

Prepared By/Return to:

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

Project: FDOT Subordination Agreement

Rec.

PARCEL NO. 116.2
SECTION 36080
F.P. NO. 410674-3
STATE ROAD 40
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 as follows:

PARCEL NO. 116

SECTION 36080

That part of:

The West 367 feet of the South 468 feet North of State Road 40, of the Southwest 1/4 of the Southeast 1/4, Section 6, Township 15 South, Range 24 East, Marion County, Florida.

(Said property being the same lands as described in Official Records Book 8137, page 685 of the Public Records of Marion County, Florida.)

further described as follows:

Commence at a 2 1/2-inch aluminum post with brass cap stamped "US DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT T15S R24E C 1/4 S6 1986" marking the northwest corner of the southeast quarter of Section 6, Township 15 South, Range 24 East, Marion County, Florida, as shown on Florida Department of Transportation Right of Way Map Section 36080, Financial Project No. 410674-3; thence run South 00°13'01" East along the west line of the southeast quarter of said Section 6, per the United States Department of the Interior Bureau of Land Management Dependent Resurvey completed in 1981, a distance of 2308.32 feet for a Point of Beginning; thence departing said west line, run South 48°26'21" East a distance of 82.73 feet; thence run South 00°26' 49" East a distance of 22.88 feet; thence run South 48°26'21" East a distance of 409.99 feet to a point on the east line of the west 367 feet of the south 468 feet of the southwest quarter of the southeast quarter of said Section 6, as monumented, and shown on said Right of Way Map; thence run South 00°40'59" West along said east line a distance of 11.22 feet to an intersection with the south line of said Section 6, in its position monumented prior to the United States Department of the Interior Bureau of Land Management Dependent Resurvey completed in 1981, as shown on the aforementioned Right of Way Map, said point being the southeast corner of the west 367 feet of the south 468 feet of the southwest quarter of the southeast quarter of said Section 6 and being marked by a 4-inch by 4-inch concrete monument with nail and disk stamped "MOORHEAD ENG PCP 899", as shown on said Right of Way Map; thence departing said east line, run South 89°43' 07" West along the south line of said Section 6 a distance of 105.27 feet to a point on the existing northerly right of way line of State Road No. 40 as shown on said Right of Way Map; thence departing said south line, run North 48°11'57" West along said existing northerly right of way line a distance of 349.58 feet to a point on the west line of the southeast quarter of said Section 6, prior to the United States Department of the Interior Bureau of Land Management Dependent Resurvey completed in 1981, as shown on said Right of Way Map; thence continue North 48°11'57" West along said existing northerly right of way line a distance of 3.18 feet to a point on the west line of the southeast quarter of said Section 6, per the United States Department of the Interior Bureau of Land Management Dependent Resurvey completed in 1981, as shown on said Right of Way Map; thence departing said existing northerly Right of Way line, run North 00°13'01" West along said west line a distance of 126.36 feet to the Point of Beginning.

Containing 0.803 acres, more or less.

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	7/1/1976	Riversites, Inc.	City of Ocala	752/546
Easement	1/18/1977	Clyde B. Larramore	City of Ocala	817/416

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 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, 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

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.

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.

(THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK)

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

By: _____

Witness Printed Name

Print Name: _____

Witness Address:

Its: District Director of Transportation
Development for District Five

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

Witness Signature

Legal Review

Witness Printed Name

By: _____
Office of the General Counsel

Witness Address:

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 has caused these presents to be executed by its duly authorized officer this _____ day of _____, _____.

CITY OF OCALA, a Florida municipal corporation

ATTEST:

By: _____
City Clerk
110 SE Watula Avenue
Ocala, FL 34471

By: _____
Print Name: _____,
City Council President

Approved as to form and legality:

By: _____
City Attorney
110 SE Watula Avenue
Ocala, FL 34471

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 City of Ocala Council President.

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: _____