

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.: 13539-002-00 and 13689-002-00

Rec.

FDOT PARCEL NO. 106.02
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	2/12/1993	F. Joe Krim Jr.	City of Ocala	1907/1717
Easement	7/24/1996	Mark III Industries	City of Ocala	2312/780
Easement	12/2/2009	NW 44 th Ave Partners LLC	City of Ocala	5290/112

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.
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.

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.

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

By: _____

Print Name: _____

Its: District Director of Transportation
Development for District Five

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

Witness Signature

Witness Printed Name
Address:

Witness Signature

Witness Printed Name
Address:

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 1 (signature)

Angel B. Jacobs
WITNESS 1 (printed name)

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

WITNESS 2 (signature)

William E. Sexton
WITNESS 2 (printed name)

110 S.E. Watula Avenue
Ocala, Florida 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 Ire J. Bethea, Sr., 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. 106
FEE SIMPLE
LIMITED ACCESS RIGHT OF WAY

SECTION 36210
FP 435209-1

THAT PORTION OF:

The North 567 feet of the Northeast 1/4 of Section 34 and the Southeast 1/4 of Section 27, lying West of State Road 93 (I-75) all in Township 14 South, Range 21 East, Marion County, Florida.

(Being a portion of the lands described in Official Records Book 6774, Page 1945 of the Public Records of Marion County, Florida)

DESCRIBED AS FOLLOWS:

Commence at the Southeast corner of Section 34, Township 14 South, Range 21 East, said point being a found 8" octagonal concrete monument with brass disk stamped "MARION COUNTY SECTION SURVEY 34+35 1942" as shown on Florida Department of Transportation Right of Way Map, Section 36210, Financial Project number 435209-1; thence North 00°21'38" East along the East line of the Southeast 1/4 of said Section 34, a distance of 1452.35 feet to a point on the Baseline of Survey of State Road 93 (I-75) as shown on said Right of Way Map, said point being at Station 2439+90.72, said point also being a point on a curve, concave to the Southwest, having a Radius of 3274.17 feet and a Central Angle of 04°23'47"; thence from a tangent bearing of North 26°05'11" West, run Northwesterly along the Arc of said curve and along said Baseline of Survey, a distance of 251.24 feet (Chord Bearing = North 28°17'05" West, Chord Distance = 251.18 feet) to the Point of Tangency of said curve, said point being at Station 2442+41.96; thence North 30°28'58" West along said Baseline of Survey, a distance of 1720.48 feet to station 2459+62.44, said point being the point of curvature of a curve, concave to the Northeast, having a Radius of 3274.17 feet and a Central Angle of 28°29'44"; thence run Northwesterly along the Arc of said curve and along said Baseline of Survey, a distance of 1628.38 feet (Chord Bearing = North 16°14'06" West, Chord Distance = 1611.65 feet) to a point on the North line of the South 513 feet of the North 1080 feet of the Northeast 1/4 of said Section 34, said point being at station 2475+90.82; thence departing said Baseline of Survey, North 89°42'23" West, a distance of 150.11 feet to a point on the West limited access right of way line of said State Road 93 and the POINT OF BEGINNING; thence departing said West limited access right of way line, continue North 89°42'23" West along said North line, a distance of 26.46 feet to a point on a non-tangent curve, concave to the Southwest, having a Radius of 1994.67 feet and a Central Angle of 01°34'28"; said point henceforth known as POINT "A"; thence departing said North line, from a tangent bearing of North 17°43'18" West, run Northwesterly along the Arc of said curve, a distance of 54.81 feet (Chord Bearing = North 18°30'32" West, Chord Distance = 54.81 feet) to the end of said curve; thence South 70°42'14" West, a distance of 62.67 feet to the beginning of a non-tangent curve, concave to the Southwest, having a Radius of 1932.00 feet and a Central Angle of 05°59'35"; thence from a tangent bearing of North 19°17'46" West, run Northwesterly along the Arc of said curve, a distance of 202.09 feet (Chord Bearing = North 22°17'33" West, Chord Distance = 201.99 feet) to the end of said curve; thence North 25°17'21" West, a distance of 88.02 feet; thence North 27°17'21" West, a distance of 84.54 feet to the point of tangency of a curve, concave to the Southwest, having a Radius of 109.00 feet and a Central Angle of 55°07'54"; thence run Westerly along the Arc of said curve, a distance of 104.88 feet (Chord Bearing = North 54°51'18" West, Chord Distance = 100.88 feet) to the point of tangency; thence North 82°25'15" West, a distance of 213.48 feet to the point of curvature of a curve, concave to the South, having a Radius of 1185.00 feet and a Central Angle of 01°14'00"; thence run Westerly along the Arc of said curve, a distance of 25.51 feet (Chord Bearing = North 83°02'15" West, Chord Distance = 25.51 feet) to a

