

CITY COUNCIL RESOLUTION NO. 2023-036

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA, AUTHORIZING THE EXECUTION OF UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR MINOR MODIFICATIONS TO AN EXISTING PROJECT FOR A PRICE NOT-TO-EXCEED \$11,814.00; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Lake City, Florida (hereinafter the “City”) owns and maintains certain utility facilities which are located on the public road known as State Road Number 47; and

WHEREAS, the State of Florida, Department of Transportation (hereinafter the “FDOT”), is currently engaged in a project which involves constructing, reconstructing or otherwise changing a public road and other improvements, identified as 445434-1-52-01 (hereinafter the “Project”); and

WHEREAS, under the law of the State of Florida, the Utility Work must be performed at the sole cost and expense of the City; and

WHEREAS, FDOT has requested minor modifications to the Project, as specified in the *Utility Work by Highway Contractor Agreement* (hereinafter the “Agreement”), a copy of which is attached hereto as “Exhibit A”, for a price not-to-exceed eleven thousand, eighty hundred fourteen dollars and zero cents (\$11,814.00); and

WHEREAS, the City Council finds that accepting the terms and conditions of the Agreement is in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are all true and accurate and are incorporated herein and made a part of this resolution.

Section 2. The Mayor is hereby authorized to enter into the Utility Work by Highway Contractor Agreement.

Section 3. The Mayor and city administration are authorized to execute any

and all documentation relating to the Agreement.

Section 4. Effective Date. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED at a meeting of the City Council on the ____ day of April 2023.

CITY OF LAKE CITY, FLORIDA

By: _____
Stephen M. Witt,
Mayor

ATTEST:

APPROVED AS TO FORM AND
LEGALITY:

By: _____
Audrey E. Sikes, City Clerk

By: _____
Thomas J. Kennon, III,
City Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT
(LUMP SUM)

Form No. 710-010-57
UTILITIES
07/14

Financial Project ID: 445434-1-52-01	Federal Project ID: NA
Financial Project ID:	
Financial Project ID:	
Financial Project ID:	
County: Columbia	State Road No.: 47
District Document No: 01	
Utility Agency/Owner (UAO): City of Lake City	

THIS AGREEMENT, entered into this _____ day of _____, year of _____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the "FDOT," and **City of Lake City**, hereinafter referred to as the "UAO";

WITNESSETH:

WHEREAS, the **UAO** owns certain utility facilities which are located on the public road or publicly owned rail corridor identified below, hereinafter referred to as the "Facilities" (said term shall be deemed to include utility facilities as the same may be relocated, adjusted, or placed out of service); and

WHEREAS, the **FDOT**, is currently engaging in a project which involves constructing, reconstructing, or otherwise changing a public road and other improvements located on a public road or publicly owned rail corridor identified as 445434-1-52-01, State Road No. 47, hereinafter referred to as the "Project"; and

WHEREAS, the Project requires minor modifications to the Facilities or the **FDOT's** design more particularly described in Exhibit A attached hereto and by this reference made a part hereof, hereinafter referred to as "Utility Work," and full plans and technical specifications for the Utility Work are not required; and

WHEREAS, the **FDOT** will perform the Utility Work as part of the Project; and

WHEREAS, the **UAO**, pursuant to the terms and conditions hereof, will bear certain costs associated with the Utility Work; and

WHEREAS, the **FDOT** and the **UAO** desire to enter into an agreement which establishes the terms and conditions applicable to the Utility Work;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the **FDOT** and the **UAO** hereby agree as follows:

1. Performance of Utility Work

- a. The **FDOT** will include the Utility Work in its plans and specifications for the Project and will include the Utility Work as part of the **FDOT's** construction of the Project. The preparation of the plans and specifications and the construction of the Project will be performed in such manner as the **FDOT**, in its discretion, deemed appropriate.
- b. All location, protection, relocation, adjustment, or removal of the **UAO's** Facilities which is not listed in Exhibit A shall be performed pursuant to a separate agreement.

