



CITY MANAGER'S REPORT

AGENDA ITEM REQUEST

UTILITIES DEPARTMENT

TO: Ed Lavallee, City Manager

THROUGH: Len Bramble, P.E., Utilities Director *LB*

FROM: Tim Hochuli, PE, PMP, Assistant Utilities Director *TAH 7/25/14*

DATE: July 25, 2014

SUBJECT: Subordination of City Utility Interests for Florida Department of Transportation (FDOT) State Road 45-A (U.S. 41 By-Pass)

Background:

The Florida Department of Transportation (FDOT) has requested the City of Venice to subordinate City utility interest in an easement located at the intersection of Warfield Avenue and US 41 ByPass for the purpose of constructing or improving US 41 By-Pass. The extent of any City utility relocation has not been determined at this time. The Subordination Agreement provides that in the event the City's facilities need to be relocated at a future time, the cost associated with such relocation will be at the FDOT's expense.

Requested Action:

We request Council's adoption of the attached resolution and execution of a Subordination Agreement with the FDOT to subordinate the City's interest in the referenced easement associated with FDOT's U.S. 41 By-Pass roadway improvement project.

City Attorney Review:

The City Attorney has reviewed the documents and finds their form acceptable.

Risk Management Review:

The Risk Manager has reviewed the documents and finds no risk management objections.

Funds Availability (account number):

N/A

23-UTL.04-05/09

Date: June 3, 2013

This instrument prepared
under the direction of:

Kristen Carlson, Chief Counsel

Post Office Box 1249

City: Bartow, Florida 33831-1249

Department of Transportation

F.P. NO. 1980174

PARCEL 100.3

SECTION 17180-000

STATE ROAD 45-A(U.S.41

Venice By-Pass)

COUNTY Sarasota

SUBORDINATION OF CITY UTILITY INTERESTS

THIS AGREEMENT, entered into this _____ day of _____, 20____, 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 VENICE, A MUNICIPAL CORPORATION OF THE COUNTY OF SARASOTA AND STATE OF FLORIDA, 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
Easement	07-24-73	Gene A. and Cornelia Vercheski, husband and wife	City of Venice, a municipal corporation of the County of Sarasota and State of Florida	OR 1010 PG 1594

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:

STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION

Signature

By: _____
District Secretary/Designee
for District One

Print/Type Name

Legal Review:

Signature

Print/Type Name

Department Attorney

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me 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, the date first above written.

Signature (OFFICIAL SEAL)

Print/Type Name

Mayor

ATTEST: _____
Signature

Print/Type Name

Its City Clerk

Grantor(s)' Mailing Address:

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, Mayor, who is personally known to me or who 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., if any: _____

FP NO. 1980174

SECTION 17180-000

PARCEL 100

RIGHT OF WAY

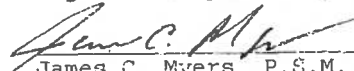
That portion of Reserved Tract 204-A, Venice Edgewood Section, a subdivision in Section 7, Township 39 South, Range 19 East, as per plat thereof recorded in Plat Book 2, Page 166, Public Records of Sarasota County, Florida.

Being described as follows:

Commence at the southwest corner of Section 8, Township 39 South, Range 19 East, also being the southeast corner of said Section 7; thence along the south line of said Section 8, South 89°35'09" East a distance of 29.32 feet to the survey base line of State Road 45-A (U.S. 41 Venice By-Pass) and the beginning of a curve of having a radius of 1,909.86 feet; thence along said survey base line the arc of said curve to the right a distance of 71.29 feet through a central angle of 02°08'19" with a chord bearing North 00°32'42" West to the end of said curve; thence continue along said survey base line North 00°31'27" East a distance of 11.68 feet; thence North 32°32'15" West a distance of 106.84 feet to an intersection with the east line of said Reserved Tract 204-A and the northeasterly line of said Reserved Tract 204-A, said point being on the southerly right of way line of Warfield Avenue (per said plat) for a POINT OF BEGINNING; thence along said east line South 00°30'39" West a distance of 170.90 feet to the south line of said Reserved Tract 204-A; thence along said south line South 57°15'28" West a distance of 23.58 feet to the beginning of a curve having a radius of 2,058.00 feet; thence along the arc of said curve to the right a distance of 137.98 feet through a central angle of 03°50'30" with a chord bearing North 01°56'27" West to the end of said curve; thence North 00°01'12" West a distance of 86.61 feet to said northeasterly line and said southerly right of way line; thence along said northeasterly line and said southerly right of way line South 32°32'15" East a distance of 48.45 feet to the POINT OF BEGINNING.

Containing 4,821 square feet.

Legal Description Approved by:


James C. Myers P.S.M. #5922
Date: 06-03-2013
NOT VALID UNLESS EMBOSSED

Draft
Resolution

RESOLUTION NO. 2014-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VENICE, SARASOTA COUNTY, FLORIDA, AUTHORIZING THE CITY OF VENICE (CITY) TO PROCEED WITH THE SUBORDINATION OF CITY UTILITY INTERESTS FOR FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) US 41 BYPASS PROJECT EASEMENT.

WHEREAS, the State of Florida Department of Transportation proposes to construct or improve State Road No. 45-A (U.S. 41 Venice By-Pass), Section No. 171780-000, in Sarasota County, Florida; and

WHEREAS, it is necessary that certain easement rights now owned by City of Venice, Florida, be subordinated 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 VENICE, FLORIDA, as follows:

SECTION 1. The application of the State of Florida Department of Transportation for a subordination of utility interest, or interest, is for transportation purposes which are in the public or community interest and for public welfare; that a subordination of utility interest, or interest, is in favor of the State of Florida Department of Transportation, in Bartow, Florida, should be drawn and executed by this City Council. Consideration shall be \$_____.

SECTION 2. A certified copy of this resolution be forwarded forthwith to the State of Florida Department of Transportation at Bartow, Florida.

APPROVED AND ADOPTED AT A REGULAR MEETING OF THE VENICE CITY COUNCIL HELD ON THE 12TH DAY OF AUGUST 2014.

ATTEST

John Holic, Mayor

Lori Stelzer, MMC, City Clerk

(S E A L)