



City of North Port

RESOLUTION NO. 2023-R-85

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, APPROVING A SUBORDINATION OF CITY UTILITY INTERESTS ALONG THE SOUTH SIDE OF TAMIAMI TRAIL IN WELLEN PARK FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR HIGHWAY PURPOSES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Transportation (FDOT) requests a *Subordination of Utility Interests* for FDOT Parcel 805.4 (“Subordination”) relating to a City utility easement (“Easement”); and

WHEREAS, the Easement is located on the south side of Tamiami Trail in Wellen Park and overlaps with the sidewalks;

WHEREAS, FDOT Parcel 805.4 identifies several overlaps of the sidewalk easement and utility easement created in the Wellen Park Downtown Phase I as described in Plat Book 54, Page 331, Sarasota County, Florida as well as described in Instrument No. 2021065173; and

WHEREAS, the Subordination is necessary for FDOT highway purposes and sidewalk maintenance; and

WHEREAS, the City Commission of the City of North Port, Florida finds that the Subordination serves the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – INCORPORATION OF RECITALS

1.01 The above recitals are true and correct and are incorporated in this resolution by reference.

SECTION 2 – RESOLUTION

2.01 The City Commission approves the *Subordination of City Utility Interests* for FDOT Parcel 805.4, attached as Exhibit A.

2.02 All identified exhibits are incorporated in this resolution by reference.

SECTION 3 – FILING OF DOCUMENTS

- 3.01 The City Clerk is directed to file a certified copy of this resolution and Exhibit A *Subordination of City Utility Interests* for FDOT Parcel 805.4 with the Clerk of the Sarasota County Circuit Court to be duly recorded in the official records of the county.
- 3.02 The Florida Department of Transportation will be responsible for recording the executed *Subordination of City Utility Interests* for FDOT Parcel 805.4.

SECTION 4 – CONFLICTS

- 4.01 In the event of any conflict between the provisions of this resolution and any other resolution, in whole or in part, the provisions of this resolution will prevail to the extent of the conflict.

SECTION 5 – SEVERABILITY

- 5.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this resolution is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the resolution.

SECTION 6 – EFFECTIVE DATE

- 6.01 This resolution takes effect immediately upon adoption.

ADOPTED by the City Commission of the City of North Port, Florida in public session on November 28, 2023.

CITY OF NORTH PORT, FLORIDA

ALICE WHITE
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON, B.S.C.
CITY ATTORNEY

Exhibit A - Subordination of City Utility Interests

FDOT Parcel 805.4

23-UTL.04-05/09

Date: October 17, 2023
This instrument prepared
under the direction of:
Angela D. Tucker, Chief Counsel
Post Office Box 1249
Bartow, Florida 33831-1249
Department of Transportation

F.P. NO. 1977411
PARCEL 805.4
SECTION 17010-2508
STATE ROAD 45 (U.S. 41)
COUNTY SARASOTA

SUBORDINATION OF CITY UTILITY INTERESTS

THIS AGREEMENT, entered into on the date executed by the State of Florida Department of Transportation District One Secretary or their Designee, 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 CITY OF NORTH PORT, FLORIDA, a municipal corporation in the State of Florida, whose address is 4970 City Hall Boulevard, North Port, Florida 34286, hereinafter called the Utility.

WITNESSETH:

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
UTILITY EASEMENT	04/08/2021	Main-Street Ranchlands, LLLP	City of North Port	Instrument #2021065173

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 executed by the State of Florida Department of Transportation District One Secretary or their Designee.

Executed in our presence as witnesses:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Signature

By: _____
District Secretary/Designee for District One

Print/Type Name

Signature

Legal Review:

Print/Type Name

Department Attorney

STATE OF FLORIDA

COUNTY OF

The foregoing instrument was acknowledged before me by means of ___physical presence or ___online notarization, this ___ day of _____, 20__ by _____, District Secretary/Designee for District One. He is personally known to me or has produced _____ as identification.

(Affix Seal/Stamp here)

Notary Signature: _____

Printed Name: _____

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

My Commission Expires: _____

Serial No.: _____

IN WITNESS WHEREOF, the said grantor has caused these presents to be executed in its name by its Mayor, and its seal to be hereto affixed, attested by its City Clerk.