2. Cost of Utility Work

- a. The **UAO** will, at least 30 (days) calendar days prior to the date on which the **FDOT** advertises the Project for bids, pay the **FDOT** the amount of \$ 11,814 for the cost of the Utility Work. Said amount will be deposited into the State Transportation Trust Fund.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT
(LUMP SUM)

Form No. 710-010-57
UTILITIES
07/14

- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO's** obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Except for costs associated with any changes or additions to the Utility Work, the **FDOT** and the **UAO** agree that the deposit shall be an asset of the **FDOT** and that it constitutes a full and final lump sum payment for the cost of the Utility Work, without any requirement for a subsequent accounting for the use of the deposit.
- d. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or additions. To the extent that the amount stated in Subparagraph 2.a. above exceeds the amount of the **FDOT contractor's** bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(8), Florida Statutes.

3. Default

- a. In the event that the **UAO** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement, the **FDOT** may exercise one or more of the following options, provided that at no time shall the **FDOT** be entitled to receive double recovery of damages:
 - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **FDOT**.
 - (2) Pursue a claim for damages suffered by the **FDOT**.
 - (3) Suspend the issuance of further permits to the **UAO** for the placement of Facilities on **FDOT** property if the breach is material and has not been cured within 60 days from written notice thereof from **FDOT** until such time as the breach is cured.
 - (4) Pursue any other remedies legally available.
 - (5) Perform any work with its own forces or through contractors and seek repayment for the cost thereof under Section 337.403(3), Florida Statutes.
- b. In the event that the **FDOT** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in the Agreement, the **UAO** may exercise one or more of the following options:
 - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **UAO**.
 - (2) Pursue any other remedies legally available.
- c. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties and from any statutory obligations that either party may have with regard to the subject matter hereof.

4. Indemnification

FOR GOVERNMENT-OWNED UTILITIES:

To the extent provided by law, the **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT
(LUMP SUM)

Form No. 710-010-57
UTILITIES
07/14

officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

When the **FDOT** receives a notice of claim for damages that may have been caused by the **UAO** in the performance of services required under this Agreement, the **FDOT** will immediately forward the claim to the **UAO**. The **UAO** and the **FDOT** will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the **FDOT** will determine whether to require the participation of the **UAO** in the defense of the claim or to require the **UAO** to defend the **FDOT** in such claim as described in this section. The **FDOT's** failure to notify the **UAO** of a claim shall not release the **UAO** from any of the requirements of this section. The **FDOT** and the **UAO** will pay their own costs for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all costs.

FOR NON-GOVERNMENT-OWNED UTILITIES:

The **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

The **UAO's** obligation to indemnify, defend, and pay for the defense or at the **FDOT's** option, to participate and associate with the **FDOT** in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within fourteen (14) days of receipt by the **UAO** of the **FDOT's** notice of claim for indemnification to the **UAO**. The notice of claim for indemnification shall be served by certified mail. The **UAO's** obligation to defend and indemnify within fourteen (14) days of such notice shall not be excused because of the **UAO's** inability to evaluate liability or because the **UAO** evaluates liability and determines the **UAO** is not liable or determines the **FDOT** is solely negligent. Only a final adjudication or judgment finding the **FDOT** solely negligent shall excuse performance of this provision by the **UAO**. The **UAO** shall pay all costs and fees related to this obligation and its enforcement by the **FDOT**. The **FDOT's** delay in notifying the **UAO** of a claim shall not release **UAO** of the above duty to defend.

5. Force Majeure

Neither the **UAO** nor the **FDOT** shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimate duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as possible.

6. Miscellaneous

- a. To the Facilities shall at all times remain the property of and be properly protected and maintained by the **UAO** in accordance with the then current Utility Accommodation Manual and the current utility permit for the Facilities.
- b. Pursuant to Section 287.058, Florida Statutes, the **FDOT** may unilaterally cancel this Agreement for

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT
(LUMP SUM)

Form No. 710-010-57
UTILITIES
07/14

refusal by the **UAO** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **UAO** in conjunction with this Agreement.

