

This Instrument Prepared By/Return to:

Jared R. Gainey, Assistant City Attorney
City Attorney's Office
City of Ocala
110 SE Watula Avenue
Ocala, Florida 34470

Project: FDOT Subordination Agreement
Property Appraiser's Parcel ID No.: 13539-001-00

Rec.

FDOT PARCEL NO. 1001A.02
SECTION 36210
F.P. NO. 435209-1
STATE ROAD 93 (I-75)
COUNTY MARION

AGREEMENT FOR SUBORDINATION OF UTILITY INTERESTS

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the CITY OF OCALA, a Florida municipal corporation ("City"), and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ("FDOT").

WHEREAS:

- A. The City presently has interests in certain lands that have been determined necessary for a transportation facility; and
- B. The proposed use of the subject real property for a transportation facility requires subordination of the City's interest to the FDOT; and
- C. The FDOT is willing to pay to have the City's facilities located, protected, adjusted, relocated, or removed if necessary, to prevent conflict between the facilities so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the public welfare, mutual covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

- 1. Subordination of Utility / Easement Interests. City hereby subordinates to the interest of FDOT, its successors, or assigns, any and all interest the City has in the real property ("Property") described in the attached **Exhibit A**

1.1 The interests of the City being subordinated hereby includes the interests created by the following instruments:

INSTRUMENT	DATE	FROM	TO	O.R. BOOK/PAGE
Easement	02/12/1993	Mark III Industries	City of Ocala	1907/1717
Easement	12/01/2009	Harvey Vandeven	City of Ocala	5290/109

2. The City shall retain all rights under the instruments identified above, provided, however, that the City’s exercise of those rights shall be in accordance with the FDOT’s standards as set forth in the FDOT’s then-current Utility Accommodation Manual, and subject to the following provisions:

2.1 The FDOT may require, for any present or future transportation facility project, that any City facilities be located, protected, adjusted, relocated, or removed as the FDOT determines is necessary (including the timing of any of such activities) to accommodate the transportation facility project. In the event that any such work is required by the FDOT, the FDOT hereby agrees to pay all costs of such work, including, but not limited to, all costs, including any landowner condemnation attorney fees and other condemnation costs, if necessary, of acquiring easements comparable to the easements being subordinated herein, which may require additional easement area necessary to provide for sufficient clearance for aerial facilities and vegetation management zones. The work performed pursuant to this section 2.1 shall comply with the City’s Design and Construction Standards for Electric Utility Facilities and the National Electrical Safety Code (ANSI Standard C2). Payment of the above shall not include any betterment¹ to the City. In the event that a condemnation action is necessary to acquire a substitute easement, the FDOT will file such action for the use and benefit of the City. And the FDOT shall have full authority over the proceedings.

2.2 Any new construction or relocation of City facilities within the lands will be subject to prior approval by the FDOT, which shall not be unreasonably withheld. Should the FDOT fail to approve any new construction or relocation of facilities by the City or require the City to locate, protect, adjust, relocate or remove its facilities located within said lands, the FDOT hereby agrees to pay the all costs of such work, including, but not limited to, all costs, including any landowner condemnation attorney fees and other condemnation costs, if necessary, of acquiring easements comparable to the easements being subordinated herein. Payment of said costs shall not include any betterment to the City. In the event that a condemnation action is necessary to acquire a substitute easement, the FDOT will file such action for the use and benefit of the City and the FDOT shall have full authority over the proceedings.

2.3 The FDOT acknowledges that the City is entitled to advanced review of the proposed construction of any other utilities within the lands described herein and that such utilities are required to obtain an FDOT permit which states that the new utility may not interfere with any existing utilities or with the City’s rights set forth in the above referenced easements.

¹ “Betterment” is defined as any upgrading of facilities being relocated that is not attributable to the highway construction and is made solely for the benefit of and at the election of the City.

3. The terms of this Subordination Agreement shall supersede any contrary provisions within any utility permit issued to the City within the area of the lands described.

4. The City shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 2 above, including the right to trim such trees, brush, and growth which might endanger or interfere with the City's facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.

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IN WITNESS WHEREOF, the FDOT has caused these presents to be executed by its duly authorized officer this ____ day of _____, _____.

STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION

Witness Signature

Witness Printed Name
Address:

Witness Signature

Witness Printed Name
Address:

By: _____

Print Name: _____

Its: District Director of Transportation
Development for District Five

Address: 719 S. Woodland Blvd.
DeLand, FL 32720

Legal Review

By: _____
Office of the General Counsel

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this ____ day of _____, _____, by _____, District Director of Transportation Development for District Five of the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, on behalf of the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION.

Notary Public, State of _____
Name: _____
(Please print or type)

Commission Number:
Commission Expires:

Notary: Check one of the following:

- ____ Personally known OR
- ____ Produced Identification (if this box is checked, fill in blank below).
- ____ Type of Identification Produced: _____

IN WITNESS WHEREOF, the City of Ocala, Florida has caused these presents to be executed by its duly authorized officer this _____ day of _____, _____.

CITY OF OCALA, FLORIDA,
A Florida municipal corporation

By: Ire J. Bethea, Sr.,
as President, Ocala City Council

Witness Signature

Angel B. Jacobs

Witness Printed Name

110 S.E. Watula Avenue
Ocala, FL 34471
WITNESS 1 (address)

Witness Signature

William E. Sexton

Witness Printed Name

110 S.E. Watula Avenue
Ocala, FL 34471
WITNESS 2 (address)

ATTEST:

APPROVED AS TO
FORM/LEGALITY

ANGEL B. JACOBS, City Clerk

WILLIAM E. SEXTON, City Attorney

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization this _____ day of _____ 20_____, by _____, as President of the City Council of the City of Ocala, Florida, a Florida municipal corporation, who is personally known to me, for and on behalf of the City of Ocala, Florida.

