

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY RELOCATION MASTER AGREEMENT**  
(AT UTILITY OWNERS EXPENSE)

FORM 710-010-18  
UTILITIES  
07/95  
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**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter called the **DEPARTMENT**, and Gulf Coast Electric Cooperative, Inc., with its principal place of business in the City of Wewahitchka, County of Gulf, State of Florida, hereinafter referred to as **UTILITY OWNER**.

**WITNESSETH:**

**WHEREAS**, the **DEPARTMENT** proposes to engage in certain projects for constructing, reconstructing or otherwise changing a portion of the State Highway System, hereinafter referred to as the "Projects", which shall call for the location (vertically and horizontally), protection and/or relocation and adjustment of the **UTILITY OWNER's** facilities on said Projects, hereinafter referred to as "Relocation Work"; and

**WHEREAS**, the plans for the said construction, reconstruction or other changes are to be reviewed by the **DEPARTMENT** and the **UTILITY OWNER**, and

**WHEREAS**, under the laws of the State of Florida, said Relocation Work must be accomplished at the sole expense of the **UTILITY OWNER** where the facilities lie on property in which the **UTILITY OWNER** holds no compensable interest.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter contained, it is agreed by the parties as follows:

1. Upon service of an Order by the **DEPARTMENT**, the **UTILITY OWNER** shall make or cause to be made all arrangements for the Relocation Work at its own expense and in accordance with the plans, designs and specifications of the **DEPARTMENT** for the construction or reconstruction of the Projects and the provisions of the current Utility Accommodation Manual, which, by reference, is made a part of this Agreement.

2. Upon issuance of the **DEPARTMENT's** Notice to Proceed to the **UTILITY OWNER**, the **UTILITY OWNER** shall perform all Relocation Work so as to cause no delay to the **DEPARTMENT** or its contractors in the prosecution of the Projects, and all such Relocation Work shall be done under the direction of the **DEPARTMENT's** engineer. The **UTILITY OWNER** agrees that it will be directly responsible for any legal claims that the Projects' contractors may initiate due to delays caused by the Relocation Work; provided, however, the **UTILITY OWNER** shall not be responsible for delays beyond its control.

3. The **UTILITY OWNER** agrees to locate (vertically and horizontally), and protect its facilities throughout the Projects life. The **UTILITY OWNER** also agrees to relocate its facilities upon the **DEPARTMENT's** right-of-way according to the terms of the Utility Relocation Schedule and the **DEPARTMENT's** Utility Permit.

4. The **UTILITY OWNER** shall perform all such Relocation Work either with its own forces or by a contractor paid under a contract let by the **UTILITY OWNER**, all under the direction of the **DEPARTMENT's** engineer. The **UTILITY OWNER** shall neither proceed with prosecution of the Relocation Work with its own forces nor let a contract for such Relocation Work until it has received the **DEPARTMENT's** written authority to proceed for each Project.

5. The **UTILITY OWNER** shall maintain the Relocation Work in good repair in accordance with the current Utility Accommodation Manual. This duty shall continue throughout the Project.

6. The **DEPARTMENT** shall furnish the **UTILITY OWNER** with all necessary construction plans that are required by the **UTILITY OWNER** to facilitate the Relocation Work. The **UTILITY OWNER** shall be required to submit plans to the **DEPARTMENT** showing all Relocation Work.

7. **Indemnification;** Check one of the appropriate boxes  below.

**For Government - Owned Utilities,**

To the extent provided by law, the **UTILITY AGENCY/OWNER** shall indemnify, defend and hold harmless the **DEPARTMENT** and all of its officers, agents and employees from claim, loss, damage cost, charge or expense arising out of any acts, action, error, neglect or omission by the **UTILITY AGENCY/OWNER**, its agents, employees, or subcontractors during the performance of the *Agreement*, whether direct or indirect, and whether to any person or property to which the **DEPARTMENT** or said parties may be subject, except that neither the **UTILITY AGENCY/OWNER**, its agents, employees or subcontractors 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 **DEPARTMENT** or any of its officers agents or employees during the performance of this *Agreement*.

