

# EXHIBIT “B”

## LPA 2-Party Agreement Compensable Utility Process (Lump Sum)

- **STEP 1: TxDOT & LPA execute a ROW Agreement**
  - If LPA is providing ROW acquisition services, this ROW Agreement states that LPA is responsible for all ROW Acquisition and coordination of the adjustment of compensable utilities
  - The ROW Agreement states any compensable utility adjustment under \$500k may be completed under the “Lump Sum” or “Actual Cost accounting methods.
  
- **STEP 2: LPA initiates coordination efforts with all affected utility companies to determine:**
  - If conflicts are present
  - Compensability (proof of property interest)
  - “Lump Sum” Agreements” in excess of the \$500k ceiling are possible if approved by the TxDOT District Engineer and TxDOT ROW Division.
  - The lump sum payment method should only be used where the project scope and costs can be clearly and concisely defined. The cost estimate in support of the lump sum agreement must be accurate, comprehensive, verifiable, and in sufficient detail to give a clear picture of the work involved and the cost of the individual items.
  
- **STEP 3: Utility company submits the Lump Sum “Determination of Upper Limits” to LPA containing:**
  - Detailed Plans of adjustment, specifications, & estimated costs, including but not limited to:
    - sufficient detail to give a clear picture of the work involved and the cost of the individual items.
    - No contingency costs are allowed.
    - When utility relocation work is to be accomplished by a contract secured under a full competitive bidding process controlled by a utility, the County will undertake all actions needed to verify that the utility awards the contract to the lowest qualified responsible bidder based on appropriate solicitation.
    - Estimates should list major items of material and supplies by item, with a description and proper indications of the specific quantity required, and the unit price and extension.
    - Itemized wages and salaries anticipated on a particular adjustment by class and type. The costs must be representative of actual rates per hour or average rates on the actual amount paid to individuals for productive time incurred under the agreement.
    - Lump sum estimates require the reviewer to verify overhead costs to ensure that all items are eligible, and the rates are not established arbitrarily.
    - Actual bids must be secured to support contract work in the estimate.
    - Reimbursable contract costs are limited to the amount of the low bid submitted by a qualified contractor.
    - The utility must defer the award of the low bid pending execution of the Standard Utility Agreement.

## EXHIBIT “B”

- Copies of bids received should be included in the agreement assembly to document that the amount appearing in the estimate represents the low bid.
  - If it is not practical to include bids in the agreement submission, the plans, estimates, and other supporting data should be submitted before the agreement itself so that all other charges can be reviewed and their eligibility established.
  - **If** the work to be accomplished is under a continuing contract, and the contractor regularly performs work for the utility, **then** a copy of the contract need not be included in the lump sum agreement. In such cases, only the current rate schedules included in the continuing contract must be submitted to support the charges in the estimate.
  - **Buy America** requirements must be identified on the cost estimate and evidence of compliance with Buy America is required prior to installation of associated materials and payment
    - Accounting Methods
    - Schedule (start & end dates)
    - Statement covering contract work
    - Proof of property interest
    - Eligibility Ratio
    - Cost Comparison & Betterment Statement (if needed)
    - Quit Claim Deed of property interest, if applicable
    - Joint Use Agreement (JUA), if applicable
- **STEP 4: LPA submits the Lump Sum “Determination of Upper Limits” to TxDOT for approval**
  - **STEP 5: Upon TxDOT approval of the “Determination of Upper Limits”, the 2-Party agreement is executed and the LPA provides the utility with a Notice To Proceed**
  - **STEP 6: Utility performs the agreed upon work required for the adjustment**
    - If said work is within the State ROW
      - Utility must apply for a permit from the State
      - All work will be inspected by the State for compliance with the permit requirements
      - LPA must obtain signed and sealed as-built plans & a certification from the utility that all work was completed as per the plans & specifications
      - LPA is responsible for oversight of utility adjustment and maintaining documentation to support required certification that work was completed (TxDOT Form ROW-U-45)
    - If said work is outside of the State ROW
      - LPA must obtain signed and sealed as-built plans & a certification from the utility that all work was completed as per the plans & specifications
      - LPA is responsible for oversight of utility adjustment and maintaining documentation to support required certification that work was completed (TxDOT Form ROW-U-45)

## EXHIBIT “B”

- **STEP 7: Upon completion of work the Utility submits final billing to LPA for processing**
  - Documents must include final billing, related forms, and as-built plans. LPA reviews and verifies billing.
  - No partial payments will be issued during the adjustment, however 100% payment will be made when the final billing is approved.
  
- **STEP 8: Upon payment to Utility, LPA requests reimbursement from TxDOT**
  - Reimbursement request contains all docs, including all support documentation and required forms, that were previously submitted during the “Lump Sum – Determination of Upper Limits” for final billing. No itemized billing is necessary.
  - LPA Submits form ROW-U-45, which certifies work was completed and reimbursed to utility company
  
- **STEP 9: TxDOT reimburses the LPA (in accordance with the *Advanced Funding Agreement*)**
  - 100% of eligible items cost upon review/approval of complete submittal
  - No Audit is required.