WITNESSES

CITY OF NORTH PORT, FLORIDA

Signature

ALICE WHITE, MAYOR

Print/Type Name

Signature

Print/Type Name

ATTEST:

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON B.C.S.
CITY ATTORNEY

STATE OF FLORIDA

COUNTY OF

The foregoing instrument was acknowledged before me by means of ___physical presence or ___online notarization, this _____ day of _____, 2023, by Barbara Langdon, Mayor, who is personally known to me or who has produced _____ as identification.

Name:

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

My Commission Expires: _____

Serial No., if any: _____

EXHIBIT "A"
PAGE 1 of 2

F.P. NO. 1977411

Section 17010-2508

Parcel 805


That portion of Tract 3, Wellen Park Downtown Phase 1, a subdivision lying in Section 32, Township 39 South, Range 20 East, as per plat thereof recorded in Plat Book 54, Page 331, Public Records of Sarasota County, Florida.

Being more particularly described as follows:

BEGIN at the intersection of the north line of said Tract 3, with the easterly existing right of way line of Springtide Way (per said plat) and the south existing right of way line of State Road 45 [U.S. Highway 41 (per Section 17010-2508)]; thence along said south existing right of way line and said north line, South 89°38'31" East a distance of 22.47 feet to the beginning of a non-tangent curve having a radius of 99.00 feet; thence along the arc of said curve to the left a distance of 49.91 feet through a central angle of 28°53'03" with a chord bearing of South 76°42'47" East to the end of said curve and the beginning of a curve having a radius of 3,659.43 feet; thence along the arc of said curve to the left a distance of 15.79 feet through a central angle of 00°14'50" with a chord bearing of North 88°43'16" East to the end of said curve and the beginning of a curve having a radius of 95.00 feet; thence along the arc of said curve to the left a distance of 35.43 feet through a central angle of 21°22'12" with a chord bearing of North 77°54'45" East to the end of said curve; thence North 67°13'39" East a distance of 7.65 feet to said north line and said south existing right-of-way line; thence along said north line and said south existing right-of-way line South 89°38'31" East a distance of 36.44 feet to the beginning of a curve having a radius of 95.00 feet; thence along the arc of said curve to the left a distance of 21.02 feet through a central angle of 12°40'31" with a chord bearing of South 73°33'55" West to the end of said curve; thence South 67°13'39" West a distance of 20.32 feet to the beginning of a curve having a radius of 107.00 feet; thence along the arc of said curve to the right a distance of 39.91 feet through a central angle of 21°22'12" with a chord bearing of South 77°54'45" West to the end of said curve and the beginning of a curve having a radius of 3,671.43 feet; thence along the arc of said curve to the right a distance of 15.84 feet through a central angle of 00°14'50" with a chord bearing of South 88°43'16" West to the end of said curve and the beginning of a curve having a radius of 111.00 feet; thence along the arc of said curve to the right a distance of 62.16 feet through a central angle of 32°05'00" with a chord bearing of North 75°06'49" West to the end of said curve and the beginning of a curve having a radius of 89.00 feet; thence along the arc of said curve to the left a distance of 17.75 feet through a central angle of 11°25'29" with a chord bearing of North 64°47'03" West to said easterly existing right of way line and the end of said curve and the beginning of a curve having a radius of 50.00 feet; thence along said easterly existing right of way line and the arc of said curve to the right a distance of 4.55 feet through a central angle of 05°13'09" with a chord bearing of North 87°44'55" East to the end of said curve and to the POINT OF BEGINNING.

Containing 1,684 square feet, more or less.

Legal Description Approved by:



Michael D. McLean PSM # 6658
Date: 9-1-2022
NOT VALID UNLESS EMBOSSED

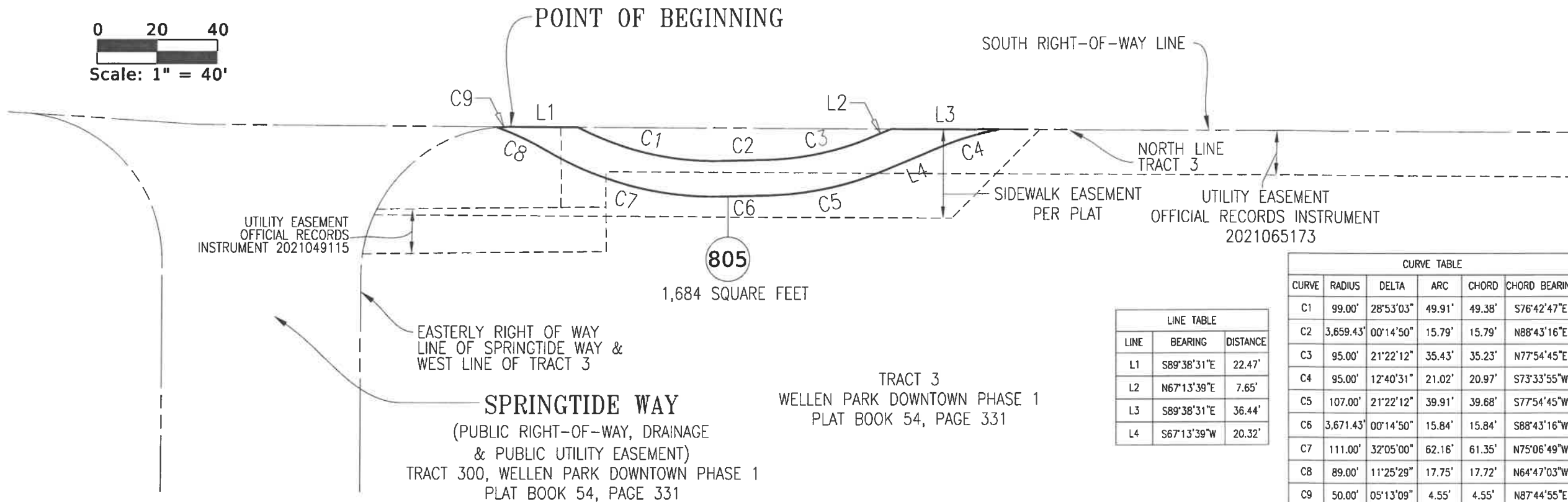
SECTION 32, TOWNSHIP 39 SOUTH, RANGE 20 EAST SARASOTA COUNTY, FLORIDA EXHIBIT "A" PAGE 2 OF 2



0 20 40
Scale: 1" = 40'

Florida Power & Light Co. Easement along Northern boundary of Sections 31, 32, 33 & 34 immediately South of US Highway No. 41 Right of Way, Per Official Records Book 2940, Page 1363 and Official Records Book 3002, Page 1261. (No width provided in descriptions).

U.S. 41/S.R.45/S. TAMIAMI TRAIL
(100' WIDE PUBLIC RIGHT-OF-WAY, FDOT SECTION 17010-2508, RPB 1, PAGE 1)
(ORDER OF TAKING - ORB 1039, PAGE 762)



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S89°38'31"E	22.47'
L2	N67°13'39"E	7.65'
L3	S89°38'31"E	36.44'
L4	S67°13'39"W	20.32'

CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	99.00'	28°53'03"	49.91'	49.38'	S76°42'47"E
C2	3,659.43'	00°14'50"	15.79'	15.79'	N88°43'16"E
C3	95.00'	21°22'12"	35.43'	35.23'	N77°54'45"E
C4	95.00'	12°40'31"	21.02'	20.97'	S73°33'55"W
C5	107.00'	21°22'12"	39.91'	39.68'	S77°54'45"W
C6	3,671.43'	00°14'50"	15.84'	15.84'	S88°43'16"W
C7	111.00'	32°05'00"	62.16'	61.35'	N75°06'49"W
C8	89.00'	11°25'29"	17.75'	17.72'	N64°47'03"W
C9	50.00'	05°13'09"	4.55'	4.55'	N87°44'55"E

FLORIDA DEPARTMENT OF TRANSPORTATION
PARCEL SKETCH - NOT A SURVEY

STATE ROAD NO. 45 (US 41 SOUTH TAMIAMI TRAIL)				SARASOTA COUNTY			
BY	DATE	PREPARED BY:	FLORIDA DEPARTMENT OF TRANSPORTATION		DATA SOURCE:		
DRAWN	JAR	08-25-2022			SKETCH & DESCRIPTION BY STANTEC		
CHECKED	MDM	08-29-2022	F.P. NO. 1977411	SECTION 17010-2508	PAGE 6 OF 6 FOR PARCEL 805.4		
REVISION	BY	DATE					