has no insurance coverage applicable to third-party acts, omissions or claims, and can undertake no obligation that might create a debt on the State Treasury. The UTILITY agrees ALDOT shall not be responsible for the willful, deliberate, wanton or negligent acts of the UTILITY, or its officials, employees, agents, servants, vendors, contractors or subcontractors.

The UTILITY shall require, its contractors and its subcontractors, agents, servants or vendors, as a term or its contract with the UTILITY, to include ALDOT as an additional insured in any insurance policy providing coverage for the work to be performed pursuant to and under this Agreement and to provide the UTILITY a copy of the insurance policy declaration sheet confirming the addition of ALDOT thereto.

\_\_\_\_\_ If the UTILITY is not a county, incorporated municipality, or state governmental agency or institution then:

The UTILITY will protect, defend, indemnify and hold harmless the State of Alabama, ALDOT, the officials, officers, and employees, in both their official and individual capacities, and their agents and/or assigns, from and against any and all actions, damages, claims, loss, liabilities, attorney's fees or expense whatsoever or any amount paid in compromise thereof arising out of or connected with the work performed under this Permit, and/or the UTILITY's failure to comply with all applicable laws or regulations.

16. 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.

17. ALDOT in executing this Agreement does not in any way assume the responsibility for the maintenance of the facilities of the UTILITY, nor the responsibility for any damage to the facilities caused by third parties.

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

19. Nothing contained in this Permit Agreement, nor the issuance or receipt thereof, shall be construed to alter or affect the title of ALDOT 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.

20. Reimbursement for future relocations of the UTILITY's facilities will be in accordance with State law in effect at the time such relocations are made.

21. The UTILITY stipulates that the specific use of these facilities located upon public right-of-way is \_\_\_\_\_

\_\_\_\_\_  
UTILITY further stipulates that should this specific use change at any time in the future that the UTILITY will notify ALDOT immediately of the change.

This Agreement is deemed to be executed on the date hereinabove set forth by the parties hereto in their respective names by those persons and officials thereunto duly authorized. Witness our hands and seals, this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

WITNESS:

\_\_\_\_\_

\_\_\_\_\_  
Legal Name of Applicant

By: \_\_\_\_\_

Authorized Signature and Title for Applicant

\_\_\_\_\_  
Typed or Printed Name of Signee

\_\_\_\_\_  
Address Line 1

\_\_\_\_\_  
Address Line 2

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Contact Email Address

**FOR OFFICIAL USE ONLY**

**RECOMMENDED FOR APPROVAL:**

DISTRICT: \_\_\_\_\_  
Printed Name Signature Date

AREA: \_\_\_\_\_  
Printed Name Signature Date

REGION: \_\_\_\_\_  
Printed Name Signature Date

CENTRAL OFFICE: \_\_\_\_\_  
State Utilities Engineer (Printed Name) Signature Date

**APPROVED:  
ALABAMA DEPARTMENT OF TRANSPORTATION  
ACTING BY AND THROUGH ITS TRANSPORTATION DIRECTOR**

By: \_\_\_\_\_  
Right-Of-Way Bureau Chief (Printed Name) Signature Date

AND By: \_\_\_\_\_  
State Maintenance Engineer (Printed Name) Signature Date