point on the East line of the West 440.21 feet of the West 1/2 of the Northeast 1/4 of said Section 34, said point henceforth known as POINT "B"; thence North 00°34'27" East along said East line, a distance of 107.62 feet to a point on the North line of the Northeast 1/4 of said Section 34; thence North 89°42'23" West along said North line, a distance of 325.83 feet to a point on a non-tangent curve, concave to the West, having a Radius of 2129.48 feet and a Central Angle of 04°35'49"; thence departing said North line from a tangent bearing of North 00°34'40" East, run Northerly along the Arc of said curve, a distance of 170.85 feet (Chord Bearing = North 01°43'14" West, Chord Distance = 170.81 feet) to the end of said curve, said point henceforth known as POINT "C"; thence North 89°00'00" East, a distance of 41.29 feet; thence North 02°14'58" West, a distance of 144.28 feet to a point on the South line of lands described in Official Records Book 4763, Page 463 of the Public Records of Marion County, Florida, said point henceforth known as POINT "D"; thence South 89°35'53" East along said South line, a distance of 212.23 feet, to a point henceforth known as POINT "E"; thence departing said South line, South 02°15'00" East, a distance of 56.40 feet to the point of curvature of a curve, concave to the Northeast, having a Radius of 56.00 feet and a Central Angle of 88°32'02"; thence run Southeasterly along the Arc of said curve, a distance of 86.53 feet (Chord Bearing = South 46°31'01" East, Chord Distance = 78.18 feet) to the point of tangency; thence North 89°12'58" East, a distance of 51.32 feet; thence North 87°12'58" East, a distance of 138.36 feet to the beginning of a non-tangent curve, concave to the South, having a Radius of 494.00 feet and a Central Angle of 03°00'03"; thence from a tangent bearing of North 87°13'01" East, run Easterly along the Arc of said curve, a distance of 25.87 feet (Chord Bearing = North 88°43'02" East, Chord Distance = 25.87 feet) to the beginning of a non-tangent curve, concave to the Northwest, having a Radius of 106.00 feet and a Central Angle of 44°33'50"; thence from a tangent bearing of North 60°29'33" East, run Northeasterly along the Arc of said curve, a distance of 82.45 feet (Chord Bearing = North 38°12'38" East, Chord Distance = 80.38 feet) to the point of tangency of said curve; thence North 15°55'43" East, a distance of 38.11 feet to a point on the aforementioned South line of said lands, said point henceforth known as POINT "F"; thence South 89°35'53" East along said South line, a distance of 329.21 feet to a point on the aforementioned West limited access right of way line; thence departing said South line, run the following two (2) calls along said West limited access right of way line; thence South 00°37'13" West, a distance of 731.29 feet to the point of curvature of a curve, concave to the East, having a Radius of 3424.17 feet and a Central Angle of 02°30'28"; thence run Southerly along the Arc of said curve, a distance of 149.86 feet (Chord Bearing = South 00°38'01" East, Chord Distance = 149.85 feet) to the POINT OF BEGINNING.

Containing 9.176 Acres, more or less.

TOGETHER WITH ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW BETWEEN THE GRANTOR'S REMAINING PROPERTY AND ANY FACILITY CONSTRUCTED ON THE ABOVE-DESCRIBED PROPERTY, ALONG THE COURSES BETWEEN POINTS "A" AND "B", BETWEEN POINTS "C" AND "D" AND BETWEEN POINTS "E" AND "F" DESCRIBED ABOVE.