

Section 5.6

UTILITY WORK

5.6.1 Purpose

To provide a uniform standard for monitoring, documenting and managing the installation and/or adjustment of utilities within the Department's construction projects. This section does not apply to Design-Build projects.

5.6.2 Authority

Sections [20.23\(3\)\(a\)](#) and [334.048\(3\)](#), Florida Statutes (F.S.)

5.6.3 General

(A) Resident Level Responsibilities

The Project Administrator is responsible for monitoring and documenting Contractor and Utility Agency/Owner (UAO) activities to ensure all work proceeds as scheduled and permitted. The below sections specify the minimum documentation required.

(B) District Level Responsibilities

Facilities such as, electric lines, telephone lines, other communication lines, pole lines, sewer lines; water lines, gas mains, or storm water lines not discharged onto Department right-of-way (R/W) that are not the property of the Department are generally referred as utilities. These utilities are sometimes owned by utility agencies regulated by the Public Service Commission, but a utility can also be owned by a citizen, business or government not regulated by the Public Service Commission. Utilities occupy the Department's R/W in a number of ways and the Department's ability to exercise its authority over any UAO owning a utility in the Department's R/W can be a complicated and time consuming process. Consequently, when utility work needs to be performed during a construction project, the District Utilities Office is required to have the Department execute utility agreements to ensure the UAO's work is scheduled or the UAO's work is included in the construction contract for the Contractor to complete.

Under certain conditions it may be determined that the Department is legally obligated to reimburse the UAO for all or part of its utility work. This determination can only be made

through the District Utilities Office with consultation with the Office of General Counsel. In reimbursable cases an estimate and reimbursement agreement are also needed. Once all agreements are executed, the District Utilities Office certifies all necessary utility arrangements have been executed to ensure the construction project can be constructed in accordance with the construction plans as they existed at the time of execution. This certification is done prior to advertisement and the documents executed for these purposes are the Utility Work Schedule (UWS), Utility Work by Highway Contractor Agreements (UWHC), master utility agreements with appropriate task work orders, and construction project specific utility agreements.

The Construction Office has a responsibility to ensure that any change to the construction contract after advertisement has not voided any UWS or other utility work agreements. Caution must be exercised in allowing these changes to move forward since the UAO is only obligated to operate in accordance with the executed UWS and utility agreements as they were executed. The UAO is not obligated to quickly agree to new requirements and the Department may not have a timely means to exercise its legal authority to compel the UAO to comply with new requirements. Refer to **Section 5.6.6.4** below for information on rescheduling utility work.

5.6.4 Preconstruction Conference

Resident Level Responsibilities

The Project Administrator will schedule and conduct a preconstruction conference that includes UAOs and will hold a utility coordination meeting as described in [Section 3.1, Preconstruction Conference](#) where the Department, Contractor, and UAOs will discuss scheduling and methods to accomplish the construction project in an expeditious manner. All UAOs within the limits of construction, including UAOs with an executed UWS will be invited.

The Contractor's schedule must not conflict with any UWS. However, the Contractor can negotiate and facilitate the execution of a new UWS between the UAO and the Department. Caution must be exercised in renegotiating a new UWS. The Department is under no obligation to agree to a new UWS, and the UAO is under no obligation to agree. Furthermore, the Department may not have a timely means to exercise its authority to compel the UAO to comply with new requirements. Refer to **Section 5.6.6.4** below for information on rescheduling utility work.

5.6.5 Utility Work by Utility Agency/Owner

(A) Resident Level Responsibilities

All utility work by the UAO within the limits of a construction project requires both an executed UWS and a Utility Permit issued by the Department unless otherwise approved by the General Counsel's Office. The Project Administrator is responsible for monitoring and documenting the UAO activities to ensure all work proceeds as scheduled, and permitted. **Daily Work Reports** will be used to check the UAO's invoice for payment and will be used to substantiate or refute claims by the Contractor or the UAO.

