

RESOLUTION 21-R__

A RESOLUTION OF THE CITY OF PORT ST. LUCIE, FLORIDA, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO AND EXECUTE A USE AND OCCUPANCY AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF CONSTRUCTING A PEDESTRIAN RIVERWALK BOARDWALK WITHIN THE LIMITED ACCESS RIGHT-OF-WAY OF STATE ROAD 716 (PORT ST. LUCIE BLVD); PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St. Lucie (“City”) has been actively constructing a pedestrian river-walk boardwalk along the North Fork of the St. Lucie River and intends to extend the pedestrian river-walk boardwalk from Bridge Plaza to Tom Hooper Park; and

WHEREAS, a portion of the proposed extension of the pedestrian river-walk boardwalk will need to be constructed beneath the right-of-way of State Road 716 (Port St. Lucie Blvd.) Bridge (bridge #940140 & #940145); and

WHEREAS, the United States Department of Transportation, Federal Highway Administration, requires any use and occupancy of airspace above and/or below the highway’s established gradeline, lying within the approved right of way limits on a Federal Aid System, to be accomplished pursuant to the use and occupancy agreement in accordance with 23 CFR, Part 710; and

WHEREAS, the Florida Department of Transportation (“FDOT”) has acquired sufficient legal right, title, and interest in the right-of-way of State Road 716 (Port St. Lucie Blvd.), which right-of-way is part of a highway on a Federal Aid System; and

WHEREAS, the City entered into an Airspace Agreement with FDOT in August 2021, herein identified as Exhibit “A”, with the understanding that a modification to the Airspace Agreement would be executed within six (6) months with a document further identified as a Use and Occupancy Agreement and incorporated herein as Exhibit “B”; and

WHEREAS, FDOT has agreed to lease to the City the airspace below the gradeline of the right-of-way of State Road 716 (Port St. Lucie Blvd.), pursuant to the terms and conditions set forth in the Use and Occupancy Agreement; and

WHEREAS, after considering the factors set forth above, the City Council hereby authorizes the City Manager, or his designee, to enter into and execute the Use and Occupancy Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PORT ST. LUCIE, FLORIDA:

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Section 1. Ratification of Recitals. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Resolution.

Section 2. Implementation. The City Manager, or his designee, is hereby authorized to enter into and execute, on behalf of the City of Port St. Lucie, Florida, the Use and Occupancy Agreement, in substantially the same for as attached hereto as Exhibit "B", which shall govern the City's use of the airspace below the gradeline of the right-of-way of State Road 716 (Port St. Lucie Blvd.) for the proposed extension of the pedestrian river-walk boardwalk.

Section 3. Conflict. If any resolutions, or parts of resolutions, are in conflict herewith, this Resolution shall control to the extent of the conflicting provisions.

Section 4. Severability. The provisions of this Resolution are intended to be severable. If any part of this Resolution is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Resolution shall remain in full force and effect.

Section 5. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this ____ day of _____, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney