

AGREEMENT FOR UNDERGROUND FACILITIES LINE LOCATING SERVICES
(Utilizing the Orlando Utility Commission Contract)

THIS AGREEMENT FOR UNDERGROUND FACILITIES LINE LOCATING SERVICES (“Agreement”) is made as of the May 13, 2022, by and between the **CITY OF LAKE WORTH BEACH**, 7 N. Dixie Highway, Lake Worth Beach, FL 33460, a Florida municipal corporation organized and existing under the laws of the State of Florida, (“CITY”), and **USIC Holdings, Inc. d/b/a USIC Locating Services, LLC**, an Indiana Limited Liability Company authorized to do business in the State of Florida, with offices located at 9045 North River Road, Indianapolis, IN 46240 (“CONTRACTOR”).

RECITALS

WHEREAS, the CITY’s Water Utility Department is in need of Utility Locating Services; and

WHEREAS, on or around December 17, 2021, Orlando Utilities Commission (“OUC”) awarded a contract for Underground Facilities Line Locating Services Contract No.: Request for Proposal 21 5038 OQ to the CONTRACTOR (“OUC Contract”); and

WHEREAS, the CITY has requested and the CONTRACTOR along with the OUC has agreed to extend the terms and conditions of the OUC Contract to the CITY for Underground Facilities Line Locating Services; and,

WHEREAS, the CITY has reviewed the unit prices from the OUC Contract and determined that the OUC unit prices are competitive and will result in the best value to the CITY.

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. Orlando Utilities Commission Contract. The OUC Contract and any amendments executed by OUC and the CONTRACTOR is hereby incorporated by reference into and expressly made a part of this Agreement as if set forth at length herein. The term of this Agreement shall be consistent with the term of the OUC Contract (valid until December 16, 2024 with two (2) one- year renewal options). The CITY’s City Manager may approve and execute renewals of this Agreement consistent with the OUC Contract.
3. Price and Maximum Amount Not to Exceed. The prices offered to the CITY on the Price list (attached as **Exhibit “A”**) are those offered to OUC in the OUC Contract. This Agreement shall not exceed \$500,000.00 (Five Hundred Thousand Dollars) annually unless prior written approval is provided by the CITY.
4. Purchase Orders. The CITY’s ordering mechanism under this Agreement shall be a CITY issued Purchase Order; however, in the event of a conflict, all contractual terms and conditions stated herein and as stated in the OUC Contract shall take precedence over the terms and conditions stated in the CITY issued Purchase Order. The CONTRACTOR shall not provide any goods and services under this Agreement without a CITY issued Purchase Order specifically for this purpose, which shall include the items listed on the provided quote. The pricing in each Purchase Order shall be consistent with the pricing set forth in the OUC 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;
- b. The OUC Contract; and,
- b. The City issued Purchase Order.

6. Compensation to CONTRACTOR. CONTRACTOR shall submit itemized 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 a CITY issued Purchase Order and then will be sent to the Finance Department for payment. The invoices will reflect the rates to be charged under the OUC Contract, which are attached as **Exhibit "A"** to this Agreement for ease of reference. Invoices will normally be paid within thirty (30) days following the CITY representative's approval. If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

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 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. Notices to the CITY shall be to the attention of the City Manager.
- E. The CITY and the CONTRACTOR agree that this Agreement (including the terms and conditions of OUC Contract) 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, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV, OR BY MAIL AT

**CITY OF LAKE WORTH BEACH, ATTN: City Clerk, 7 NORTH
DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

K. SCRUTINIZED COMPANIES. The 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.

L. E-VERIFY. Pursuant to Section 448.095(2), Florida Statutes, the CONTRACTOR shall:

1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;
2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR 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 the Agreement.

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 Facilities Line Locating Services as of the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

CONTRACTOR: **USIC HOLDINGS, INC. D/B/A USIC LOCATING SERVICES, LLC**

By: _____
[Signature]

[Corporate Seal]

Print Name: Chuck Adams

Title: Chief Commercial Officer

STATE OF Indiana)
COUNTY OF Marion)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or
• online notarization on this 18th day of may 2022, by Chuck Adams, as the
CCO [title] of **USIC Holdings, Inc. d/b/a USIC Locating Services, LLC**, an
Indiana Limited Liability Company, which is authorized to do business in the State of Florida, who is
personally known to me or who has produced Personally Known as identification, and who did
take an oath that he or she is duly authorized to execute the foregoing instrument and bind the
CONTRACTOR to the same.



[Signature]
NOTARY PUBLIC

Exhibit "A"



USIC PRICING PROPOSAL FOR OUC

Pricing

- Per Single Utility \$9.00
- Per Multiple Utilities \$24.00
- Watch & Protect (Optional) \$40.00 Per Hour
- Storm Work (Optional) \$40.00 Per Hour
- After Hour Emergency Ticket \$40.00 Flat Fee

NOTE: USIC does not charge for any drive time

Pricing Definitions

Per One Call Ticket – All tickets received from State One Call.

Watch & Protect – *This is an optional service and Not Required.* If OUC requests that a USIC technician to be onsite to ensure the protection of the utility during excavation, the fee will be billed per quarter hour once technician is on site and performing the Watch & Protect

Business Hour Emergency Ticket – Any Emergency Tickets that are 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.

After Hour Emergency Ticket – Any After Hour Emergency Tickets 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.

In addition to saving money on locating expense, OUC will experience the added value of using our Professional Damage Prevention Services.

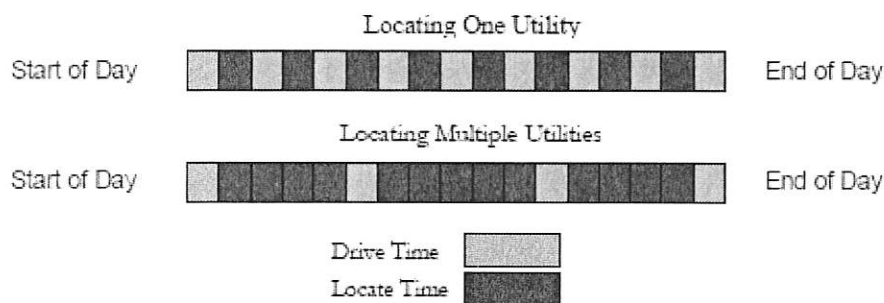
OUR VALUE PROPOSITION INCLUDES:

- Basic Economic Value Summary
- Risk Management Summary
- Advanced Technology Summary

- Professional Services Summary

BASIC ECONOMIC VALUE

- USIC currently visits every job site already for other utility clients creating *economies of scale that cannot be matched* internally or by any other vendor.



RISK MANAGEMENT

- USIC *investigates every damage occurrence. Reports Upon Request*
- USIC uses a CDI (Certified Damage Investigator) to investigate and prepare reports.
- Each report includes pre and post dig photos and all pertinent documentation. All reports are prepared electronically and uploaded through wireless technology.
- All damage reports made available for use in claims recovery efforts
 - Damage reports enables you to recover all damage expense from either the locate vendor or from the excavator.

ADVANCED TECHNOLOGY

- USIC utilizes an in-house proprietary ‘real time’ ticket management system (TicketPro) that reflects 30 plus years of locating experience. The depth of TicketPro cannot be matched by any ‘off the shelf’ ticket management system.
- USIC technicians work their ticket load in a real time, paperless environment (creating even more labor related efficiencies).
- *OUC will have direct, real time access* to our ticket management system (*Customer Portal*). OUC will have ability to:
 - View tickets as they come in from the State One Call service “Real-Time”
 - Quickly identify when ticket is due and if completed, time it was completed and what was located.
 - Query any ticket by ticket number

- View all post locate photos attributed to that located
- Additional information package available upon request.

PROFESSIONAL SERVICES

- OUC increases labor support.
- OUC increases labor management in terms of Supervisors, District Managers, Senior Directors and VP of Operations.
- Technician support also includes a Claims Manager, a Quality Manager, a HR Specialist and a Key Accounts Manager
- Accurate and timely locates to include pre-dig photographs to assist in damage recovery.
- USIC uses the latest technology and works 'real time' in a paperless environment to ensure data integrity.
- USIC encourages regular performance meetings with OUC
- USIC is engaged nationally in the prominent industry association and legislation (to include the Common Ground Alliance (CGA) and National
- Utility Locating Contractors Association (NULCA). We also track and invest in the latest locating technology.
- USIC provides all labor and materials to include all after hours emergencies, weekends and holidays. We manage the work, you manage us.
- USIC provides OUC all data and tools necessary to professionally manage their damage prevention program.

Orlando Utilities Commission

In partnership with

USIC Locating Services, LLC

Signature: Ross Wilson
Ross Wilson (Dec 20, 2011 09:08 E.S.T.)
Email: RWilson@ouc.com