

RESOLUTION #RES2015-05

A RESOLUTION OF THE CITY OF DUNNELLON, FLORIDA APPROVING AN APPLICATION BY THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR A SUBORDINATION OF THE CITY'S INTEREST IN UTILITY EASEMENT #EAS2011-25 FILED IN OFFICIAL RECORDS BOOK 5580 PAGES 1001-1003, IN THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; AUTHORIZING THE MAYOR TO EXECUTE SUCH SUBORDINATION AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

UTL05-11/13	
PARCEL NO.	195.2
SECTION	36060
F.P. NO.	238648 1
STATE ROAD	45
COUNTY	MARION

WHEREAS, the State of Florida Department of Transportation proposes to construct or improve State Road No. 45, Section No. 36060, F.P. No. 238648 1, in Marion County, Florida; and

WHEREAS, it is necessary that certain easement rights now owned by the City of Dunnellon, Florida, filed in Official Records Book 5580, pages 1001-1003 be subordinate to the rights of the State of Florida Department of Transportation; and

WHEREAS, said subordination is in the best interest of the City; and

WHEREAS, the State of Florida Department of Transportation has made application to said City to execute and deliver to the State of Florida Department of Transportation a subordination of utility interest, or interests, in favor of the State of Florida Department of Transportation, and said request having been duly considered.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dunnellon, Florida:

1. The WHEREAS clauses above are the legislative findings of the City Council.
2. The application of the State of Florida Department of Transportation for a subordination of utility interest, or interests, is for transportation purposes which are in the public or community interest and for public welfare. Said application is approved by the City Council.

3. Nathan Whitt, Mayor, is authorized to execute a subordination agreement with the Florida Department of Transportation on behalf of the City Council of the City of Dunnellon.
4. **Severability.** If any portion of the Resolution shall be declared unconstitutional or if the applicability of this Resolution or any portion thereof to any person or circumstances shall be held invalid, the validity of the remainder of this Resolution and the applicability of this Resolution, or any portion thereof to other persons or circumstances, shall not be affected thereby.
5. **Conflicts.** All resolutions and parts of resolution in conflict with this resolution are hereby repealed.
6. **Effective Date.** This Resolution shall become effective upon adoption.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded forthwith to the State of Florida Department of Transportation at 719 South Woodland Boulevard, DeLand, Florida, 32720-6834.

STATE OF FLORIDA
COUNTY OF MARION

UPON MOTION duly made and carried, the foregoing Resolution was adopted by the City Council of the City of Dunnellon on this 9th day of March, 2015.

NATHAN WHITT, MAYOR

ATTEST:

DAWN M. BOWNE, M.M.C.,
CITY OF DUNNELLON

APPROVED AS TO FORM AND LEGALITY:

VIRGINIA CASSADY, ESQUIRE

UTL05-11/13
April 17, 2014
This instrument prepared by
LYNN W. BLAIS
Under the direction of
FREDRICK W. LOOSE, ATTORNEY
Department of Transportation
719 South Woodland Boulevard
DeLand, Florida 32720-6834

PARCEL NO. 195.2
SECTION 36060
F.P. NO. 238648 1
STATE ROAD 45
COUNTY MARION

SUBORDINATION OF CITY UTILITY INTERESTS #AGR 2015-04

THIS AGREEMENT, entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the F.D.O.T., and CITY OF DUNNELLON, FLORIDA, hereinafter called City.

WITNESSETH:

WHEREAS, the City 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 City to the F.D.O.T.; and

WHEREAS, the F.D.O.T. is willing to pay to have the City'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, City and F.D.O.T. agree as follows:

City hereby subordinates to the interest of F.D.O.T., its successors, or assigns, any and all of its interest in the lands as follows, viz:

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PARCEL NO. 195

**SECTION 36060
FP 238648 1**

THAT PART OF:

Southwest 77th Loop, as shown on the plat of Grand Park North, according to the plat thereof as recorded in Plat Book 9, Page 71, Public Records of Marion County, Florida.

