

23-UTL.02-05/09

Date: November 15, 2017
This instrument prepared under the direction of:
Angela D. Tucker, Chief Counsel
Post Office Box 1249
City: Bartow, Florida 33831-1249
Department of Transportation

F.P. NO. 4130651
PARCEL 100.2
SECTION 12075-000
STATE ROAD 93(I-75)
COUNTY Lee

SUBORDINATION OF COUNTY UTILITY INTERESTS

THIS AGREEMENT, entered into this 18 day of June, 2019, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the FDOT, whose post office address is: Post Office Box 1249, Bartow, Florida 33831-1249 and LEE COUNTY, Utility Agency Organization, hereinafter called the Utility.

W I T N E S S E T H:

WHEREAS, the Utility presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by Utility to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the Utility's facilities relocated if necessary to prevent conflict between the facilities so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, Utility and FDOT agree as follows:

Utility hereby subordinates to the interest of FDOT, its successors, or assigns, any and all of its interest in the lands as follows, viz:

SEE EXHIBIT "A"

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R. BOOK/PAGE
Grant of Perpetual Easement	04-15-96	City of Fort Myers, Florida	Lee County, a political subdivision of the State of Florida	OR 2708 PG 634

PROVIDED that the Utility has the following rights:

1. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT's current minimum standards for such facilities as required by the FDOT Utility Accommodation Manual in effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the Utility or require the Utility to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.
3. The Utility shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.
4. The Utility agrees to repair any damage to FDOT facilities and to indemnify the FDOT against any loss or damage resulting from the Utility exercising its rights outlined in Paragraphs 1 and 3 above.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written.

Executed in our presence
as witnesses:

Geraldynne McCants
Signature

Geraldynne McCants
Print/Type Name

Sheila F. Towns
Signature

Sheila F. Towns
Print/Type Name

STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION

By: John M. Kubler
District Secretary/Designee
for District One

Legal Review:

Don Conway
Senior Attorney FDOT
Department Attorney

STATE OF FLORIDA

COUNTY OF Polk

18th day of June, 2019 by John M. Kubler,
District Secretary/Designee for District One. He is personally
known to me or has produced _____
as identification.

(Affix Seal/Stamp here)

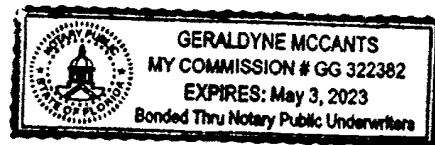
Notary Signature:

Geraldynne McCants
Printed Name: Geraldynne McCants

Notary Public in and for
the County and State last
aforesaid.

My Commission Expires:

May 3, 2023
Serial No.: GG 322382



Approved and accepted for and on behalf of Lee County, Florida, this 21st day of May, 2019.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Chris Du

BY: Brian Hamman
[Signature]

CHRIS DU
[Type or Print Name]
Deputy Clerk

Brian Hamman, Vice
[Type or print name]
~~Chair~~ / Vice-Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: Chanda Sid

Lee County Attorney's Office

FP. NO. 4130651

SECTION 12075-000

PARCEL 100

RIGHT OF WAY

That portion of the southwest 1/4 of Section 28, Township 44 South, Range 25 East, Lee County, Florida.

Being described as follows:

Commence at the southeast corner of the southwest 1/4 of said Section 28, also being the northeast corner of the northwest 1/4 of Section 33, Township 44 South, Range 25 East; thence along the east line of said northwest 1/4, South 00°50'42" East a distance of 12.74 feet to the survey base line of State Road 884 (Colonial Blvd) and the beginning of a curve having a radius of 2,864.79 feet; thence along said survey base line the arc of said curve to the left a distance of 396.88 feet through a central angle of 07°56'15" with a chord bearing South 78°59'45" West to the end of said curve; thence along a radial bearing of North 14°58'23" West a distance of 125.00 feet to the north existing right of way line of said State Road 884 (per Section 12504-2601) for a POINT OF BEGINNING; thence continue North 14°58'23" West a distance of 55.00 feet to the beginning of a curve having a radius of 3,044.79 feet; thence along the arc of said curve to the right a distance of 710.74 feet through a central angle of 13°22'28" with a chord bearing North 81°42'51" East to the end of said curve; thence North 88°24'05" East a distance of 901.78 feet; thence North 43°24'07" East a distance of 84.22 feet to the west existing right of way line of Ortiz Avenue (as depicted on right of way map of Ortiz Boulevard as performed by Gee & Jensen Consulting Engineers, Inc Job No. 72-22, Drawings No. 0-1007-1 through 0-1007-4, dated June 1972); thence along said west existing right of way line South 00°52'59" East a distance of 89.56 feet to an intersection with the north existing right of way line of said State Road 884 (per Section 12075-2403); thence along said north existing right of way line South 88°24'05" West a distance of 529.04 feet; thence continue along said north existing right of way line South 01°35'55" East a distance of 25.00 feet to an intersection with said north existing right of way line of State Road 884 (per Section 12504-2601); thence along said north existing right of way line South 88°24'05" West a distance of 431.18 feet to the beginning of a curve having a radius of 2,989.79 feet; thence along said north existing right of way line the arc of said curve to the left a distance of 697.91 feet through a central angle of 13°22'28" with a chord bearing South 81°42'51" West to the end of said curve and to the POINT OF BEGINNING.

Containing 1.838 acres.

Legal Description Approved by:
Richard M. "Mike" Benton, P.S.M. #6447
On November 14, 2017