



# CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/21/08

**SUBJECT:** Daytona RV Campground – Access and Underground Utilities Easement

**DEPARTMENT:** City Attorney

**RECOMMENDED MOTION:**


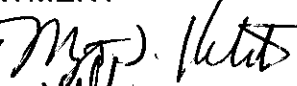

To approve and accept the easement granted by NHC-FL 120, LLC, with indemnity covering the City's use of the easement.

**SUMMARY:**

The easement for Access and Underground Utilities will be used for fiber optic and other utility purposes primarily serving the Police Station located on Clyde Morris Blvd.

**ATTACHMENTS:**  Ordinance  Resolution  Budget Resolution

Other  Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD 	Margaret T. Roberts, City Attorney	Date 10.10.08
FINANCE DEPARTMENT	Approved as to Budget Requirements	Date
CITY ATTORNEY 	Approved as to Form and Legality	Date 10.10.08
CITY MANAGER 	Approved Agenda Item For:	10/21/08

**COUNCIL ACTION:**  Approved as Recommended  Disapproved  Tabled Indefinitely  
 Continued to Date Certain  Approved with Modification:

This Instrument Prepared By:  
Linda D Johnson CP, RW-NAC  
Right of Way Agent  
City of Port Orange, Florida  
**Return Recorded Instrument to:**  
Attention: Deputy City Clerk  
City of Port Orange  
1000 City Center Circle  
Port Orange, Florida 32129

Portion of Parent Parcel No. 6307-00-00-0019

This Document has been prepared without  
benefit of a certified survey or title examination.

*Space Reserved for Recording Data*

## **ACCESS AND UNDERGROUND UTILITIES EASEMENT**

THIS INDENTURE made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between **NHC-FL120, LLC.**, a Delaware limited liability company authorized to transact business in the State of Florida, mailing address: 6991 East Camelback Road, Suite B-310, Scottsdale, Arizona 85251, as Grantor; and the **CITY OF PORT ORANGE, FLORIDA**, a municipal corporation, located in Volusia County, Florida, mailing address: 1000 City Center Circle, Port Orange FL 32129-4144, collectively referred to herein as Grantee.

### WITNESSETH:

That the Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, has granted, sold and conveyed, and by these presents does grant, sell and convey, unto the Grantee, its successors and assigns, a 12-ft. wide permanent access, ingress and egress easement for the installation and maintenance of underground utilities including, but not specifically limited to: fiber optic cable, conduit, and attendant customary uses, over, under, through, across and along certain real property located in Volusia County, Florida, being more particularly described as:

A strip of land being twelve feet (12') in width, abutting and adjacent to Clyde Morris Boulevard as now laid out (a 100-ft County right-of way) and being along the southwesterly boundary of real property more specifically described on the attached Exhibit "A."

The purpose of the Easement is more specifically set forth as follows:

Access, ingress and egress within the described Easement to and over the adjoining lands of the Grantor by the Grantee, City of Port Orange, its agents, employees, and authorized representatives, for the perpetual right to construct, install, operate, maintain, repair, replace and remove underground utilities lines, pipes, and conduit for the purpose of conveying utilities including, but not specifically limited to fiber optic cable, through, under, over and across said property, together with the right to excavate and refill ditches, trenches and swales within the described Easement.

**TO HAVE AND TO HOLD** the same unto said Grantee and its successors and assigns, together with the right to enter upon said lands and to construct and maintain public uses

This document is accepted and recorded by the City of Port Orange without the benefit of title examination or survey; and shall not constitute a waiver of compliance with local and general laws regulating the subject property.

thereon, with all such fills, cuts, drains, ditches, trenches, swales and other incidents which said Grantee may deem necessary or convenient in connection therewith.

The Grantor(s), its successors and assigns warrant that Grantor is the fee simple record title owner of the easement premises; and further Grantor agrees to not place any structure or tree on the above-described property and the Grantee shall not be liable for their removal if they are so placed. Furthermore, the Grantee covenants and agrees that it shall use diligence and its best management practices to complete the construction, repairs, and/or maintenance with the least amount of disruption to the Grantor's use of its property as is reasonably possible. Provided further, Grantee shall hold Grantor harmless from loss, damage, or liability that Grantor may suffer from claims made against Grantee by reason of the usual function, maintenance, and operation of the said permanent utility easement granted herein.

It is expressly understood and agreed that the terms, covenants and conditions of this Easement shall be and constitute covenants running with and binding upon the premises above described and shall constitute an obligation on said premises regardless of title or ownership thereof and regardless of any future change which may take place therein.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals on the day and year first above written.