- c. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto, except that the parties understand and agree that the **FDOT** has manuals and written policies and procedures which shall be applicable at the time of the Project and the relocation of the Facilities and except that the **UAO** and the **FDOT** may have entered into other agreements for work not included in Exhibit A for Facilities located within the limits of the Project. Copies of **FDOT** manuals, policies, and procedures will be provided to the **UAO** upon request.
- d. This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.
- e. Time is of essence in the performance of all obligations under this Agreement.
- f. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. The **UAO** shall have a continuing obligation to notify each District of the **FDOT** of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

If to the **UAO**:

Stephen Witt, Mayor City of Lake City
205 N. Marion Ave. Lake City, FL 32055

If to the **FDOT**:

Todd Hunt, District Utility Administrator
1109 S. Marion Ave. Lake City, FL 32055

7. Certification

This document is a printout of an **FDOT** form maintained in an electronic format and all revisions thereto by the **UAO** in the form of additions, deletions, or substitutions are reflected only in an Appendix entitled Changes to Form Document and no change is made in the text of the document itself. Hand notations on affected portions of this document may refer to changes reflected in the above-named Appendix but are for reference purposes only and do not change the terms of the document. By signing this document, the **UAO** hereby represents that no change has been made to the text of this document except through the terms of the appendix entitled Changes to Form Document."

You **MUST** signify by selecting or checking which of the following applies:

- No changes have been made to this Form Document and no Appendix entitled "Changes to Form Document" is attached.
- No changes have been made to this Form Document, but changes are included on the attached Appendix entitled "Changes to Form Document."

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT
(LUMP SUM)

Form No. 710-010-57
UTILITIES
07/14

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written.

UTILITY: City of Lake City

BY: (Signature) _____

DATE: _____

(Typed Name: _____)

(Typed Title: _____)

Recommend Approval by the District Utility Office

BY: (Signature) _____

DATE: _____

FDOT Legal review

BY: (Signature) _____

DATE: _____

District Counsel

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

BY: (Signature) _____

DATE: _____

(Typed Name: _____)

(Typed Title: _____)

FEDERAL HIGHWAY ADMINISTRATION (if applicable)

BY: _____

DATE: _____

(Typed Name: _____)

(Typed Title: _____)

FLORIDA DEPARTMENT OF TRANSPORTATION
UTILITY WORK SCHEDULE

Pursuant to Section 337.403 F.S., the UAO and FDOT agree to the UAO's need for relocation or adjustment to its utilities and FDOT's need for a schedule for the UAO to effect the relocation or adjustment. This utility work schedule is based on FDOT plans dated in the project information box below. Any deviation by FDOT or its contractor from these plans, may void this utility work schedule. Upon notification by FDOT of a change to these plans, the UAO may negotiate a new utility work schedule. The UAO agrees to notify FDOT and the contractor in writing prior to starting, stopping, resuming, and completing work in accordance with this utility work schedule. The UAO shall obtain a utility permit and comply with requirements of the 2017 Utility Accommodation Manual (UAM) for all work done under this utility work schedule. The UAO is not responsible for events beyond the control of the UAO that could not be reasonably anticipated by the UAO and which could not be avoided by the UAO with exercise of due diligence at the time of the occurrence.

FDOT PROJECT INFORMATION

Financial Project ID: 445434-1-52-01	Federal Project ID: NA
State Road Number: 47	County: Columbia
FDOT Plans Dated: 3-2-2023 Phase III	District Document No.: 01

UTILITY AGENCY/OWNER (UAO)

Utility Company: City of Lake City Water & Sewer			
UAO Project Rep: Brian Scott	Phone: 386-758-5456	E-mail: scottb@lcfla.com	
UAO Field Rep: Shelby Waldron	Phone: 386-758-5492	E-mail: waldronslcfla.com	

UTILITY SIGNATURE

I have reviewed the FDOT plans referenced above and submit this utility work schedule in compliance with UAM Section 5 and agree to be bound by the terms of this utility work schedule.