Complete and submit the [Notice of Utility Construction Work, Form No. 700-010-48](#), at the beginning and end of utility work. In the **Daily Work Report** under the remarks category for utilities in SiteManager, document the UAO's work when the UAO is within the construction project limits and the Contractor's work when the Contractor is working within areas where there is scheduled utility work. Document where the work took place, what work was being accomplished, who was doing the work, if the work was done in accordance with the construction project schedule, UWS, and utility permit. Document any impacts or delays to either party.

(B) District Level Responsibilities

When it has been determined that the Department is legally obligated to reimburse the UAO for all or part of its utility work, the Project Administrator and/or the District Utility Office will request in writing that the UAO submit an invoice detailing labor, equipment, materials and markups, if applicable, for review. The District Utility Office and/or the Project Administrator will check the invoice against the **Daily Work Reports** and the Utility Agreements and Estimates for discrepancies. Upon completion of review, the Project Administrator or District Utility Office will forward the UAO's invoice to the District Financial Services Office for payment using Phase 56 funds.

If the UAO fails to comply with the UWS or Utility Permit refer to **Section 5.6.8**.

5.6.6 Utility Work by Contractor

Resident Level Responsibilities

The Department and UAO may agree to include the UAO's utility work in the Department construction contract. The work is treated the same as any other work included the contract with the exception that the UAO is allowed to inspect the Contractor's work in accordance with the executed UWHC agreement. Document any concerns the UAO has as a result of their inspection in the **Daily Work Report** under the remarks category for utilities in SiteManager.

The Department will pay the Contractor for the utility work included in the contract using either Phase 52 or Phase 56 funds. See **Section 8.12** of the **CPAM** for more information.

5.6.7 Utility Work (Unforeseen)

Resident Level Responsibilities

During the course of the construction project unforeseen utility work may arise for a variety of reasons. In some cases, the UAO may not be able to perform this work on the Contractor's schedule. Below are examples of unforeseen utility work encountered during a construction project.

5.6.7.1 Emergency Utility Work

By law, the UAO is obligated to respond to emergencies and the Contractor must allow this work to be done. What constitutes an emergency is described in the [2010 Utility Accommodation Manual \(UAM Section 4.1.1\)](#)

The Project Administrator is responsible for monitoring and documenting the UAO emergency activities to determine impact on other UAO or Contractor activities in the **Daily Work Reports**. The Project Administrator shall request the UAO to provide the utility permit number issued, for inclusion in the report, if and once the utility permit is obtained by the UAO. The **Daily Work Reports** will be used to verify any Contractor delay claims due to the emergency work. The UAO is required to perform the emergency work, however, they may also be required to indemnify the Department for the Contractor delay claims.

5.6.7.2 Utility Work Not Requiring New Utility Permits

The UAOs continually perform maintenance activities on their permitted facilities. In some cases they do not need to obtain new utility permits to do this work. The [2010 Utility Accommodation Manual \(UAM Section 3.3.1\)](#) lists the types of work that can be done under an existing utility permit.

If the UAO desires to perform the utility work described above during the construction project, the UAO must obtain a UWS approved by the Contractor and the Department. The [2010 Utility Accommodation Manual \(UAM Section 3.3.2\)](#) lists the work constraints that must be followed when performing the types of utility work listed above.

Once the UWS is executed the utility work is to be monitored and documented per the requirements in **Section 5.6.5**.

If a UWS cannot be agreed to, the UAO must perform their maintenance activities after the construction project is completed.

5.6.7.3 Unforeseen Utility Conflicts

Occasionally, unforeseen utility conflicts arise as the construction project progresses. When an unplanned utility adjustment or utility relocation is required the Project Administrator must immediately contact the District Utilities Office regarding whether the utility work is reimbursable and to execute a UWS or other necessary utility agreements, notices or orders. The Project Administrator is responsible for monitoring and documenting impacts on other UAOs' or the Contractor's activities in the ***Daily Work Reports***.

Once the UWS and Utility Permit are executed the utility work is to be monitored and documented per the requirements in **Section 5.6.5**.

If the UAO is not cooperative refer to **Section 5.6.8**.

