



City of North Port

RESOLUTION NO. 2022-R-59

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, APPROVING THE SUBORDINATION OF CITY UTILITY INTERESTS IN FAVOR OF 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* ("Subordination") relating to a City non-exclusive utility easement ("Easement"); and

WHEREAS, the Easement as described in Instrument No. 2021049115 recorded in the Sarasota County Official Records is located on the south side of Tamiami Trail at or near the intersection with Wellen Park Boulevard; and

WHEREAS, on July 26, 2022, the City Commission of the City of North Port approved the first of two subordinations at the same general location; and

WHEREAS, the Subordination is necessary for FDOT highway purposes; 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*, 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* 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*.

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 September 13, 2022.

CITY OF NORTH PORT, FLORIDA

PETE EMRICH
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY

23-UTL.04-05/09

Date: July 22, 2022
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 503.4
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	11/20/2020	Main-Street Ranchlands, LLLP	City of North Port	Plat Book 54 Page 331

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

PETE EMRICH, MAYOR

Print/Type Name

Signature

Print/Type Name

ATTEST:

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
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 _____, 2022, by Pete Emrich, 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 503

That portion of Tract 300, also known as Wellen Park Boulevard, 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 northerly line of Tract 1 (per said plat) with the westerly existing right of way line of said Tract 300 (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 South 89°38'39" East a distance of 92.04 feet; thence continue along said south existing right of way line South 89°38'31" East a distance of 107.97 feet to the intersection of the northerly line of said Tract 2 (per said plat) with the easterly existing right of way line of said Tract 300 and the beginning of a non-tangent curve having a radius 50.00 feet; thence along said easterly existing right of way line the arc of said curve to the left a distance of 78.85 feet through a central angle of 90°21'29" with a chord bearing of South 45°10'45" West to the end of said curve; thence continue along said easterly existing right of way line South 00°00'00" East a distance of 19.07 feet; thence North 79°40'38" West a distance of 50.61 feet; thence South 74°03'11" West a distance of 52.22 feet to said westerly existing right of way line; thence along said westerly existing right of way line North 00°00'00" East a distance of 25.60 feet to the beginning of a curve having a radius of 50.00 feet; thence continue along said westerly existing right of way line the arc of said curve to the left a distance of 78.23 feet through a central angle of 89°38'39" with a chord bearing of North 44°49'20" West to the end of said curve and to the POINT OF BEGINNING.

Containing 7,722 square feet, more or less.

Legal Description Approved by:



Michael D. McLean PSM # 6658

Date: 4-21-2022

NOT VALID UNLESS EMBOSSED

SECTION 32, TOWNSHIP 39 SOUTH, RANGE 20 EAST SARASOTA COUNTY, FLORIDA

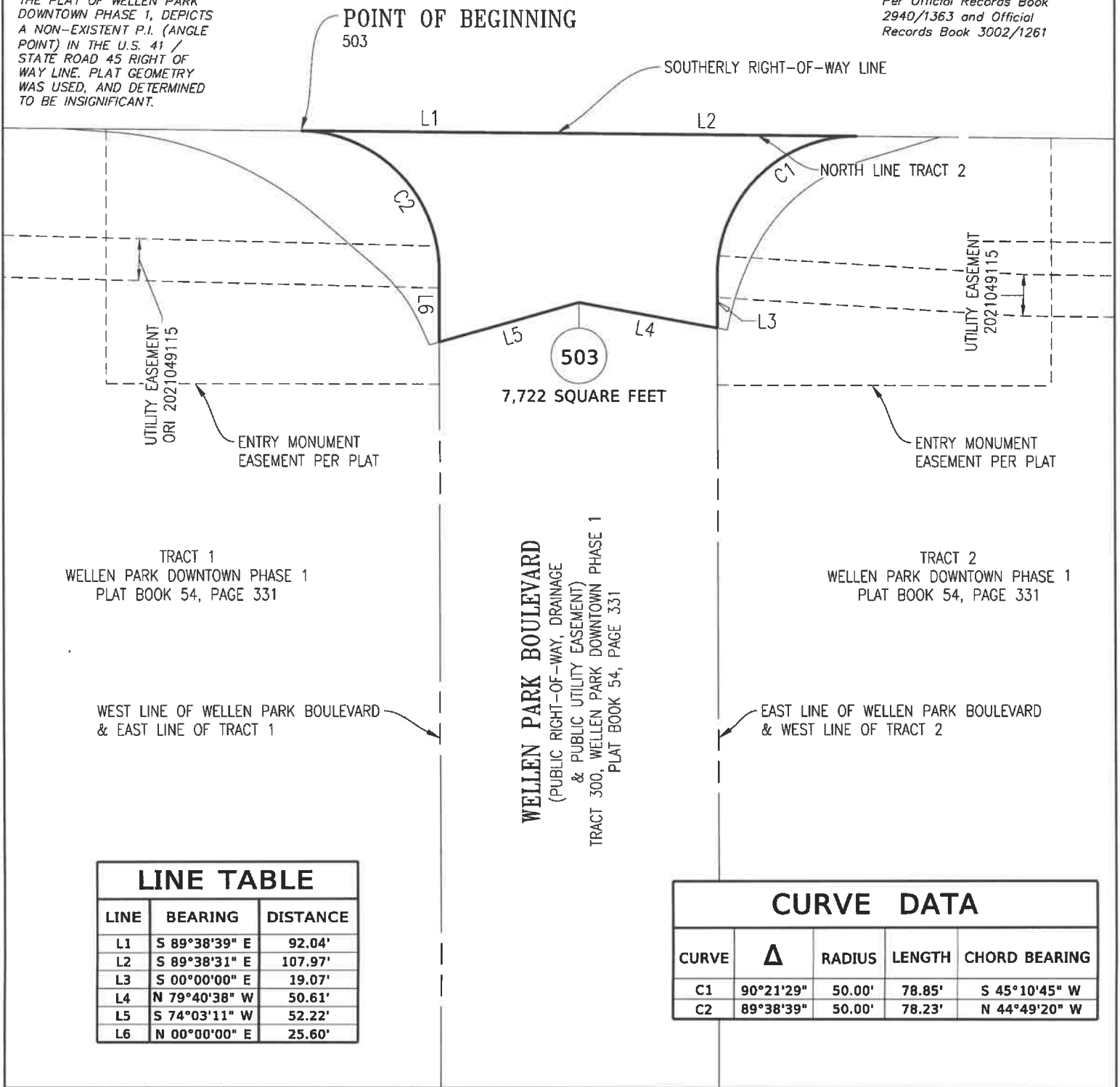
EXHIBIT "A" PAGE 2 OF 2



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)

*Florida Power & Light Co.
Easement with no width lies
along Northern boundary of
Sections 31, 32, 33 & 34
lying just South of US
Highway No. 41 Right of Way,
Per Official Records Book
2940/1363 and Official
Records Book 3002/1261*

*THE PLAT OF WELLEN PARK
DOWNTOWN PHASE 1, DEPICTS
A NON-EXISTENT P.I. (ANGLE
POINT) IN THE U.S. 41 /
STATE ROAD 45 RIGHT OF
WAY LINE. PLAT GEOMETRY
WAS USED, AND DETERMINED
TO BE INSIGNIFICANT.*



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 89°38'39" E	92.04'
L2	S 89°38'31" E	107.97'
L3	S 00°00'00" E	19.07'
L4	N 79°40'38" W	50.61'
L5	S 74°03'11" W	52.22'
L6	N 00°00'00" E	25.60'

CURVE DATA				
CURVE	Δ	RADIUS	LENGTH	CHORD BEARING
C1	90°21'29"	50.00'	78.85'	S 45°10'45" W
C2	89°38'39"	50.00'	78.23'	N 44°49'20" W

FLORIDA DEPARTMENT OF TRANSPORTATION					
PARCEL SKETCH - NOT A SURVEY					
STATE ROAD NO. 45 (U.S. HIGHWAY 41)			SARASOTA COUNTY		
	BY	DATE	PREPARED BY:	DATA SOURCE:	
	JAR	03-25-2022	FLORIDA DEPARTMENT OF TRANSPORTATION	STANTEC SKETCH & DESCRIPTION	
DRAWN	JAR	03-25-2022	F.P. NO. 1977411	SECTION 17010-2508	PAGE 6 OF 6 FOR PARCEL 503.4
REVISION	BY	DATE	CHECKED	MDM	03-25-2022