Signed in the presence of:

GRANTOR:  
NHC-FL120, LLC  
a Delaware Limited Liability Company  
By: NRVC-GE HOLDING CO., LLC its  
Managing Member

Witness: [Signature]  
Printed Name: JAN LUND

By: [Signature]  
Name: CHARLES A. ELLIS  
Title: AUTHORIZED SIGNATORY

Witness: A. Keeker  
Printed Name: Katherine Keeker

STATE OF ARIZONA  
COUNTY OF MARICOPA

The foregoing **ACCESS AND UNDERGROUND UTILITIES EASEMENT** instrument was sworn to and acknowledged before me this 8 day of October, 2008, by Charles A. Ellis, in her/his respective official capacity as AUTHORIZED SIGNATORY behalf of NRVC-GE HOLDING CO., LLC, Managing Member of NHC-FL120, LLC, a Delaware limited liability company, authorized to transact business in Florida, Grantor named in the foregoing Easement and who acknowledged having full authority to execute the document for the purposes stated therein.

(Notary, please check one):  
 personally known to me, or  has produced \_\_\_\_\_ as identification.



[Signature]  
Signature of Notary Public  
Printed name, Commission, Seal, and Term Expiration:  
LTKalander 2-28-11

## EXHIBIT A

Parent Parcel: 6307-00-00-0019

THE WESTERLY 608.5 FEET OF THE EASTERLY 658.5 FEET OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 7, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, AS LIES NORTHERLY AND EASTERLY OF CLYDE MORRIS BOULEVARD, A 100-FT. RIGHT-OF-WAY AS NOW LAID OUT, LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL: A PORTION OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 7, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 7, THENCE S00°19'44"W A DISTANCE OF 1611.90 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF CLYDE MORRIS BOULEVARD (A 100-FOOT RIGHT-OF-WAY); THENCE N41°07'23"W ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 75.53 FEET TO A POINT IN THE WESTERLY RIGHT-OF-WAY LINE OF WELLFIELD DRIVE (A 50-FOOT RIGHT-OF-WAY) AND THE POINT OF BEGINNING; THENCE CONTINUE N41°07'23"W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF CLYDE MORRIS BOULEVARD A DISTANCE OF 45.00 FEET; THENCE N48°52'37"E A DISTANCE OF 39.75 FEET TO THE INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF WELLFIELD DRIVE; THENCE S00°19'44"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 60.04 FEET TO THE POINT OF BEGINNING.



