

RESOLUTION NO. 2026-032

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE MAYOR, OR DESIGNEE, TO EXECUTE A SUBORDINATION OF CITY UTILITY INTERESTS AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AND THE CITY OF COCONUT CREEK FOR THE PURPOSE OF CONSTRUCTING A PORTION OF A PUBLIC SIDEWALK OVER AN EXISTING CITY UTILITY EASEMENT ALONG A SEGMENT OF WEST HILLSBORO BOULEVARD ADJACENT TO THE HILLSBORO MARKETPLACE SHOPPING CENTER OUTPARCEL PROJECT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 23, 2021, The Keith Company received site plan approval from the City for the design and construction of modifications to the shopping center complex located along West Hillsboro Boulevard at the northeast corner of Lyons Road owned by Hillsboro Marketplace Investments, LLC; and

WHEREAS, a portion of the shopping center project improvements, including, but not limited to, sidewalks, landscaping, and irrigation, will be constructed within the Florida Department of Transportation (FDOT) property and/or right-of-way; and

WHEREAS, the City has utilities located within a Utility Easement, recorded at Book 17848, Page 478, of the public records of Broward County, Florida (the "Utility Easement"); and

WHEREAS, the City of Coconut Creek recognizes the need to enter into the FDOT Subordination of City Utility Interests Agreement to subordinate the City's rights established in the Utility Easement to those of FDOT in accordance with the FDOT Utility Accommodation Manual and to set forth maintenance responsibilities for these improvements; and

WHEREAS, the City of Coconut Creek will retain the right to enter upon the easement area to maintain the City facilities and, as necessary, to trim such trees, brush,

and growth that might endanger or interfere with such existing City facilities, provided that such rights do not interfere with the operation and safety of FDOT's facilities; and

WHEREAS, FDOT will pay for the repair of any damage to City facilities caused by FDOT facilities within the easement area; and

WHEREAS, the City agrees to repair any damage to FDOT facilities and to indemnify FDOT against any loss or damage resulting from the City exercising its rights outlined in the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution. All exhibits attached hereto are incorporated herein and made a specific part of this resolution.

Section 2: That the City Commission hereby approves the Subordination of City Utility Interests Agreement, attached hereto and made a part hereof as Exhibit “A.”

Section 3: That the Mayor, or designee, is hereby authorized to execute the Subordination of City Utility Interests Agreement between FDOT (District Four) and the City, subordinating the interest claimed in the Utility Easement (O.R.B. 17848/PG. 478) adjacent to the Hillsboro Boulevard improvements related to the Hillsboro Marketplace outparcel redevelopment project to FDOT’s interest.

Section 4: That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portions or applications of this resolution.

Section 5: That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this _____ day of _____, 2026.

Jacqueline Railey, Mayor

Attest:

Joseph J. Kavanagh, City Clerk

Railey _____

Wasserman _____

Welch _____

Rydell _____

Brodie _____