

RESOLUTION

#17-08-09

WHEREAS, it appearing reasonable and necessary for the BOARD OF COUNTY COMMISSIONERS OF TEXAS COUNTY, OKLAHOMA, to underwrite the acquisition of right-of-way in connection with the construction of a public project known as J/P 24022 (04) Const., (03) Util., (02) R/W in accordance with the terms and tenor of 69 O.S. 2001, Section 1205, 1206, 1401 and 1403.

NOW, THEREFORE, BE IT RESOLVED by the BOARD OF COUNTY COMMISSIONERS OF TEXAS COUNTY, OKLAHOMA, sitting in regular session that such contract be entered and that a copy of same be hereto attached and made a part hereof by reference, all as provided by law.

ATTEST:

Marina Herringhead

COUNTY CLERK

Ted Keeling

CHAIRMAN

Larry Wilkins

MEMBER

Jack Strain

MEMBER

**RIGHT-OF-WAY, PUBLIC UTILITY
AND ENCROACHMENT AGREEMENT**

This Agreement, made and entered into this 18th day of August, 2008, by and between the Department of Transportation, State of Oklahoma hereinafter the Department, and the Board of County Commissioners of Texas County, Oklahoma hereinafter the County, Witnesseth:


That for and in consideration of the covenants and agreements hereinafter set forth, it is mutually agreed by and between the parties hereto as follows:

1. That the County proposes construction of Bridge and Approaches over Pony Creek according to plans designated as BRF-170C(121)CO Job No. 24022 (04) Const., (03) Util., (02) R/W which plans are by reference made a part of this agreement.
2. That the participation in the cost between the undersigned parties for all necessary right-of-way shall be as follows:
 - (a) The County agrees to furnish to the Department all the land, clear of all obstructions, including structures of any kind or nature, gasoline pumps, islands, underground tanks and utility lines, poles, pipelines, or other facilities above or below the surface of the ground, without cost to the State for the construction of this project.
 - (b) The County agrees it is knowledgeable of and will comply with the provisions of 42 U.S.C.A. Section 4601-4655 and 23 U.S.C.A. Section 323 (as amended) and 49 C.F.R. Part 24 in the acquisition of all necessary right-of-way and the relocation of any displacees.
 - (c) The County agrees that as a condition to receiving any Federal Financial Assistance from the Department, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d-et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964".
 - (d) The County agrees that as a condition to receiving any available County Road Improvement Revolving Funds as provided by Title 69 O.S. Section 664, et seq. for acquisition of right-of-way and/or for the rearrangement of utilities for this project, prior written approval by the Chief, Right-of-Way and Utility Division for the Department shall be required.
 - (e) The County shall have the authority pursuant to 69 O.S. 2001 § 1001 and 69 O.S. 2001 § 1004 to sell any lands, or interest therein, which were acquired for highway purposes as long as such sale is conducted in accordance with the above cited statutes. Prior written approval by the Chief, Right-of-Way and Utility Division for the Department shall be required before any sale is made.
3. The County agrees to maintain this project after construction.
4. The Department reserves the right to make such changes in said plans as may be necessary for the proper construction of said project.

5. The County agrees to comply with all applicable laws and regulations necessary to meet the Oklahoma Department of Environmental Quality (ODEQ) requirements for pollution prevention including discharges from storm water runoff during the planning and design of this project. Further, the County agrees and stipulates as stated in the ODEQ's *General Permit OKR10*, dated September 13, 2002 or latest revision, to secure a storm water permit with the ODEQ for utility relocations, when required. It is also agreed that the storm water management plan for the project previously described in the document includes project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work, the site specific storm water pollution prevention plan and the appropriate location map contained in the utility relocation plans.

6. If the acquisition of right-of-way for this project causes the displacement of any person, business or non-profit organization, the County shall provide and be responsible for the Relocation Assistance Program and for all cost associated with the relocation assistance payments. The Department will supply a list of approved service providers qualified to administer the Relocation Assistance Program. The County agrees to employ a service provider from the approved list and comply with all applicable rules, regulations, statutes, policies and procedures. Before any relocation assistance payments are made, all files with parcels requiring relocation shall be audited by the Department. The Department shall be notified in writing within seven (7) days of the date of the offer to the property owner on any parcel which will require relocation assistance. Written notifications of offers to acquire shall be addressed to: Project Manager, Right-of-Way and Utility Division, Oklahoma Department of Transportation, 200 N. E. 21st Street, Oklahoma County, Oklahoma 73105.

IN WITNESS WHEREOF, the parties hereto and hereunto set their hands the day and year first above written.

ATTEST: 
Marna Hollingshead
 COUNTY CLERK

BOARD OF COUNTY COMMISSIONERS
 TEXAS COUNTY, OKLAHOMA

Bob Keeling
 CHAIRMAN

Larry Wilers
 MEMBER

Jack Strain
 MEMBER

REVIEWED AND APPROVED AS TO
 FORM AND LEGALITY

DEPARTMENT OF TRANSPORTATION
 STATE OF OKLAHOMA

 CHIEF, LEGAL DIVISION (ODOT)

 DIRECTOR