

23-UTL02-10/11

April 7, 2021

This instrument prepared by

Marika Tremblay

Under the direction of

FREDRICK W. LOOSE, ATTORNEY

Department of Transportation

719 South Woodland Boulevard

DeLand, Florida 32720-6834

PARCEL NO. 133.3

SECTION 77160

F.P. NO. 242592 4

STATE ROAD 400

COUNTY SEMINOLE

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 SEMINOLE 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 NO. 133
FEE SIMPLE

SECTION 77160
F.P. NO. 242592-4

That part of:

“**Lot 2**, Topgolf- A Replat, as per the plat thereof recorded in Plat Book 84, Pages

PARCEL NO. 133.3
SECTION 77160
F.P. NO. 242592 4
PAGE 2

30-33, of the Public Records of Seminole County, Florida.”

(Being the lands described in Official Records Book 9335, Page 1582 of the Public Records of Seminole County, Florida.)

described as follows:

Commence at a found 3-inch by 3-inch concrete monument with disk stamped “TINKLEPAUGH SURVEYING PRM 3517” marking the southwest corner of Lot 2, TOPGOLF-A REPLAT, as recorded in Plat Book 84, Pages 30 through 33, inclusive, Public Records of Seminole County, Florida, as shown on Florida Department of Transportation Right of Way Map Section 77160, Financial Project Number 242592-4, said point being on the existing easterly Limited Access Right of Way line of State Road Number 400 (Interstate Highway Number 4) as shown on said Right of Way Map; thence run North 48°00’52” East along said existing easterly Limited Access Right of Way line 375.95 feet to the point of curvature of a curve, concave northwesterly, having a radius of 1265.92 feet and a chord bearing of North 40°16’32” East; thence run northeasterly along the arc of said curve and continue along said existing easterly Limited Access Right of Way line through a central angle of 15°28’40” a distance of 341.97 feet to the southwest corner of Lot 1 of said TOPGOLF-A REPLAT, said point being on a curve, concave southerly, having a radius of 544.10 feet and a chord bearing of North 77°13’11” East, said point being hereinafter referred to as POINT “A”; thence departing said existing easterly Limited Access Right of Way line, from a tangent bearing of North 65°22’26” East, run easterly along the arc of said curve and along the south line of said Lot 1, through a central angle of 23°41’30” a distance of 224.98 feet to the point of tangency; thence continue along said south line North 89°03’56” East 223.71 feet; thence continue along said south line South 77°02’53” East 50.00 feet; thence continue along said south line North 89°03’56” East 525.76 feet; thence continue along said south line South 00°56’04” East 4.33 feet; thence continue along said south line North 89°03’56” East 25.03 feet to a point on a curve, concave westerly, having a radius of 75.00 feet and a chord bearing of South 23°34’04” East; thence, from a tangent bearing of South 46°37’37” East, run southerly along the arc of said curve and along said south line, through a central angle of 46°07’05” a distance of 60.37 feet to the point of tangency, said point also being the POINT OF BEGINNING; thence, departing said south line of Lot 1, run South 00°30’31” East 100.12 feet to a point hereinafter referred to as POINT “B”; thence continue South 00°30’31” East 150.14 feet to a point on the south line of said Lot 2, also being the north line of Lot 3 of said TOPGOLF-A REPLAT; thence North 77°28’41” East, along the south line of said Lot 2, a distance of 2.13 feet to the southeast corner of said Lot 2, also being the northeast corner of said Lot 3, said point also being on the existing westerly right of way line of Lake Emma Road, a 100 foot wide right of way, as recorded in Official Records Book 319, Page 138 and Official Records Book 1217, Page 415 of the Public Records of Seminole County, Florida, as shown on said Right of Way Map; thence, departing said south line, run North 00°10’06” West, along the east line of said Lot 2 and along said westerly existing right of way line, 249.80 feet to the northeast corner of said Lot 2, also being the southeast corner of said Lot 1;

PARCEL NO. 133.3
SECTION 77160
F.P. NO. 242592 4
PAGE 3

thence, departing said east line and said existing westerly right of way line, run South 89°53'45" West, along the south line of said Lot 1, a distance of 3.57 feet to the POINT OF BEGINNING.

Containing 707 square feet, more or less.

Together with all rights of ingress, egress, light, air and view along the line described above beginning at Point "A" and ending at Point "B".

RECORDED

North Point Reclaimed Water Flow, Distribution, Delivery and Spray Easement recorded in ORB 2042, Page 928; Customer Agreement for Reclaimed Water Rates recorded in ORB 9340, Page 128 in favor of Seminole County, a public subdivision of the State of Florida;

PROVIDED that the County has the following rights:

1. The County has 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 FDOT's minimum standards for such facilities as required by the FDOT Utility Accommodation Manual in effect at the time this document is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by FDOT, which approval must be based on the application of the minimum standards referenced above and which approval must be evidenced by the issuance of utility permit. If, based on the application of those minimum standards, FDOT does not approve new construction or relocation of facilities proposed by the County and such new construction or relocation could have proceeded upon the lands described herein but for the limitations imposed by this document, then FDOT shall bear the cost of acquiring any new easements necessary to proceed with said construction or relocation. If FDOT requires the County to alter, adjust, or relocate its facilities within said lands, then FDOT hereby agrees to bear the cost of such alteration, adjustment, or relocation. If FDOT requires County to relocate its facilities outside said lands, then FDOT hereby agrees to bear the cost of such relocation and if said relocation cannot take place within FDOT right of way, then FDOT also agrees to bear the cost of acquiring any easements necessary for the relocation.

PARCEL NO. 133.3
SECTION 77160
F.P. NO. 242592 4
PAGE 4

2. Notwithstanding any provisions set forth herein, the terms of the utility permits issued pursuant to paragraph 1 hereof and Section 337.401(2) must supersede any contrary provisions contained herein, with the exception of the provisions in paragraph 1 hereof that require FDOT to bear certain costs.
3. The County has 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.
4. The County agrees to repair any damage caused by the County to F.D.O.T.'s facilities and to indemnify to the extent permitted under Florida Law the F.D.O.T. against any loss or damage resulting from the County exercising its rights outlined in Paragraphs 1 and 3 above.

(THE REMAINDER OF PAGE LEFT INTENTIONALLY BLANK)

PARCEL NO. 133.3
SECTION 77160
F.P. NO. 242592 4
PAGE 5

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: _____, 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, by means of physical presence or online notarization, this ____ day of _____, _____, by _____, 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: _____

PARCEL NO. 133.3
SECTION 77160
F.P. NO. 242592 4
PAGE 6

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.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

GRANT MALOY

Clerk to the Board of County Commissioners
of Seminole County, Florida

By: _____
AMY LOCKHART, Chairman

Date: _____

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 20__ regular meeting

COUNTY ATTORNEY