When the **DEPARTMENT** receives a notice of claim for damages that may have been caused by the **UTILITY AGENCY/OWNER** in the performance of services required under this *Agreement*, the **DEPARTMENT** will immediately forward the claim to the **UTILITY AGENCY/OWNER**. The **UTILITY AGENCY/OWNER** and the **DEPARTMENT** 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 **DEPARTMENT** will determine whether to require the participation of the **UTILITY AGENCY/OWNER** in the defence of the claim or to require the **UTILITY AGENCY/OWNER** to defend the **DEPARTMENT** in such claim as described in this section. The **DEPARTMENT's** failure to notify the **UTILITY AGENCY/OWNER** of a claim shall not release the **UTILITY AGENCY/OWNER** from any of the requirements of this section. The **DEPARTMENT** and the **UTILITY AGENCY/OWNER** 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. The parties agree that 2% of the total compensation to the **UTILITY AGENCY/OWNER** for performance of this *Agreement* is specific consideration from the **DEPARTMENT's** indemnity agreement.

**For Non-Government - Owned Utilities,**

The **UTILITY AGENCY/OWNER** shall indemnify, defend and hold harmless the **DEPARTMENT** and all of its officers, agents and employees from claim, loss, damage cost, charge or expense arising out of any acts, action, error, neglect or omission by the **UTILITY AGENCY/OWNER**, its agents, employees, or subcontractors during the performance of the *Agreement*, whether direct or indirect, and whether to any person or property to which the **DEPARTMENT** or said parties may be subject, except that neither the **UTILITY AGENCY/OWNER**, its agents, employees or subcontractors 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 **DEPARTMENT** or any of its officers agents or employees during the performance of this *Agreement*.

The **UTILITY AGENCY/OWNER's** obligation to indemnify, defend, and pay for the defence or at the **DEPARTMENT's** option, to participate and associate with the **DEPARTMENT** in the defense and trial of any damage claim or suit and related settlement negotiations, shall arise within seven (7) days of receipt by the **UTILITY AGENCY/OWNER** of the **DEPARTMENT's** notice of claim for indemnification to the **UTILITY AGENCY/OWNER**. The notice of claim for indemnification shall be served by *certified mail*. The **UTILITY AGENCY/OWNER's** obligation to defend and indemnify within seven (7) days of such notice shall not be excused because of the **UTILITY AGENCY/OWNER's** inability to evaluate liability or because the **UTILITY AGENCY/OWNER** evaluates liability and determines the **UTILITY AGENCY/OWNER** is not liable or determines the **DEPARTMENT** is solely negligent. Only a final adjudication or judgement finding the **DEPARTMENT** solely negligent shall excuse performance of this provision by the **UTILITY AGENCY/OWNER**. The **UTILITY AGENCY/OWNER** shall pay all costs and fees related to this obligation and its enforcement by the **DEPARTMENT**. The **DEPARTMENT's** Delay in notifying the **UTILITY AGENCY/OWNER** of a claim shall not release **UTILITY AGENCY/OWNER** of the above duty to defend.

8. The **UTILITY OWNER** shall inform the **DEPARTMENT's** Resident Engineer in writing when it starts, stops, resumes or completes the Relocation Work.

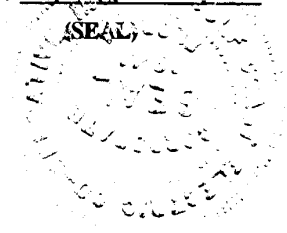
9. This Agreement shall remain in full force and effect until cancelled, and may be cancelled by either party upon sixty (60) days written notice.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers, and their official seals hereto affixed, the day and year first above written.

UTILITY: Gulf Coast Electric Cooperative, Inc.

BY: Cory F. Broshier  
(Title: President)

DATE: 07-21-98



ATTEST(s): Ronald Mullis  
(Title: Secretary)

Recommend Approval by the State Utility Office

BY: Kenneth Eubank

DATE: 10/5/98

FDOT Approved as to Form and Legality

BY: [Signature]  
Office of General Counsel

DATE: 10-2-98

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: [Signature]  
(Title: \_\_\_\_\_)  
State Highway Engineer

DATE: 10-5-98

ATTEST(s): \_\_\_\_\_  
(Title: \_\_\_\_\_)

(SEAL)