Being more particularly described as follows:

Commence at 4" x 4" concrete monument with no identification marking the Southwest corner of the Northwest quarter of the Northwest quarter of Section 12, Township 16 South, Range 18 East, Marion County, Florida; run thence North 89°25'46" East along the Southerly boundary of said Northwest quarter of the Northwest quarter a distance of 1120.37 feet to a point on the centerline of State Road 45 (US Highway 41) as shown on the Florida Department of Transportation Right of Way Map, Section 36060, Financial Project Number 238648 1; thence North 09°22'11" East along said centerline a distance of 345.79 feet; thence North 09°22'17" East along said centerline a distance of 56.69 feet to a point on the Westerly prolongation of the centerline of Southwest 77th Loop as shown on the plat of Grand Park North, according to the plat thereof as recorded in Plat Book 9, Page 71, Public Records of Marion County, Florida; thence South 88°05'48" East along said Westerly prolongation a distance of 50.41 feet to a point on the Easterly existing right of way line of said State Road 45 and the POINT OF BEGINNING; thence South 09°21'19" West along said right of way line a distance of 72.37 feet; to the cusp of a curve concave Southeasterly and having a radius of 25.00 feet; said point also being a point on the Southerly right of way line of Southwest 77th Loop, aforesaid; thence from a tangent bearing of North 09°21'19" East, run Northeasterly 36.02 feet along the arc of said curve and along said Southerly right of way line through a central angle of 82°32'53" to the point of tangency thereof; thence South 88°05'48" East along said right of way line a distance of 47.71 feet; thence North 09°22'07" East a distance of 100.84 feet to a point on the Northerly right of way line of said Southwest 77th Loop; thence North 88°04'41" West along said right of way line a distance of 41.20 feet to the point of curvature of a curve concave Northwesterly and having a radius of 25.00 feet; thence run Northwesterly 42.51 feet along the arc of said curve and along said right of way line, through a central angle of 97°26'00" to the cusp of said curve; said point also being on the aforesaid Easterly existing right of way line of State Road 45; thence departing said curve on a tangent bearing run South 09°21'19" West along said right of way line a distance of 78.91 feet to the POINT OF BEGINNING;

Containing 7245 square feet, more or less.

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This legal description prepared under the direction of:
Robert J. Perry, R.L.S. No. 4444
Florida Department of Transportation
719 South Woodland Boulevard
DeLand, Florida 32720

RECORDED

INSTRUMENT	RECORDED DATE	FROM	TO	PLAT BOOK/PAGE
Non-Exclusive Access and Utility Easement	10/12/11	Grand Park North Community Association, Inc.	City of Dunnellon, Florida	5580/1001

PROVIDED that the City has the following rights:

1. The City 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 F.D.O.T.'s current minimum standards for such facilities as required by the F.D.O.T. 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 F.D.O.T. Should the F.D.O.T. fail to approve any new construction or relocation of facilities by the City or require the City to alter, adjust, or relocate its facilities located within said lands, the F.D.O.T. 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 City 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 F.D.O.T.'s facilities.

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- 4. The City agrees to repair any damage caused by the City to F.D.O.T. facilities and to indemnify to the extent permitted under Florida law the F.D.O.T. against any loss or damage resulting from the City exercising its rights outlined in Paragraphs 1 and 3 above.

IN WITNESS WHEREOF, the F.D.O.T. hereto has executed this agreement on the day and year first above written.

Signed, sealed and delivered
in the presence of witnesses:

STATE OF FLORIDA DEPARTMENT
OF TRANSPORTATION

SIGNATURE LINE
PRINT/TYPE NAME: _____

By: _____
Frank J. O'Dea, P.E.
District Director Of
Transportation Development
for District Five
719 S. Woodland Blvd.
DeLand, Florida 32720

SIGNATURE LINE
PRINT/TYPE NAME: _____

Legal Review

By: _____
Office of the General Counsel

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by Frank J. O'Dea, P.E., District Director of Transportation Development for District Five, who is personally known to me or who has produced _____ as identification.

PRINT/TYPE NAME: _____
Notary Public in and for the
County and State last aforesaid.
My Commission Expires: _____
Serial No., if any: _____

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IN WITNESS WHEREOF, the City has caused these presents to be executed in its name by the City Council, City of Dunnellon, Florida acting by the Mayor of said City Council, the day and year aforesaid.

Signed, sealed and delivered in the presence of: Two witnesses required by Florida Law

CITY OF DUNNELLON, FLORIDA,
By Its City Council
City of Dunnellon, Florida

SIGNATURE LINE
PRINT/TYPE NAME: _____

By: _____
Nathan Whitt, Mayor

SIGNATURE LINE
PRINT/TYPE NAME: _____

ATTEST: _____
Dawn M. Bowne, M.M.C.
City Clerk

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Nathan Whitt, Mayor, who is personally known to me or who has produced _____ as identification.

