

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Subordination of Utility Interest Agreement

DEPARTMENT: County Attorney's Office

DIVISION: Property Acquisition

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT: 7257

MOTION/RECOMMENDATION:

Execute Subordination of Utility Interest Agreement. County Road 15 (Monroe Road) Subordination of Utility Interest Agreement (Parcel Numbers 101C/101D) between Seminole County and Florida Public Utilities Company, in conjunction with the County Road 15 road improvement project.

District 5 Brenda Carey

Bob McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends the Board execute the Subordination of Utility Interest Agreement (Parcel Numbers 101C/101D) between Seminole County and Florida Public Utilities Company, in conjunction with the County Road 15 road improvement project.

ATTACHMENTS:

1. Subordination of Utility Interest

Additionally Reviewed By: No additional reviews



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

FROM: David G. Shields, Assistant County Attorney
Ext. 5736 *David G. Shields*

THROUGH: Matthew G. Minter, Deputy County Attorney
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E./Principal Engineer/Engineering Division *Pam Hastings* 8-7-07

DATE: August 9, 2007

SUBJECT: Easement
Florida Public Utilities Company
County Road 15 (Monroe Road) road improvement project
Parcel Nos. 101C/101D
Seminole County v. Seminole Co. State Road 46 Ltd., et al
Case No. 07-CA-1605-101C-13-K

This Memorandum requests approval by the Board of County Commissioners (BCC) and execution by the Chairman of a Subordination of Utility Interests agreement with respect to the easement interest of Florida Public Utilities Company "FPUC" relating to County Road 15, particularly Parcel Nos. 101C/101D.

The BCC adopted Resolution No. 2007-R-79, on April 24, 2007, authorizing the acquisition of these parcels involved with County Road 15 and finding that the County Road 15 road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

FPUC has signed and tendered a recordable instrument, entitled Subordination of Utility Interests, for filing in the land records. Please see location map attached as Composite Exhibit A and a copy of the Subordination agreement attached as Composite Exhibit B.

FPUC's interest in the referenced property is an easement of the subject property for natural gas lines. FPUC has agreed to provide the subordination of its easements interests without charge. This will also preclude FPUC's involvement in the referenced case.

DGS/dre

Attachments:

Composite Exhibit A - Location Map

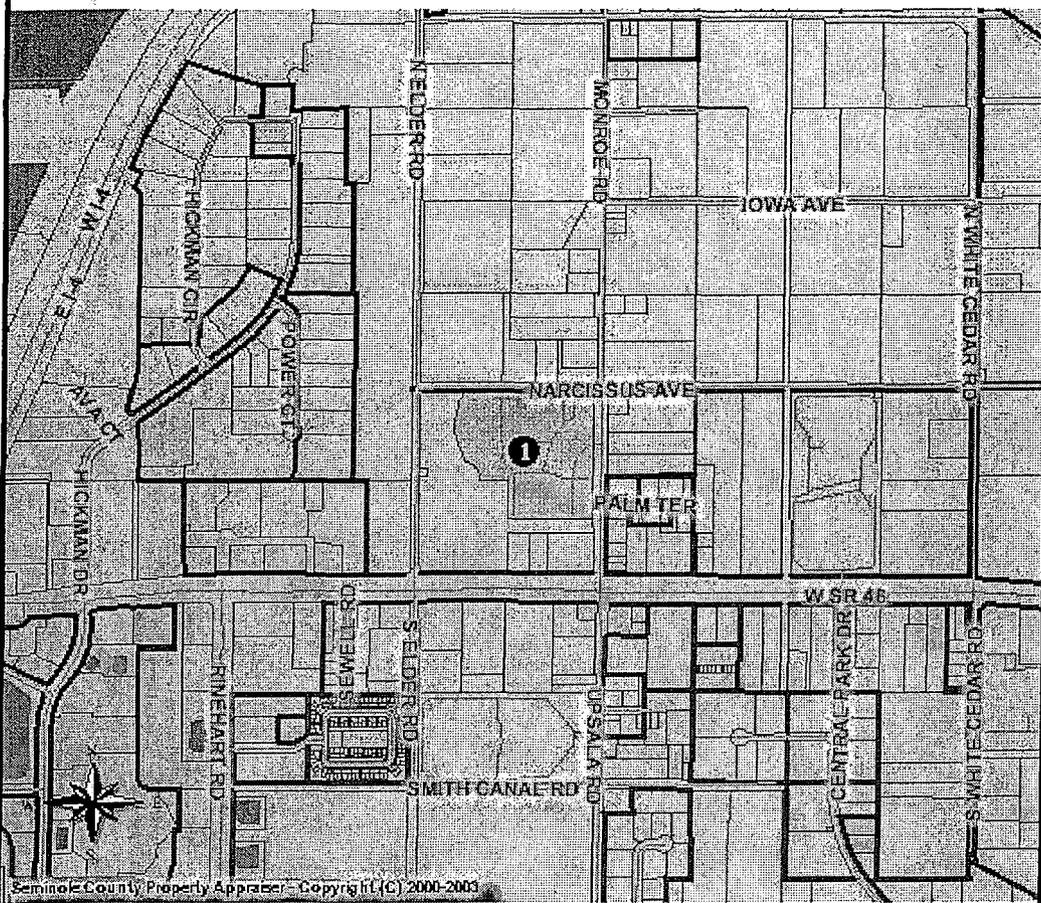
Composite Exhibit B - Subordination Agreement

