

23-BREVARDUTL-10/11

November 1, 2023

This instrument prepared by

Meg Hardy

Under the direction of

DANIEL L. MCDERMOTT, ATTORNEY

Department of Transportation

719 South Woodland Boulevard

DeLand, Florida 32720-6834

PARCEL NO. 104.04

SECTION 70070

F.P. NO. 407402 3

STATE ROAD 528

COUNTY BREVARD

SUBORDINATION OF COUNTY UTILITY INTERESTS

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 BREVARD COUNTY, a political subdivision of the State of Florida, hereinafter called County.

WITNESSETH:

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

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

County 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:

**PARCEL 104
FEE SIMPLE**

**SECTION 70070
F.P. NO. 407402-3**

THAT PART OF:

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Lot 37, The Villas at Indian River Unit One, Planned Unit Development, according to the Plat thereof, as recorded in Plat Book 24, page 84, of the Public Records of Brevard county, Florida.

(BEING the lands described in Official Records Book 7553, Page 1393, of the Public Records of Brevard County, Florida.)

DESCRIBED AS FOLLOWS:

Commence at a 3/4" iron pipe with no identification marking the Southwest corner of the Northwest 1/4 of Section 14, Township 24 South, Range 36 East, Brevard County, Florida, as shown on the Florida Department of Transportation Right of Way Map for State Road 528, Section 70070, Financial Project Number 407402-3; thence North 00°12'53" West, along the West line of the Northwest 1/4 of said Section 14, a distance of 2494.50 feet to the POINT OF BEGINNING; thence departing said West line, run North 88°17'29" West, a distance of 0.57 feet to the intersection with the West line of Lot 37, The Villas at Indian River Unit One, as described in Plat Book 24, Pages 84 and 85, of the Public Records of Brevard County, Florida; thence North 00°13'41" West along said West line, a distance of 21.95 feet to the intersection with the North line of said Lot 37, said point being on a non-tangent curve, concave Southerly and having a radius of 1417.39 feet; thence departing said West line, from a tangent bearing of South 89°23'33" East, run Easterly 82.87 feet along the arc of said curve and along said North line, through a central angle of 03°21'00" to the intersection with the East line of said Lot 37; thence departing said North line, run South 00°19'28" East along said East line, a distance of 21.12 feet; thence departing said East line, run North 88°17'29" West, a distance of 82.29 feet to the POINT OF BEGINNING.

CONTAINING 1,816 square feet, more or less.

RECORDED

Drainage easement in favor of BREVARD COUNTY, a political subdivision of the State of Florida, per plat of The Villas at Indian River Unit One, recorded in Plat Book 24, Page 84

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PROVIDED that the County has the following rights:

1. The County shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate road and utility 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. However, the County shall not be required to upgrade the system in the event of modification of existing facilities. 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 County or require the County 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 held by Brevard County shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.
3. The County 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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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: _____

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, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, _____, by _____, 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 County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice-Chairperson of said Board, the day and year aforesaid.

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

BREVARD COUNTY, FLORIDA,
By Its Board of
County Commissioners

SIGNATURE LINE
PRINT/TYPE NAME: _____

By: _____
Its Chairperson
(or Vice-Chairperson)

SIGNATURE LINE
PRINT/TYPE NAME: _____

ATTEST: _____
Clerk (or Deputy Clerk)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, _____, by _____, Chairperson (or Vice-Chairperson), 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: _____