Prepared by: RETURN:
City Attorney's Office
200 N.W. 1st Avenue
Delray Beach, Florida 33444

PCN 12434621090010210
Address: 802 SE 5TH AVE
Delray Beach FL 33483

**HOLD HARMLESS AGREEMENT FOR WORK PERFORMED WITHIN THE STATE RIGHT-OF-WAY**

**THIS HOLD HARMLESS AGREEMENT**, is entered into this ___ day of _____, 20___, by and between the **CITY OF DELRAY BEACH, FLORIDA**, a Florida municipal corporation of the State of Florida, whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444 (the "**CITY**") and 802 SE 5TH AVE LLC, a LLC _____, whose address is 1916 SPANISH TRAIL DELRAY BEACH FL 33483 (the "**OWNER**").

WITNESSETH:

**WHEREAS, OWNER** is the owner of certain real property located at 802 SE 5TH AVE DELRAY BEACH FL 33483 (the "**PROPERTY**"), as more particularly described in Exhibit "A"; and

**WHEREAS, OWNER** is constructing improvements on the **PROPERTY** which require the installation of utilities and related improvements (the "**PROJECT**"); and

**WHEREAS**, the **PROJECT** requires work to be completed within State right-of-way located at or near the **PROPERTY**; and

**WHEREAS**, the **CITY** is required to sign the permit on behalf of the **OWNER** to allow the installation/construction to take place in the State right-of-way; and

**WHEREAS**, the **CITY** is required to indemnify and hold harmless the State for the work performed by **OWNER** in the State right-of-way; and

**WHEREAS**, this Agreement requires **OWNER** to hold harmless and defend the **CITY** for

the work performed in the State right-of-way by the **OWNER**, its developer, contractor or agent.

**NOW, THEREFORE**, for the mutual covenants and matters set forth herein, as of the date set forth above, the parties hereby agree as follows:

1. The recitations set forth above are incorporated herein.

2. **OWNER** shall at all times indemnify and hold harmless the **CITY** and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the **CITY** or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the completion of the PROJECT by the **OWNER** or its employees, agents, servants, partners, principals, or subcontractors. **OWNER** shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the **CITY**, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. **OWNER** expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by **OWNER** shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the **CITY** or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement.

3. **OWNER** warrants and guarantees to the **CITY** that all work on the **PROJECT** shall be constructed in accordance with the applicable codes of the City of Delray Beach and the State of Florida. The **OWNER's** warranty and guarantee shall remain in effect for one year from the date of final acceptance. Unremedied defects identified for correction during the warranty/guarantee period but remaining after its expiration shall be considered as part of the obligations of the guarantee and warranty. Defects in the installation or construction of the

PROJECT, which are remedied as a result of obligations of the warranty/guarantee shall subject the remedied portion of the work to an extended warranty/guarantee period of one year after the defect has been remedied. **OWNER** shall deliver this Agreement to its Surety. The Surety shall be bound with and for the **OWNER** in the **OWNER's** faithful observance of the guarantee.

4. **OWNER** shall supervise and direct the installation and construction of the PROJECT and related improvements, applying such skills and expertise as may be necessary to perform the work in accordance with approved engineering plans. **OWNER** shall be solely responsible for the means, methods, techniques, sequences and procedures of the construction and installation of the PROJECT.

5. **OWNER** agrees to include the following terms in any contract entered into between **OWNER** and any developer, contractor, or agent selected by **OWNER** to perform any work required by this Agreement: (i) The contractor agrees to protect, defend, indemnify, and hold harmless the City of Delray Beach, its officers, employees, and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses or liabilities of every kind, including court costs, reasonable attorney's fees, at both the trial and appellate levels in connection with or arising directly out of the work agreed to be performed herein, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of contractor, its employees, servants, agents, and subcontractors. Without limiting the foregoing, any and all such claims, suits, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. Contractor further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, etc., at his sole expense and agrees to bear all other costs

and expenses related thereto, even if the claim(s) is groundless, false, or fraudulent, and (ii) The parties recognize that various provisions of this Agreement, including but not necessarily limited to this Section, provide for indemnification by the contractor and that Section 725.06, Florida Statutes, requires a specific consideration be given thereof. The parties therefore agree that the sum of Ten Dollars and 00/100 ($10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by the contractor. Furthermore, the parties understand and agree that the covenants and representations relating to this indemnification provision shall survive the term of this Agreement and continue in full force and effect as to the party's responsibility to indemnify.

6. Any claims, lawsuits or disputes that may arise under this Agreement shall be governed by the Laws of Florida, with venue in Palm Beach County, Florida.

7. This Agreement constitutes the entire agreement and understanding of the parties, as it pertains to the **PROJECT**. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by both parties.

8. **OWNER**, its developer, contractor, or agent shall maintain worker's compensation insurance in an amount required by law and general liability insurance in the amount of one million dollars ($1,000,000.00) governing bodily injury and property damage in standard form, insuring **CITY** and the State as additional named insureds. **OWNER** its developer, contractor, or agent shall provide this information to the **CITY** on a Certificate of Insurance that is acceptable to the **CITY**, prior to commencing installation or construction.

9. The **CITY** hereby reserves the right to enforce this Agreement by pursuing any and all remedies provided by law or in equity. All of the remedies available to the **CITY** shall be cumulative, and the **CITY'S** election to pursue any remedy shall not preclude the **CITY** for then or

later pursuing any one or more other remedies.

10. **OWNER** shall be bound by all the terms and conditions found in the Permit Agreement between the **CITY** and the State for this project and attached hereto as Exhibit "B".

11. This agreement shall not be valid unless signed by the City's Mayor and City Clerk.

12. Any notice or communication under this Agreement shall be in writing and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise, then by registered or certified mail, it should be deemed to have been given when delivered to and received by the party to whom it is addressed. The notices and communication shall be given to the particular parties at the following addresses:

City: City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

Owner: 802 SE 5th Ave LLC
1916 Spanish Trail
Delray Beach FL 33483

Either party may at any time by giving ten (10) days written notice designate any other person or entity or any other address in substitution of the foregoing to which the notice or communication shall be given.

**IN WITNESS WHEREOF,** the City and the Owner executed this Agreement as of the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH

_____
Alexis Givings, City Clerk

By: _____
Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

_____
Lynn Gelin, City Attorney

WITNESSES:

_____
Signature

Andrea Gomes
Name

9116 Pine springs Drive
Address Boca Raton, FL 33428

_____
Signature

Marisa Randazzo
Name

6274 Dusenbury Rd
Address Delray Beach FL, 33484

OWNER

By: _____

Name: Francesca Lewis

Title: Owner

for
Company: 802 SE 5th AVE, LLC

Date: 07/17/2026

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 17th day of July, 2026 by Francesca Lewis (name of person), as owner (type of authority) for 802 SE 5th AVE, LLC (name of party on behalf of whom instrument was executed).

Personally known X OR Produced Identification ___
Type of Identification Produced DL

Notary Public State of Florida
Abrianna Birchler
My Commission HH 816051
Expires 6/22/2030