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SEMINOLE COUNTY, FL.

PROPERTY APPRAISER

DAVID JOHNSON, CFA, ASA



DAVID JOHNSON, CFA, ASA
PROPERTY APPRAISER
 SEMINOLE COUNTY, FL.
 1101 E. FIRST ST
 SANFORD, FL 32771-1488
 407-655-7506

- Legend**
- Selected Features
 - County Boundary
 - Streets
 - Hydrology
 - Subdivision Lines
 - Parcels

Seminole County Property Appraiser - Copyright (C) 2000-2003

Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	1619305AC000000G0	SEMINOLE CO STATE RD 46 LTD	1551 SANDSPUR RD	MAITLAND	FL	32751

EXHIBIT A

SUBORDINATION OF UTILITY INTERESTS

THIS AGREEMENT, entered into this _____ day of _____, 2007, by and between FLORIDA PUBLIC UTILITIES COMPANY, whose address is 401 South Dixie Highway, West Palm Beach, FL 33401-5807, hereinafter referred to as the "COMPANY", and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY".

WITNESSETH:

WHEREAS, the COMPANY presently has an interest in certain lands that have been determined necessary for use as right-of-way for additional traffic lanes and improved drainage facilities on CR 15 (Monroe Road); and

WHEREAS, the proposed use of these lands for use as right-of-way for additional traffic lanes and improved drainage facilities purposes on CR 15 (Monroe Road) will require subordination of the interest claimed in such lands by the COMPANY to the COUNTY; and

WHEREAS, the COUNTY is willing to pay to have the COMPANY'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, the COMPANY and the COUNTY agree as follows:

THE COMPANY subordinates any and all of its interest in the lands described as follows:

**PARCEL NOS.: 101C/101D
FEE SIMPLE**

COUNTY ROAD 15

Part C

A portion of:

Lot G, the North 307.30 feet of Lot K and that part of Lot H, lying East of centerline of creek, Land Colonization Company Limited, W. Beardall's Map of St. Joseph's, according to the plat thereof, as recorded in Plat Book 1, Page 114, of the Public Records of Seminole County, Florida.

Being a portion of those lands recorded in Official Records Book 3605, Page 553, Public Records of Seminole County, Florida, being more particularly described as follows:

COMPOSITE EXHIBIT B

Commence at the Northwest corner of Lot K, W. Beardall's Map of St. Joseph's, according to the Plat Book 1, Page 114, Public Records of Seminole County, Florida; thence North 89°58'30" East, along the North line of said Lot K, a distance of 609.42 feet for a **POINT OF BEGINNING**; thence continue North 89°58'30" East, along North lot line, a distance of 10.00 feet to a point on the West line of Development Order #99-493, as recorded in Official Records Book 3688, Page 1194, Public Records of Seminole County, Florida; thence departing said North lot line, South 00°09'31" East, along said West line, a distance of 307.30 feet to the South line of the North 307.30 feet of said Lot K; thence departing said West line, South 89°58'30" West, along said South line, a distance of 15.35 feet; thence departing said South line, North 15°29'01" East, a distance of 19.85 feet; thence North 00°09'31" West, a distance of 288.17 feet to the **POINT OF BEGINNING**.

Containing 3124 square feet, more or less.

AND ALSO

Part D

A portion of:

Lot G, the North 307.30 feet of Lot K and that part of Lot H, lying East of centerline of creek, Land Colonization Company Limited, W. Beardall's Map of St. Joseph's, according to the plat thereof, as recorded in Plat Book 1, Page 114, of the Public Records of Seminole County, Florida.

Being a portion of those lands recorded in Official Records Book 3605, Page 553, Public Records of Seminole County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Lot G, W. Beardall's Map of St. Joseph's, according to the Plat Book 1, Page 114, Public Records of Seminole County, Florida; thence North 89°58'30" East, along the North line of said Lot G and the South right-of-way line of Narcissus Avenue, a distance of 579.68 feet for a **POINT OF BEGINNING**; thence continue North 89°58'30" East, along North lot line and said South right-of-way line, a distance of 29.56 feet; thence departing said North lot line and said South right-of-way line, South 00°09'31" East, a distance of 29.49 feet; North 45°09'34" West, a distance of 41.80 feet to the **POINT OF BEGINNING**.

Containing 436 square feet, more or less.

Parcel I.D. No. for 101C/101D: 16-19-30-5AC-0000-00G0

to the interest of the COUNTY, its successors, or assigns, for the purpose of constructing, improving, maintaining and operating a road, including drainage facilities, over, through,

upon, and/or across such lands, including, but not limited to, the claim of interest based on the following:

NATURE OF ENCUMBRANCE	DATE	FROM OR AGAINST	IN FAVOR OF	RECORDED BOOK/PAGE
Utility Easement	08/28/2000	Westlake Supercenter Partners, Ltd.	Florida Public Utilities Company	Not Recorded

PROVIDED that the COMPANY has the following rights:

1. The COMPANY shall have the right to construct, operate, maintain, remove, and relocate facilities on, within, and upon the lands described herein. Any new construction or relocation of facilities within the lands will be subject to prior approval by the COUNTY's Engineer.

2. The COMPANY 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 COUNTY's facilities.

3. The COMPANY agrees to repair any damage to COUNTY facilities and to indemnify the COUNTY against any loss or damage resulting from the COMPANY exercising its rights outlined in Paragraphs 1 and 2 above.

4. Should the COUNTY require the COMPANY to alter, adjust, or relocate its facilities located within said lands, the COUNTY hereby agrees to pay the cost of such alteration, adjustment or relocation.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

ATTEST:

Bonnie Erdek
 G. M. BACKMAN, Secretary
 Bonnie Erdek, Asst.
 (CORPORATE SEAL)

FLORIDA PUBLIC UTILITIES COMPANY

By: C. L. Stein
~~JOHN T. ENGLISH, President/Director~~
 C. L. Stein, SR. Vice President, COO
 Date: 7-23-07

STATE OF FLORIDA)
 COUNTY OF Palm Beach

I HEREBY CERTIFY that, on this 23 day of July, 2007, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared

C.L. Stein Bonnie Erdek senior Vice Asst.

~~JOHN T. ENGLISH~~ and ~~G. M. BACKMAN~~, as ~~President~~ and ~~Secretary~~, respectively, of FLORIDA PUBLIC UTILITIES COMPANY, a corporation organized under the laws of the State of Florida, who are personally known to me or who have produced _____ as identification. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the corporation, and that they also affixed thereto the official seal of the corporation.

Chandra K. Saylor

Print Name Chandra K. Saylor
Notary Public in and for the State of Florida
and State Aforementioned
My commission expires: _____
Notary Public - State of Florida
My Commission Expires Jun 5, 2010
Commission # DD 522657
Bonded by National Notary Assn.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____
2007, regular meeting.

County Attorney

DGS/dre
07/17/07

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