

23-UTL.04-07/18

This instrument prepared under the direction of:

Elizabeth S. Quintana, Esq. _____

District Four Assistant General Counsel

Legal Description prepared by:

Luis A. Gaztambide, P.S.M. (03/31/2020)

Document prepared by:

Grace K. Abel (02/11/2021)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No. 106.3R(02/11/2021)

Item/Segment No. 4369631

Section: 93220-2482

Managing District: 04

S.R. No. 9 (I-95)

County: Palm Beach

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, and the **CITY OF LAKE WORTH BEACH, a Florida municipal corporation**, hereinafter called the CITY.

W I T N E S S E T H:

WHEREAS, the CITY 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 CITY to the FDOT; and

WHEREAS, the FDOT is willing to pay to have the CITY’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, CITY and FDOT agree as follows:

CITY subordinates to the interest of FDOT its successors and assigns, any and all of its interest in the lands as follows, viz:

Parcel No. 106

Item/Segment No. 4369631

A portion of Tract 14, SAWYER’S SUBDIVISION OF WEST HALF, SEC. 28, TP. 44, R.43; according to the plat thereof, as recorded in Plat Book 5, Page 12, of the Public Records of Palm Beach County, Florida, lying in Section 28, Township 44 South, Range 43 East, as shown on Sheet 4 of the Florida Department of Transportation Right of Way Map of State Road 9 (I-95), Item/Segment No. 4369631, Section 93220-2482 and being more particularly described as follows:

Commence at a brass disk in concrete stamped "Palm Beach County", found marking the West (W.) Quarter Corner of said Section 28; thence South 01°23'21" West along the West line of the Southwest One-Quarter (SW 1/4) of said Section 28, a distance of 172.11 feet to the Baseline of Survey of 6th Avenue South; thence South 88°37'58" East along the said Baseline of Survey, a distance of 1,167.01 feet; thence North 01°22'02" East along a line at a right angle to the last described course, a distance of 65.90 feet to the Northerly Existing Right of Way line of 6th Avenue South per Official Record Book 2194, Page 1893 of the Public Records of Palm Beach County, Florida and the POINT OF BEGINNING; thence North 89°40'44" West along said Northerly Existing Right of Way line, a distance of 196.19 feet; thence North 01°22'47" East, a distance of 24.78 feet to the beginning of the New Limited Access Right of Way line of said State Road 9 (I-95); thence South 86°33'10" East along said New Limited Access Right of Way line, a distance of 196.28 feet to the Westerly Existing Right of Way line of the C.S.X. Railroad and the end of said New Limited Access Right of Way line of said State Road 9 (I-95); thence South 01°23'56" West, a distance of 14.07 feet to the said Northerly Existing Right of Way line of 6th Avenue South and the POINT OF BEGINNING.

Containing 3,810 square feet, more or less.

Together with all rights of access, ingress, egress, light, air and view between the grantor's remaining property and any facility constructed on the above described property.

(Easement more particularly described in the sketch attached hereto as Exhibit "A")

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R.B. & PG.
Easement Agreement	07/29/2005	Lake Osbourne Self Storage, LLC, a Nevada limited liability company	City of Lake Worth, a Florida municipal corporation	19265 / 1676

PROVIDED that the CITY has the following rights:

1. The CITY 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 the 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 CITY or require the CITY 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 CITY 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.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written.

Signed, sealed, and delivered in the presence of: (Two witnesses required by Florida Law)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Witness Signature:

BY: _____
Name: **GERRY O'REILLY, P.E.**
District Four Secretary

Print Witness Name:

Attorney approved as to form:

Witness Signature:

Name: **ELIZABETH S. QUINTANA**

Print Witness Name:

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by **GERRY O'REILLY, P.E.**, District Four Secretary, who is personally known by me or who has produced _____ as identification.

(SEAL)

Notary Public

Printed or stamped name of Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, the City has caused these presents to be executed in its name by its Board of City Commissioners acting by the Mayor of said Board, the day and year aforesaid.

ATTEST: _____
Name: DEBORAH M. ANDREA, CMC
City Clerk

CITY OF LAKE WORTH BEACH
a Florida municipal corporation
By Its Board of City Commissioners

By: _____
Name: **BETTY RESCH**
Its Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

(Official Seal)

By: _____
City Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by **BETTY RESCH**, Mayor on behalf of the **CITY OF LAKE WORTH BEACH, a Florida municipal corporation**, who is personally known to me or who has produced _____ as identification.

