



City of Bradenton, Florida

City Council Agenda Memorandum

**Agenda Item:**

Subordination of City Utility Interests with FDOT for City Right-of-Way on the southwest corner of 15th St E (SR70A) and 9th Ave E.

**Agenda Date:**

January 25, 2017

**Originated by:**

Kim Clayback, Infrastructure Engineer

**Agenda Placement:**

Consent Agenda

**Explanation**

The City and FDOT are working jointly on roadway and utility improvements on 15th St E (SR70A) and 9th Ave E. The improvements include center medians around about, stormwater system improvements, street scape elements and potable water mains.

**Financial Impact**

None

**Requested action to be taken by Council**

Council to approve a resolution for the City to enter into an agreement with FDOT for the transfer of easement at 15th St E (SR70A) and 9th Ave E and authorize the Mayor to sign the Joint Participation Agreement.

**Staff Recommendation**

Approve Subordination of City Utility Interests

**Attachments**

Proposed Subordination of City Utility Interests

23-UTL.04-05/09

Date: March 16, 2016

This instrument prepared by  
or under the direction of

By: \_\_\_\_\_  
Post Office Box 1249  
City: Bartow, Florida 33831-1249  
Department of Transportation

F.P. NO. 4350901  
PARCEL 100.3  
SECTION 13120-001  
STATE ROAD 15<sup>th</sup> St.E. (Old SR 70)  
COUNTY Manatee

#### 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  
BRADENTON, 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	04-29-04	Federal Inc.	City of Bradenton	OR 1956 PG 5434

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

\_\_\_\_\_  
Signature

Legal Review:  
\_\_\_\_\_

\_\_\_\_\_  
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.

FP. NO. 4350901

SECTION 13000-060

PARCEL 100

RIGHT OF WAY

That portion of the northeast 1/4 of Section 36, Township 34 South, Range 17 East, Manatee County, Florida.

Being described as follows:

Commence at the northeast corner of the northeast 1/4 of said Section 36; thence along the north line of said northeast 1/4, North 88°40'11" West a distance of 12.39 feet to the survey base line of 15th Street East (Old State Road 70); thence along said survey base line South 00°14'34" West a distance of 113.32 feet; thence North 88°57'44" West a distance of 28.56 feet to the west existing right of way line of said 15th Street East and Range Line Road (per The Booker T. Washington Homesteads, A Subdivision of Bradenton Fla., as per plat thereof recorded in Plat Book 7, Page 38, Public Records of Manatee County, Florida) for a POINT OF BEGINNING; thence continue North 88°57'44" West a distance of 7.11 feet to the beginning of a curve having a radius of 237.00 feet; thence along the arc of said curve to the left a distance of 41.91 feet through a central angle of 10°07'52" with a chord bearing North 17°08'28" West to the end of said curve and to the beginning of a curve having a radius of 52.00 feet; thence along the arc of said curve to the left a distance of 43.20 feet through a central angle of 47°35'41" with a chord bearing North 46°00'15" West to the end of said curve and to the beginning of a curve having a radius of 362.00 feet; thence along the arc of said curve to the left a distance of 77.15 feet through a central angle of 12°12'41" with a chord bearing North 76°15'31" West to the west line of a 15' City of Bradenton Sanitary Sewer Easement (per Official Records Book 1956, Page 5434, Public Records of Manatee County, Florida) and to the end of said curve; thence along said west line North 00°21'50" East a distance of 9.70 feet to the south existing right of way line of 9th Avenue East [Martin Luther King Jr. Avenue East, (per said plat)] thence along said south existing right of way line South 88°57'44" East a distance of 125.00 feet to an intersection with said west existing right of way line; thence along said west existing right of way line South 00°21'50" West a distance of 95.00 feet to the POINT OF BEGINNING.

Containing 3,969 square feet.

Legal Description Approved by:  
/ EXHIBIT "A"

UTL.05

Date: March 16, 2016  
This instrument prepared by                    F.P. NO. 4350901  
or under the direction of                    PARCEL 100.3  
By: \_\_\_\_\_                    SECTION 13120-001  
Post Office Box 1249                    STATE ROAD 15<sup>th</sup> St.E. (Old SR 70)  
City: Bartow, Florida 33831-1249                    COUNTY Manatee  
Department of Transportation

**R E S O L U T I O N**

ON MOTION of Commissioner \_\_\_\_\_,  
seconded by Commissioner \_\_\_\_\_,  
the following Resolution was adopted:

WHEREAS, the State of Florida Department of Transportation  
proposes to construct or improve State Road No. 15<sup>th</sup> Street East (Old  
SR 70), Section No. 13120-001, in Manatee County, Florida: and

WHEREAS, it is necessary that certain easement rights now owned  
by City of Bradenton, 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 Board of City Commissioners  
of Bradenton, Florida, that the application of the State of Florida  
Department of Transportation for a subordination of utility interest,  
or interests, is for transportation purposes which are in the public  
or community interest and for public welfare; that a subordination of  
utility interest, or interests, in favor of the State of Florida  
Department of Transportation, in Bartow, Florida, should be drawn and  
executed by this Board of City Commissioners. Consideration shall be  
\$ \_\_\_\_\_.

STATE OF FLORIDA

CITY OF BRADENTON

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution adopted by the Board of City Commissioners of Bradenton, Florida, at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name:

Clerk, Board of City  
Commissioners  
Bradenton,  
Florida