5.6.7.4 Revised Utility Work Schedules (UWS)

Occasionally, a UWS cannot be performed in accordance with the executed UWS which can occur because of many reasons, including but not limited to, the plans may have been changed after the UWS executed, the buried utilities may not have been in the planned location, etc. In any event, the existing UWS and utility work estimates may need to be revised. The Project Administrator must determine if funds are needed to cover the new estimate and additional work, if appropriate. The Project Administrator is responsible for monitoring and documenting impacts on other UAOs' or the Contractor's activities in the ***Daily Work Reports*** and contacting the District Utility Office who will assist the Contractor and UAO in executing a new UWS.

Once the UWS is executed, the utility work is to be monitored and documented per the requirements in **Section 5.6.5**.

If a UWS cannot be agreed to, refer to **Section 5.6.8.2**

5.6.8 UOA Non-Compliance

UAOs have numerous reasons for not complying with requests by the Contractor and/or the Department. Many of these reasons may be because of safety concerns, difficulties with their utility contractor, limited staffing, inability to respond to a change in the

Contractor's schedule, etc. The Project Administrator should assist the Contractor and the UAO to find common ground to prevent or minimize delays to the contract. However, when common ground cannot be found and the Contractor's work cannot be reasonably adjusted, the Project Administrator must take the appropriate actions to compel the UAO to comply with the Department's directions. The necessary actions needed to compel the UAO to comply for the most common cases are as follows:

5.6.8.1 UAO Non-Compliance with Valid Utility Work Schedules (UWS)

If the UAO does not comply with the UWS and/or Utility Permit, the Project Administrator must immediately notify the UAO of its non-compliance. This notification may be verbal, but must be immediately followed by a letter from the Resident Engineer. The notification letter should be formatted in compliance with the Secretary's Style Book available from the Office of Public Information and, include the following:

- a) The UWS, permit, or other agreements that controls the utilities activities,
- b) The contractor's activities that are or may be impacted,
- c) The corrective actions needed.
- d) A statement that the UAO may be liable for any added costs to the Department.

The Contractor, and the Project Administrator are to be provided a courtesy copy of this notification.

Once the notice on non-compliance is given, the Project Administrator is responsible for monitoring and documenting impacts on other UAOs' or the Contractor's activities in the **Daily Work Reports** and documenting the notice of non-compliance and the date the UAO received the verbal and written notification.

If the UAO is not responsive, the Project Administrator must consult the District Utilities Office and the General Counsel's Office for resolution. The Project Administrator is responsible for monitoring and documenting impacts on other UAOs' or the Contractor's activities in the **Daily Work Reports**. This documentation will be used to limit and seek repayment for any construction delay claims and/or other related costs.

5.6.8.2 UAO Non-Compliance without Valid Utility Work Schedules (UWS)

This section covers executing the needed UWS, when the UAO is non-responsive or refuses to adjust or relocate its facilities and the Contractor's work cannot be reasonably adjusted to avoid the utility conflict. The Project Administrator must immediately consult the District Utilities Office and the General Counsel's Office for issuance of a 30-Day Notice/Order. No Guidance Document for a 30-Day Notice/Order is provided since they are drafted with the assistance of the General Counsel's Office on a case by case basis.

A copy of the 30-Day Notice/Orders must be sent to the Project Administrator, District Construction Engineer, District Utilities Engineer, Director, Office of Construction, Office of General Counsel, District Chief Counsel, and State Utilities Engineer.

Once the District Office and General Counsel's Office are consulted, the Project Administrator is responsible for monitoring and documenting impacts on other UAOs' or the Contractor's activities in the **Daily Work Reports**. The Project Administrator is also responsible for documenting in the **Daily Work Reports** when the 30-Day Notice/Order was issued, when the Department received the UWS from the UAO, and when it was executed. This documentation will be used to limit and seek repayment for attributable construction delay claims and/or other related costs.

If the UAO is not responsive to the 30-Day Notice/Order, the Project Administrator must consult the District Utilities Office and the General Counsel's Office to coordinate the Department's next actions. The Department may add the utility work to the contract and bill the UAO for the utility work, or may file a complaint to effect a court order. In either case, the Project Administrator must document in the **Daily Work Reports** all delays and impacts because of the UAO's non-compliance.