_____
Notary Public – State of Florida

**EXHIBIT A**
LEGAL DESCRIPTION

A PART OF LOTS 9 AND 10, BLOCK 1 IN MODEL LAND COMPANYS SUBDIVISION OF SECTION 21, TOWNSHIP 46 SOUTH, RANGE 43 EAST, IN THE CITY OF DELRAY BEACH, FLORIDA. ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 1, PAGE 128, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF SOUTHEAST 8TH STREET WITH THE WEST LINE OF SOUTHEAST 5TH AVENUE, IN THE CITY OF DELRAY BEACH, FLORIDA; RUNNING THENCE SOUTH ALONG THE WEST LINE OF SOUTHEAST 5TH AVENUE, A DISTANCE OF 211.13 FEET TO A POINT; THENCE RUN WESTERLY ALONG A LINE WHICH IS PARALLEL WITH THE SOUTH LINE OF SOUTHEAST 8TH STREET, A DISTANCE OF 144.5 FEET; THENCE RUN NORTH ALONG A LINE WHICH IS PARALLEL TO THE WEST LINE OF SOUTHEAST 5TH AVENUE, A DISTANCE OF 211.18 FEET TO A POINT IN THE SOUTH LINE OF SOUTHEAST 8TH STREET; THENCE EASTERLY ALONG THE SOUTH LINE OF SOUTHEAST 8TH STREET A DISTANCE OF 144.5 FEET TO THE POINT OF BEGINNING. LESS PORTION DEEDED TO THE STATE OF FLORIDA IN OFFICIAL RECORD BOOK 465, PAGE 593.

**EXHIBIT B**
FDOT Utility Permit Form

FLORIDA DEPARTMENT OF TRANSPORTATION

# UTILITY PERMIT

December 14, 2016

**PERMIT NO:** Temp: 0329121

## STATE ROAD INFORMATION

| County: | Section: | State Road No: | Beginning Mile Post: | Ending Mile Post: |
|---|---|---|---|---|
| Palm Beach | 93010101 | SR 5 | 2.338 | 2.377 |

## APPLICANT INFORMATION

The Utility Agency Owner (UAO) shall be identified in this Applicant Information Box. When the UAO is a City or County and desires to have the Utility Builder make a joint permit applicant, as prescribed in Section 2.1(4) of the 2017 Utility Accommodation Manual (UAM), the Utility Builder shall also be identified in this Applicant Information Box. A Utility Builder alone cannot apply for a utility permit without the City or County adding them as a joint applicant.

**Utility Agency/Owner (UAO)**

Name: City of Delray Beach Utilities Dept
Contact Person: City of Delray Beach Utilities Dept
Address: 434 S Swinton Ave
City: Delray Beach
State: Florida
Zip: 33444
Telephone: (561) 243-7451 ext. _____
Email: RezkM@mydelraybeach.com

**Utility Builder** (only applicable when the UAO is a City or County)

Name: _____
Contact Person: _____
Address: _____
City: _____
State: _____
Zip: _____
Telephone: _____
Email: _____

## WORK DESCRIPTION

The Applicant(s) requests permission from the Florida Department of Transportation (FDOT) to construct, operate, and maintain the utilities as described below and as depicted in the incorporated documentation.

Install 6" fire line, replace existing 1.5" irrigation service line, install new 2" potable service line.

Utility Work No:

Additional sheets are attached and are incorporated into this permit Yes ☐ No ☑

For FDEP certification, the FDOT agency report is attached in accordance with UAM Section 2.4.1 (13) Yes ☐ No ☑

## TRAFFIC CONTROL (TCP)

☑ The TCP will comply with the following 600 series index(es) 602

☐ A TCP has been attached and incorporated into this permit application in compliance with UAM Section 2.4.2.

MOT Technician's contact information (may be supplied at the two (2) business day notification to FDOT):

Name: _____ Telephone _____ Email: _____

## COMMENCEMENT OF WORK

The UAO and/or Utility Builder shall commence actual construction in good faith within sixty (60) calendar days after approval of the permit application. If the beginning date is more than sixty (60) calendar days from the date of approval, the UAO and/or Utility Builder must review the permit with the FDOT Approving Engineer listed to make sure no changes have occurred to the transportation facility that would affect the permit's continued approval. The UAO and/or Utility Builder shall make good faith efforts to expedite the work and complete the work within the calendar days indicated.