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EXHIBIT A
LEGAL DESCRIPTION - PROPERTY

PARCEL NO. 1001A
FEE SIMPLE

SECTION 36210
FP 435209-1

That portion of:

The land referred to herein below is situated in the County of MARION, State of Florida, and described as follows:

The South 1/2 of the S.W. 1/4 of Section 27, Township 14 South, Range 21 East, Marion County, Florida,

Except the South 25 feet and the West 25 feet thereof for right-of-way for N.W. 49th Street (50 feet wide),

And except right-of-way for N.W. 44th Avenue (aka County Road 3.5W.) along the East side thereof,

All being more particularly described as follows:

Commence at the Southeast corner of the South 1/2 of the S.W. 1/4 of said Section 27; thence N89°41'41"W along the South line of said South 1/2 of the S.W. 1/4, 32.14 feet to the intersection with the West right-of-way line of N.W. 44th Avenue (width varies); thence departing said South line, proceed N02°18'20"W along said West right-of-way line, 25.84 feet to the intersection with the North right-of-way line of N.W. 49th Avenue (50 feet wide) and the point of beginning; thence continue N02°18'20"W along said West right-of-way line, 95.83 feet; thence continue along said right-of-way line N00°27'07"E, 114.82 feet to the point of curvature of a non-tangent curve concave Westerly, having a radius of 2037.48 feet and a central angle of 01°28'02"; thence Northerly along the arc of said curve and along said right-of-way line, 52.17 feet (chord bearing & distance of N06°45'20"W, 52.17 feet) to the point of reverse curvature of a curve concave Easterly, having a radius of 2129.48 feet and a central angle of 07°52'54"; thence Northerly along the arc of said curve and along said right-of-way line, 292.93 feet (chord bearing & distance of N03°32'54"W, 292.70 feet) to the point of tangency; thence N00°23'33"E along said right-of-way line, 753.65 feet to the intersection with the North line of the aforementioned South 1/2 of the S.W. 1/4; thence departing said right-of-way line, proceed N89°10'18"W along said North line, 2558.21 feet to the intersection with the East right-of-way line of N.W. 49th Street (50 feet wide); thence departing said North line, proceed S00°30'15"W along said East right-of-way line, 1298.88 feet to the intersection with the North right-of-way line of said N.E. 49th Street; thence departing said East right-of-way line, proceed S88°58'21"E along said North right-of-way line, 2591.70 feet to the point of beginning."

(Being those lands described in Official Records Book 7527, Page 1722, as recorded in the Public Records of Marion County, Florida)

Described as follows:

Commence at the Southwest corner of Section 27, Township 14 South, Range 21 East, said point being a found 8" octagonal concrete monument with 3.5" brass disk stamped "MARION COUNTY SECTION SURVEY 1942 27 28 33 34" as shown on Florida Department of Transportation Right of Way Map, Section 36210, Financial Project number 435209-1; thence South 89°01'39" East along the South line of the Southwest 1/4 of said Section 27, a distance of 2527.00 feet; thence departing said South line, North 00°58'21" East, a distance of 25.00 feet to a point on the North right of way line of 49th Street per official records book 827, page 188 of the public records of Marion County, Florida and the POINT OF BEGINNING; thence departing said South right of way line, continue North 00°58'21" East, a distance of 70.00 feet to a point 95 feet North of and parallel to said South line of Section 27; thence South 89°01'39" East parallel to said South line of Section 27, a distance of 48.87 feet; thence North

32°11'06" East, a distance of 40.07 feet; thence North 04°07'54" West, a distance of 65.76 feet to the point of curvature of a curve, concave to the East, having a Radius of 5321.50 feet and a Central Angle of 04°28'23"; thence run Northerly along the Arc of said curve, a distance of 415.44 feet (Chord Bearing = North 01°53'42" West, Chord Distance = 415.33 feet) to the point of tangency; thence North 00°20'29" East, a distance of 145.76 feet; thence North 23°35'10" West, a distance of 31.98 feet; thence North 89°35'17" West, a distance of 17.58 feet; thence North 00°24'43" East, a distance of 75.66 feet; thence South 89°35'17" East, a distance of 22.00 feet; thence North 00°24'43" East, a distance of 49.03 feet; thence North 03°22'52" East, a distance of 347.48 feet to a point on the West right of way line of NW 44th Avenue per Official Records Book 5105, Page 1932, Public Records of Marion County, Florida; thence the following three (3) calls along said West right of way line: thence South 00°24'43" West, a distance of 675.00 feet to the point of curvature of a curve, concave to the East, having a Radius of 2129.48 feet and a Central Angle of 07°56'41"; thence run Southerly along the Arc of said curve, a distance of 295.28 feet (Chord Bearing = South 03°33'37" East, Chord Distance = 295.04 feet) to the point of reverse curvature of a curve, concave to the West, having a Radius of 2037.48 feet and a Central Angle of 01°28'02"; thence run Southerly along the Arc of said curve, a distance of 52.17 feet (Chord Bearing = South 06°47'57" East, Chord Distance = 52.17 feet) to the end of said curve; thence the following two (2) calls along the East line of lands described in official records book 7527, page 1722, Public Records of Marion County, Florida, said east line being qualified as the Westerly right of way line of NW 44th Avenue in said official records book: thence South 00°23'01" West, a distance of 114.21 feet; thence South 02°22'36" East, a distance of 96.52 feet to the Southeast corner of said lands, said point being on said North right of way line; thence North 89°01'39" West along said North right of way line and said South line of said lands, a distance of 89.69 feet to the POINT OF BEGINNING.

CONTAINING 0.523 Acres, more or less.

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