**Port Orange  
Police Station**

City of Port Orange  
Port Orange, FL

**C.T. KSH + ASSOCIATES, P.A.**  
400 West Orange  
Orange, FL 32803  
Tel: 407-832-8888 Fax: 407-832-8793

*Handwritten signature*  
DATE: 11/18/08

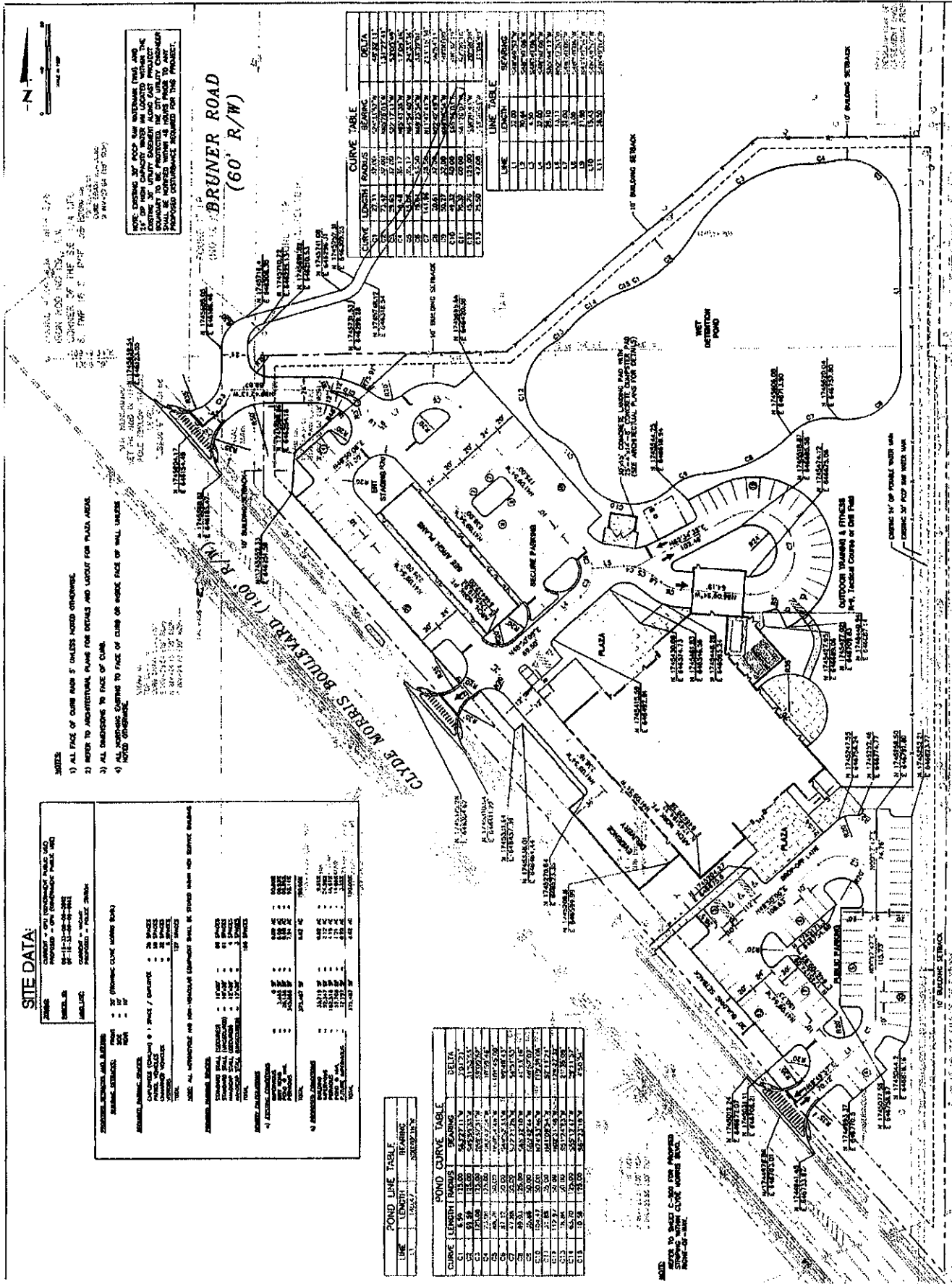
**engineering & environmental  
design inc.**

1. VOLUME  
2. SHEETS  
3. DATE  
4. SHEET NO.

**SITE  
GEOMETRY  
PLAN**

Job No. 01600.01  
Date April 9, 2008  
Drawn  
Checked  
Scale AS SHOWN

**C-201**



NOTES:  
1) ALL FACE OF CURB R/W UNLESS NOTED OTHERWISE.  
2) REFER TO ARCHITECTURAL PLANS FOR DETAILS AND LOCUS FOR PLAZA AREA.  
3) ALL DIMENSIONS TO FACE OF CURB.  
4) ALL DIMENSIONS TO FACE OF CURB UNLESS NOTED OTHERWISE.

FOR SETTING OF CURB AND SIDEWALKS SEE ARCHITECTURAL PLANS FOR DETAILS AND LOCUS FOR PLAZA AREA.  
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**BRUNER ROAD  
(60' R/W)**