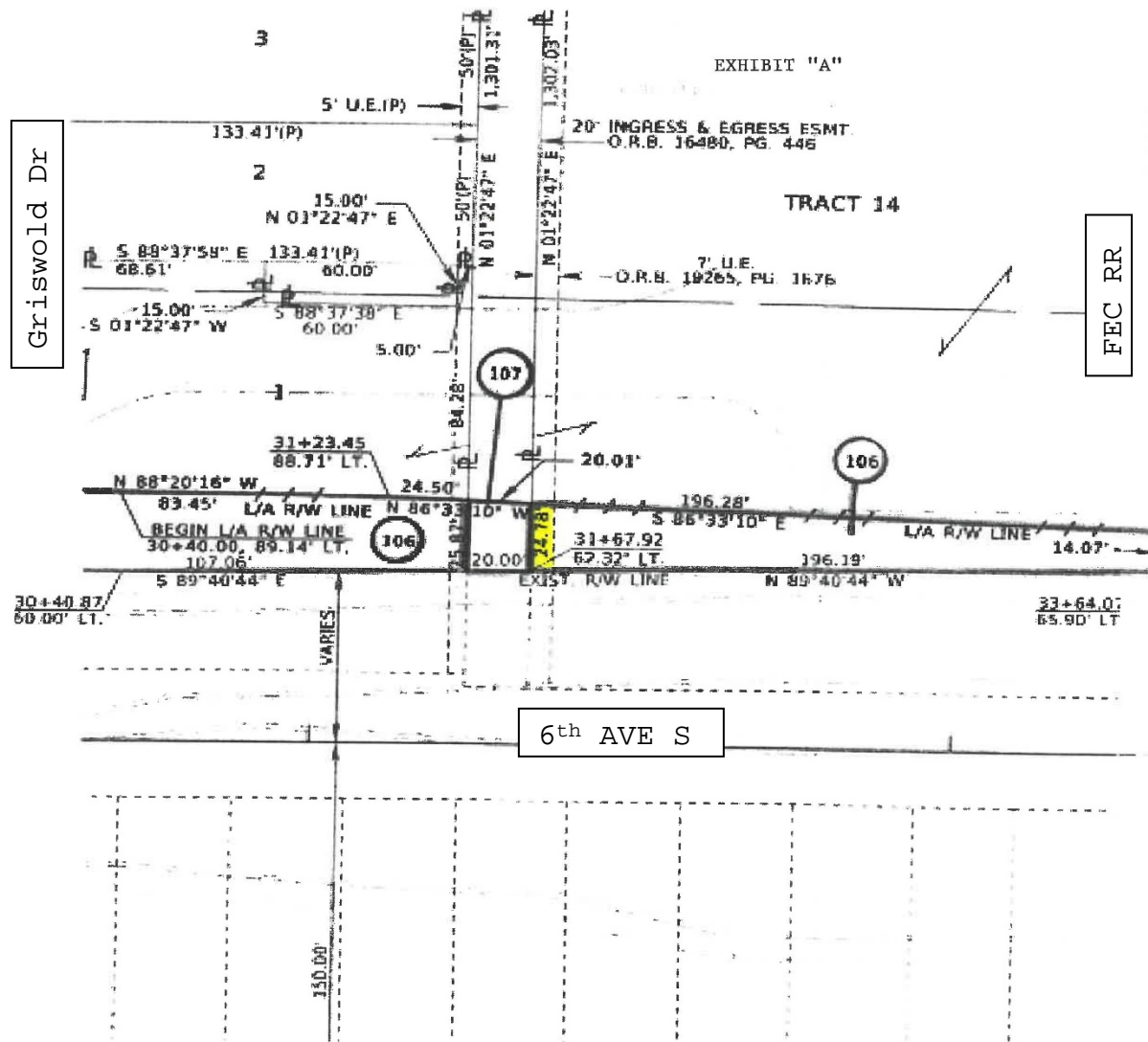
(SEAL)

Notary Public

Printed or stamped name of Notary Public

My Commission Expires: _____

EXHIBIT "A"



23-UTL.05-07/18

This instrument prepared under the direction of:

Elizabeth S. Quintana, Esq. _____

District Four Assistant General Counsel

Legal Description prepared by:

Luis A. Gaztambide, P.S.M. (03/31/2020)

Document prepared by:

Cochise Wadley (12/21/2020)

Florida Department of Transportation

Right of Way Production Services

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309

Parcel No.	106.3R
Item/Segment No.	4369631
Section:	93220-2482
Managing District:	04
S.R. No.	9 (I-95)
County:	Palm Beach

__-2021

RESOLUTION NO. __-2021, A RESOLUTION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, SUBORDINATING THE CITY’S UTILITY INTERESTS IN CERTAIN LANDS NECESSARY FOR HIGHWAY PURPOSES TO THE INTERESTS OF THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE SUBORDINATION OF CITY UTILITY INTERESTS AGREEMENT ON BEHALF OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the State of Florida Department of Transportation proposes to construct or improve State Road No. 9 (I-95), Item/Segment No. 4369631, Section 93220-2482, in Palm Beach County, Florida: and

WHEREAS, to complete the project, it is necessary that certain utility easement rights now owned by the City of Lake Worth Beach, Florida (“City”), be subordinated to the rights of the State of Florida Department of Transportation; and

WHEREAS, the State of Florida Department of Transportation has made application to the 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

WHEREAS, granting the request is in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The above recitals are hereby ratified and confirmed as being true and correct and

are hereby incorporated into this resolution.

Section 2. The City hereby agrees to subordinate its interests in the property set forth in the Subordination of City Utility Interests Agreement, attached hereto as **Exhibit A**, to the State of Florida Department of Transportation.

Section 3 The Mayor and City Clerk are authorized to execute the Agreement on behalf of the City.

Section 4. The City Clerk is authorized to send a certified copy of this Resolution to the State of Florida Department of Transportation at 3400 W. Commercial Boulevard, Fort Lauderdale, Florida 33009.

Section 5. This resolution shall become effective immediately upon passage.

The passage of this resolution was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Herman Robinson
Commissioner Sarah Malega
Commissioner Christopher McVoy
Commissioner Kimberly Stokes

The Mayor thereupon declared this resolution duly passed and adopted on the ____ day of _____, 2021.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk