

AGREEMENT FOR UNDERGROUND LINE LOCATING SERVICES
(Utilizing Orlando Utilities Commission Contract # PR 7847-1 OQ)

THIS AGREEMENT FOR UNDERGROUND UTILITY LOCATION SERVICES (“Agreement”) is made as of 2/3/2025, by and between the **CITY OF LAKE WORTH BEACH**, 7 N. Dixie Highway, Lake Worth Beach, FL 33460, a municipal corporation organized and existing under the laws of the State of Florida, (“CITY”), and **Digital Concrete Imaging, Inc. d/b/a Breakpoint Surveying and Underground**, a Florida Corporation authorized to do business in the State of Florida, located at 202 Lake Miriam Dr. Suite E-1, Lakeland, FL 33813 (“CONTRACTOR”).

RECITALS

WHEREAS, the CITY’s Water and Electric Departments are in need of a company to provide Underground Line Location Services; and,

WHEREAS, the CITY’s Procurement Policy and Code authorizes the purchases of goods and services through “piggybacking” other governmental competitively procured contracts; and

WHEREAS, on December 16, 2024 , Orlando Utilities Commission (“OUC”) competitively awarded the CONTRACTOR a contract for Underground Line Locating based on the OUC’s solicitation (RFP #24 PR 7847) valid until December 16, 2027 with two (2) one (1) year renewal options (“OUC Contract”); and

WHEREAS, the CITY has requested, and the CONTRACTOR has agreed to extend the terms and conditions of the OUC Contract to the CITY; and

WHEREAS, the CITY has reviewed the unit prices from the OUC Contract, as provided in **Exhibit “A”**, and determined that the unit prices are competitive and will result in the best value to the CITY; and

WHEREAS, the CITY finds entering this Agreement with the CONTRACTOR serves a valid public purpose.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.
2. Contract. The OUC Contract is hereby incorporated by reference into and expressly made a part of this Agreement as if set forth at length herein. The CITY shall have all rights and obligations of the OUC under the OUC Contract except as specifically modified herein. **The initial term of this Agreement shall be for an initial term of six (6) months unless earlier terminated for default as stated in the OUC Contract. If the CONTRACTOR or the CITY decide not to extend the initial six (6) month term of this Agreement, the CONTRACTOR or the CITY (as the case may be) shall provide written notice at least ninety (90) days prior to the expiration of the initial term. If such notice is not provided, the initial term shall automatically extend until December 15, 2027 unless earlier terminated as stated in the OUC Contract.** If the OUC Contract is extended by OUC and the CONTRACTOR, the CITY and CONTRACTOR may agree to extend this Agreement’s term after December 15, 2027 by written amendment consistent with the OUC Contract extended term and the CITY’s City Manager is authorized to approve such amendment.

3. Not to Exceed Amount. While the CONTRACTOR is not guaranteed that the CITY will utilize this Agreement for any services, if the CITY utilizes this Agreement for services, the not to exceed amount for this Agreement shall be **Two Hundred Thousand Dollars (\$200,000.00) annually.**

4. Purchase Orders. The CITY's ordering mechanism for the services under this Agreement shall be a CITY issued Purchase Order. The CONTRACTOR shall not provide any services under this Agreement without a CITY issued Purchase Order specifically for this purpose. The CONTRACTOR shall not perform services which are outside the scope of an issued Purchase Order and the CONTRACTOR shall not exceed the expressed amounts stated in the Purchase Order to be paid to the CONTRACTOR. The pricing in each Purchase Order shall be consistent with the pricing set forth in the Clearwater Contract. Each issued Purchase Order shall be incorporated into this Agreement and made a part hereof.

5. Conflict of Terms and Conditions. Conflicts between documents that make up this Agreement shall be resolved in the following order of precedence:

- a. This Agreement (including its exhibits);
- b. The OUC Contract; and,
- c. The City issued Purchase Order.

6. Compensation to CONTRACTOR. CONTRACTOR shall submit invoices to the CITY for review and approval by the CITY's representative, indicating that all goods and services have been provided and rendered in conformity with this Agreement and then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the CITY representative's approval. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on the CONTRACTOR's final/last billing to the CITY. This certifies that all services have been properly performed and all charges have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the CONTRACTOR. The CITY will not be liable for any invoice from the CONTRACTOR submitted thirty (30) days after the provision of all services.

7. Miscellaneous Provisions.

A. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held exclusively in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

B. Except for any obligation of the CONTRACTOR to indemnify the CITY, if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, each party shall be liable and responsible for their own attorney's fees incurred in that enforcement action, dispute, breach, default or misrepresentation. **FURTHER, TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.**

C. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid

or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

- D. All notices required in this Agreement shall be sent by certified mail, return receipt requested or by nationally recognized overnight courier, and sent to the addresses appearing on the first page of this Agreement.
- E. The CITY and the CONTRACTOR agree that this Agreement (and the other documents described herein) sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.
- F. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement. This Agreement may be executed electronically.
- G. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
- H. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
- I. In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.
- J. PUBLIC RECORDS. The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:
 - 1. Keep and maintain public records required by the City to perform the service.
 - 2. Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.
 - 4. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and

maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK, AT (561) 586-1662, CITY CLERK@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460