**CYBER HOBBS BOULEVARD (100' R/W)**

**CURVE TABLE**

CURVE	LENGTH	RADIUS	BEARING	DELTA
C1	11.71	25.00	S85°11'30"W	10.821°
C2	11.71	25.00	S85°11'30"W	10.821°
C3	11.71	25.00	S85°11'30"W	10.821°
C4	11.71	25.00	S85°11'30"W	10.821°
C5	11.71	25.00	S85°11'30"W	10.821°
C6	11.71	25.00	S85°11'30"W	10.821°
C7	11.71	25.00	S85°11'30"W	10.821°
C8	11.71	25.00	S85°11'30"W	10.821°
C9	11.71	25.00	S85°11'30"W	10.821°
C10	11.71	25.00	S85°11'30"W	10.821°
C11	11.71	25.00	S85°11'30"W	10.821°
C12	11.71	25.00	S85°11'30"W	10.821°
C13	11.71	25.00	S85°11'30"W	10.821°
C14	11.71	25.00	S85°11'30"W	10.821°
C15	11.71	25.00	S85°11'30"W	10.821°
C16	11.71	25.00	S85°11'30"W	10.821°
C17	11.71	25.00	S85°11'30"W	10.821°
C18	11.71	25.00	S85°11'30"W	10.821°
C19	11.71	25.00	S85°11'30"W	10.821°
C20	11.71	25.00	S85°11'30"W	10.821°
C21	11.71	25.00	S85°11'30"W	10.821°
C22	11.71	25.00	S85°11'30"W	10.821°
C23	11.71	25.00	S85°11'30"W	10.821°
C24	11.71	25.00	S85°11'30"W	10.821°
C25	11.71	25.00	S85°11'30"W	10.821°
C26	11.71	25.00	S85°11'30"W	10.821°
C27	11.71	25.00	S85°11'30"W	10.821°
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C29	11.71	25.00	S85°11'30"W	10.821°
C30	11.71	25.00	S85°11'30"W	10.821°
C31	11.71	25.00	S85°11'30"W	10.821°
C32	11.71	25.00	S85°11'30"W	10.821°
C33	11.71	25.00	S85°11'30"W	10.821°
C34	11.71	25.00	S85°11'30"W	10.821°
C35	11.71	25.00	S85°11'30"W	10.821°
C36	11.71	25.00	S85°11'30"W	10.821°
C37	11.71	25.00	S85°11'30"W	10.821°
C38	11.71	25.00	S85°11'30"W	10.821°
C39	11.71	25.00	S85°11'30"W	10.821°
C40	11.71	25.00	S85°11'30"W	10.821°
C41	11.71	25.00	S85°11'30"W	10.821°
C42	11.71	25.00	S85°11'30"W	10.821°
C43	11.71	25.00	S85°11'30"W	10.821°
C44	11.71	25.00	S85°11'30"W	10.821°
C45	11.71	25.00	S85°11'30"W	10.821°
C46	11.71	25.00	S85°11'30"W	10.821°
C47	11.71	25.00	S85°11'30"W	10.821°
C48	11.71	25.00	S85°11'30"W	10.821°
C49	11.71	25.00	S85°11'30"W	10.821°
C50	11.71	25.00	S85°11'30"W	10.821°
C51	11.71	25.00	S85°11'30"W	10.821°
C52	11.71	25.00	S85°11'30"W	10.821°
C53	11.71	25.00	S85°11'30"W	10.821°
C54	11.71	25.00	S85°11'30"W	10.821°
C55	11.71	25.00	S85°11'30"W	10.821°
C56	11.71	25.00	S85°11'30"W	10.821°
C57	11.71	25.00	S85°11'30"W	10.821°
C58	11.71	25.00	S85°11'30"W	10.821°
C59	11.71	25.00	S85°11'30"W	10.821°
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C65	11.71	25.00	S85°11'30"W	10.821°
C66	11.71	25.00	S85°11'30"W	10.821°
C67	11.71	25.00	S85°11'30"W	10.821°
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C71	11.71	25.00	S85°11'30"W	10.821°
C72	11.71	25.00	S85°11'30"W	10.821°
C73	11.71	25.00	S85°11'30"W	10.821°
C74	11.71	25.00	S85°11'30"W	10.821°
C75	11.71	25.00	S85°11'30"W	10.821°
C76	11.71	25.00	S85°11'30"W	10.821°
C77	11.71	25.00	S85°11'30"W	10.821°
C78	11.71	25.00	S85°11'30"W	10.821°
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C86	11.71	25.00	S85°11'30"W	10.821°
C87	11.71	25.00	S85°11'30"W	10.821°
C88	11.71	25.00	S85°11'30"W	10.821°
C89	11.71	25.00	S85°11'30"W	10.821°
C90	11.71	25.00	S85°11'30"W	10.821°
C91	11.71	25.00	S85°11'30"W	10.821°
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C97	11.71	25.00	S85°11'30"W	10.821°
C98	11.71	25.00	S85°11'30"W	10.821°
C99	11.71	25.00	S85°11'30"W	10.821°
C100	11.71	25.00	S85°11'30"W	10.821°

**LINE TABLE**

LINE	LENGTH	BEARING	DELTA
L1	27.00	S85°11'30"W	10.821°
L2	27.00	S85°11'30"W	10.821°
L3	27.00	S85°11'30"W	10.821°
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L94	27.00	S85°11'30"W	10.821°
L95	27.00	S85°11'30"W	10.821°
L96	27.00	S85°11'30"W	10.821°
L97	27.00	S85°11'30"W	10.821°
L98	27.00	S85°11'30"W	10.821°
L99	27.00	S85°11'30"W	10.821°
L100	27.00	S85°11'30"W	10.821°

**POND CURVE TABLE**

CURVE	LENGTH	RADIUS	BEARING	DELTA
P1	11.71	25.00	S85°11'30"W	10.821°
P2	11.71	25.00	S85°11'30"W	10.821°
P3	11.71	25.00	S85°11'30"W	10.821°
P4	11.71	25.00	S85°11'30"W	10.821°
P5	11.71	25.00	S85°11'30"W	10.821°
P6	11.71	25.00	S85°11'30"W	10.821°
P7	11.71	25.00	S85°11'30"W	10.821°
P8	11.71	25.00	S85°11'30"W	10.821°
P9	11.71	25.00	S85°11'30"W	