UAO Rep. City of Lake City Date 3 / 23 / 2023
 Name Brian Scott
 Title Director of d/c

ENGINEER OF RECORD SIGNATURE

I attest this utility work schedule is compatible with the FDOT plans referenced above.

EOR. _____ Date ___ / ___ / ___
 Name _____
 Title _____

APPROVAL BY DISTRICT UTILITIES

This utility work schedule is complete and acceptable to FDOT.

FDOT Rep. _____ Date ___ / ___ / ___
 Name _____
 Title _____

SECTION A: SUMMARY OF UTILITY WORK

The below days are the total numbers of days shown for all activities in Section C of this utility work schedule. The breakdown of how these days are to be incorporated into the FDOT project and the dependence of these days upon the completion of other activities by the UAO or others is shown in Section C.

Days prior to FDOT project construction: 0 Days during FDOT project construction: 0

Financial Project ID: 445434-1-52-01
Utility Company: City of Lake City Water & Sewer
FDOT Plans Dated: 3-2-2023 Phase III

SECTION B: UAO SPECIAL CONDITIONS/CONSTRAINTS

after hours emergency number 386-623-0543

Definitions:

Locating: The use of test holes by vacuum excavation or comparable non-destructive equipment at critical point along a subsurface utility facility's path thus exposing the underground facility and allowing the precise measurements of the depth and horizontal position to be made.

Designating: Utilizing electromagnetic, magnetic, sonic, and other energy fields for determining the existence and approximate horizontal location of underground utility facilities. Underground facilities will be marked by stakes, flags, paint or other suitable materials in varying combinations dependent upon surface conditions using American Public Works Association Utility Location Coordination Council Color Codes.

Protect: Shall include, but not be limited to, permittee's use of an onsite representative during active construction operations. During excavation operations, Representative may be required to physically expose underground facilities, provide any necessary support to the Facilities, and/or cover aerial facilities as deemed necessary to aid construction.

Financial Project ID: 445434-1-52-01
 Utility Company: City of Lake City Water & Sewer
 FDOT Plans Dated: 3-2-2023 Phase III

SECTION C: UAO's WORK ACTIVITIES

Act. No.	Utility Facility (type, size, material, status)	From Station/Offset	To Station/Offset	Utility Work Activity Description	Dependent Activity	TCP Phase	Consecutive Calendar Days	
							Prior to Const.	During Const.
1				ENGINEERING (DESIGN)			N/A	N/A
2				PERMITTING			N/A	N/A
3				MATERIAL PROCUREMENT			N/A	N/A
4	Manhole in roadway	109+09.34 LT 18.58'		Adjustment to be made by FDOT contractor per UWHCA			0	0
5	Water Valve in Roadway	109+42.52 LT 22.58'		Adjustment to be made by FDOT contractor per UWHCA			0	0
6	Water Valve in Roadway	109+78.46 RT 43.94'		Adjustment to be made by FDOT contractor per UWHCA			0	0
7	Water Valve in Sidewalk	148+53.65 LT 36.34'		Adjustment to be made by FDOT contractor per UWHCA			0	0
8	Manhole in roadway	156+47.87 RT 35.38'		Adjustment to be made by FDOT contractor per UWHCA			0	0

Financial Project ID: 445434-1-52-01
 Utility Company: City of Lake City Water & Sewer
 FDOT Plans Dated: 3-2-2023 Phase III

SECTION C: UAO's WORK ACTIVITIES

Act. No.	Utility Facility (type, size, material, status)	From Station/Offset	To Station/Offset	Utility Work Activity Description	Dependent Activity	TCP Phase	Consecutive Calendar Days	
							Prior to Const.	During Const.
9	Manhole in roadway	157+89.59 LT 54.46'		Adjustment to be made by FDOT contractor per UWHCA			0	0
10	Sewer Valve in Sidewalk	168+91.11 LT 36.88'		Adjustment to be made by FDOT contractor per UWHCA			0	0
				END OF SCHEDULE				