K. SCRUTINIZED COMPANIES.

1. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

2. If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

3. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

4. The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

5. The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

6. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

L. E-VERIFY.

Pursuant to Section 448.095(5), Florida Statutes, the Consultant shall:

- a. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;
 - b. Secure an affidavit from all subcontractors stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien;
 - c. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
 - d. Comply fully, and ensure all subcontractors comply fully with Sections 448.09(1) and 448.095, Florida Statutes;
 - e. Be aware that a violation of Sections 448.09 or 448.095, Florida Statutes, shall be grounds for termination of this Agreement; and,
 - f. Be aware that if the CITY terminates this Agreement under Section 448.095(5)(c), Florida Statutes, the Consultant may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of this Agreement.
- M. COMPLIANCE WITH SECTION 787.06. By signing the Agreement before a notary public and taking an oath under the penalty of perjury, the CONTRACTOR attests and warrants that the CONTRACTOR does not use coercion for labor or services as defined in section 787.06, Florida Statutes (2024).

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the CITY and CONTRACTOR hereto have made and executed this Agreement for Underground Line Locating Services as of the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: Jamie Brown
Jamie Brown, Interim City Manager*

* The Interim City Manager has approved this Agreement pursuant to his emergency powers under the City's procurement code. As soon as reasonably possible, this Agreement will be presented to the City Commission for ratification.



ATTEST:

By: Melissa Ann Coyne, MMC
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: Christy Goddeau
Glen J. Torcivia, City Attorney

By: Yannick Ngendahayo
Yannick Ngendahayo, Financial Services Director

CONTRACTOR: Digital Concrete Imaging, Inc., dba Breakpoint Surveying and Underground

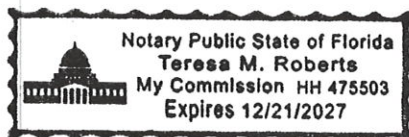
[Corporate Seal]

By: [Signature]
Print Name: George Aquino III
Title: Vice President

STATE OF Florida)
COUNTY OF Polk)

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this 27 day of January 2025, by George Aquino, as the Vice President [title] of **Digital Concrete Imaging, Inc., dba Breakpoint Surveying and Underground**, a company authorized to do business in the State of Florida, who is personally known to me or who has produced _____ as identification, and who did take an oath under penalty of perjury that the facts stated with regard to section 787.06, Florida Statutes, are true and correct, and that he or she is duly authorized to execute the foregoing instrument and bind **Digital Concrete Imaging, Inc., dba Breakpoint Surveying and Underground** to the same.

Notary Seal:



[Signature]
Notary Public Signature

**EXHIBIT A
(Unit Price Schedule from OUC Contract)**

<p>PRICE SCHEDULE 7847 OQ Underground Line Locating</p>
<p><i>Pricing needed from Bidders is uploaded in VendorLink; in Excel Format. Input your information in the document and attach your proposed pricing in the same format (do not .pdf attachment or password protect).</i></p> <p>Bidder to provide payment discounts, such as: 1% 20, net 30; 3% 10, net 30; non offered; or, other.</p> <p>All pricing shall be firm and guaranteed for the initial term of the Contract. Increases or decreases in the labor rates within a 3% maximum threshold of the pricing provided based on an agreed upon CPIW Index will be considered when reevaluating the Contract for each of the two (2) one (1) year renewal options.</p> <p>Note: Suppliers shall provide in their proposal the CPI-W index to be used for proposed future increases.</p>

Tickets should be priced and invoiced per utility ticket quantity:

Ticket		Price
Single Utility Ticket	Fee for single utility	\$9.27
Multiple Utilities Ticket	Fee for more than one utility	\$23.00
Any Utility Ticket not marked in field and cleared	Fee	\$9.27
Project Rate Ticket	Hourly Rate	\$45.00
Normal Hour Emergency Ticket	Flat Fee	\$23.00
After Hour Emergency Ticket	Flat Fee	\$45.00
Storm Hourly Work	Hourly Rate	\$45.00

3% 10, NET 30

<p><u>Pricing Defined:</u></p> <p>Per One Call Ticket - All tickets received from Sunshine State One Call. Each ticket is given 30 minutes of locating time.</p> <p>Project Rate – This rate will be applied if a ticket type is designated as one of the following:</p> <ul style="list-style-type: none"> • A project by the State One Call Center • The locate involves multiple addresses • It requires more than 30 minutes to locate OUC facilities at the excavation site • Other Work – See 1. Summary of Work, D. <p>This fee will supersede the Per One Call Ticket fee and will be an hourly rate.</p> <p>Normal Hour Emergency Ticket – Any emergency ticket that is received between the hours 7:00 A.M- 5:00 P.M, Monday – Friday. This fee is a flat fee, and no hourly fees will be charged.</p> <p>After Hour Emergency Ticket – Any after hour emergency ticket that is received between the hours 5:00 P.M - 7:00 A.M, Monday – Friday, all day Saturday & Sunday including Holidays. This fee is a flat fee, and no hourly fees will be charged.</p> <p>Storm Hourly Work – Should OUC request Supplier to bring in additional resources to assist in any unusual or unexpected surges in 811 ticket volume due to natural disasters such as, but not limited to, hurricanes and flooding, line locate Supplier can bring outside technicians in to work at an hourly rate provided enough notice was provided. Supplier and OUC must agree prior to sending any technicians from outside their normal working area.</p>