Anticipated Start Date: 6/10/2026

Calendar days needed to completed: 30

Florida Department of Transportation

# UTILITY PERMIT



**PERMIT NO:** Temp: 0329121

## APPLICANT SIGNATURE

By the below signature(s) the UAO and/or Utility Builder agree(s) to construct, operate, and maintain the work as noted in the above Work Description, shown in plans and incorporated documents, in compliance with the UAM, all instructions noted in the FDOT Special Instructions Box, and special instructions incorporated into this permit. The UAO and/or Utility Builder declares, the location of all existing utilities that it owns or has an interest in, both aerial and underground, are accurately shown on the plans of the work areas. In accordance with UAM Section 2.8, the UAO and/or Utility Builder further declares that a letter of notification was delivered to the owners of other facilities within the work areas and that those listed below are the only facility owners known to be involved or potentially impacted by the proposed work.

| Date Notified: | Name of other facility owners (attach additional sheets if necessary). |
|---|---|
| 2/24/2026 | AT&T |
| 2/24/2026 | Comcast Cable |
| 2/24/2026 | Florida Public Utilities Company |
| 2/24/2026 | FPL |
| | |

| Utility Agency/Owner | Utility Builder (when applicable) |
|---|---|
| Signature: _____ Date: _____ | Signature: _____ Date: _____ |
| Name (printed): _____ | Name (printed): _____ |
| Title: _____ | Title: _____ |

## FDOT PROJECT INFORMATION

Pursuant to UAM Section 2.1(10), the utility work is within FDOT projects listed below and must have a Utility Work Schedule for each project approved prior to commencement of work within the FDOT project limits:

There are NO FDOT constructions (proposed or underway).
This work is NOT related to an approved Utility Work Schedule.

## FDOT SPECIAL INSTRUCTIONS

In accordance with UAM Section 2.7, FDOT incorporates the below and attached special instructions into this permit.

Additional FDOT Special Instructions are attached and incorporated into this permit. Yes ☐ No ☑

## PERMIT APPROVAL

By signature below, FDOT gives permission to the UAO and /or Utility Builder to construct, operate, and maintain the utilities indicated in this Utility Permit in compliance with the UAM, all incorporated documents, and special instructions. Any changes to the approved work must be approved by the FDOT's Approving Engineer and attached and incorporated into this permit in accordance with UAM Section 2.11.

Approving Engineer: _____ Date: _____

Name: _____

Title: _____

Notification of Utility Work to be provided to: Telephone _____ or Email: _____

An FDOT Representative is required to be present on the worksite prior to commencement of work. Yes ☐ No ☐

Rep. Name: _____ Telephone _____ Email: _____

Florida Department of Transportation

# UTILITY PERMIT



**PERMIT NO:** Temp: 0329121

## CERTIFICATION

I, the undersigned UAO and/or Utility Builder, hereby CERTIFY that the utilities were constructed and inspected in compliance with the UAM all incorporated documents, and special instructions. Pursuant to UAM Section 2.11, all changes have been approved by the FDOT's Approving Engineer and incorporated into this permit along with all other material certifications, test results, bore logs, approved plans changes, as-built plans or other required documentation.

I also CERTIFY that work began on _____ and was completed on _____ and that the area was left in as good or better condition than when the work began.

| Utility Agency/Owner | Utility Builder (when applicable) |
|---|---|
| Signature: _____ Date _____ | Signature:_____ Date _____ |
| Name (printed): _____ | Name (printed): _____ |
| Title: _____ | Title: _____ |

## FINAL INSPECTION OF WORK

☐ The work was inspected and found to be in non-compliance as noted below:

☐ All issues of non-compliance listed above have been brought into compliance and/or FDOT has no outstanding issues that need to be addressed by the UAO and/or Utility Builder. However, this final inspection does not release the UAO and/or Utility Builder of their continuing responsibilities pursuant to Rule 14-46.001, the UAM, all incorporated documents, and special instructions.

FDOT Inspector: _____ Date: _____

Name: _____

Title: _____