PRINT/TYPE NAME: _____
Notary Public in and for the
County and State last aforesaid.
My Commission Expires: _____
Serial No., if any: _____

Easement # EAS 2011-25

Prepared by and return to:
City of Dunnellon
20750 River Bend
Dunnellon, Florida 34431
Master - Private Road - HOA



DAVID R ELLSPERMANN CLERK OF COURT MARION COUNTY
DATE: 10/12/2011 03:59:06 PM
FILE #: 2011095541 OR BK 05580 PGS 1001-1003

REC 27.00

NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT

THIS INDENTURE made and entered into this 3rd day of August, 2011, by and between **GRAND PARK NORTH COMMUNITY ASSOCIATION, INC.**, a Florida not-for-profit corporation (the "Grantor"), whose mailing address is 9718 S.W. 188th Terrace, Dunnellon Florida 34432, and the **CITY OF DUNNELLO**N, a Florida municipal corporation (the "Grantee"), whose mailing address is 20750 River Drive, Dunnellon, Florida 34431:

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and their respective heirs, legal representatives, successors and assigns.)

WITNESSETH:

That Grantor for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants and conveys to the Grantee, its successors and assigns, a non-exclusive easement in perpetuity for utility purposes, across and under the private road right-of-way, described in the Plat of the Grand Park North subdivision, according to the Plat thereof as recorded in Plat Book 9, Pages 71 through 78, Public Records of Marion County, Florida, which shall run with and be a burden upon said right-of-way (the "Easement").

Grantor further grants to the Grantee, its agents, employees, contractors, and assigns, a general ingress/egress easement over and across the Easement for the purpose of installation, access to, and/or maintenance of, any of the Grantee's utility installations.

Grantee agrees to indemnify, defend and hold Grantor harmless from any and all loss, cost, damage or expense, caused to or suffered by Grantor and arising out of or attributable to, directly or indirectly, any act or omission by any employee, agent, independent contractor or invitee of Grantee or any tenant of Grantee in connection with the exercise of the easement rights granted hereunder. Grantee agrees not to prevent access to the lots bordering the Easement during installation or maintenance of Grantor's utility installations.

The undersigned hereby covenants and warrants that Grantor owns the said road right-of-way described herein and the undersigned, as or on behalf of Grantor, has the right to grant this easement.

IN WITNESS WHEREOF, the parties hereto have duly authorized and caused this Indenture to be executed of the date and year first herein written.

Signed, sealed and delivered in the presence of:

GRANTOR:

GRAND PARK NORTH COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation

By:

J. Timothy Collins
President

Michelle Leonard
Print Name: Michelle Leonard

(Amanda L. Barton)
Print Name: LORETTA L. BARTON

Attested to:

By: Richard M. Levine
Martha A. Kyker, Secretary
Richard M. Levine

STATE OF FLORIDA

COUNTY OF Marion

The foregoing instrument was acknowledged before me this 3rd day of August, 2011, by J. TIMOTHY COLLINS, as President of GRAND PARK NORTH COMMUNITY ASSOCIATION, INC., a Florida non-profit corporation, on behalf of the Corporation. Said person (check one) is personally known to me, produced a driver's license (issued by a state of the United States within the last five (5) years as identification, or produced other identification, to wit: DL# C452-458-46-094-0

Amanda L. Roberts
Print Name: _____
Notary Public - State of Florida
Commission No.: _____
My Commission Expires: _____



AMANDA L. ROBERTS
NOTARY PUBLIC
STATE OF FLORIDA
Comm# DD0953427
Expires 2/16/2014

Signed, sealed and delivered
in the presence of:

GRANTEE:

CITY OF DUNNELLON, a Florida municipal
corporation

Michelle Leonard
Print Name: Michelle Leonard

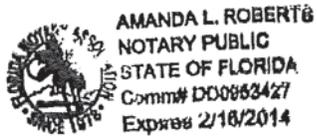
By: [Signature]
Print Name: Lisa Algieri
Title: City Manager

[Signature]
Print Name: LORETTA L BARTI

STATE OF FLORIDA

COUNTY OF Marion

The foregoing instrument was acknowledged before me this 3rd day of August, 2011, by Lisa Algieri, as City Manager of CITY OF DUNNELLON, a Florida municipal corporation, on behalf of the City. Said person (check one) is personally known to me, produced a driver's license (issued by a state of the United States within the last five (5) years as identification, or produced other identification, to wit:



[Signature]
Print Name: _____
Notary Public - State of Florida
Commission No.: _____
My Commission Expires: _____

