

RESOLUTION 21-25

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, FINDING UNREASONABLE INTERFERENCE OF AT&T FACILITIES WITH THE FRONT BEACH ROAD SEGMENT 2 RIGHT OF WAY PROJECT; AUTHORIZING THE APPROPRIATE OFFICERS OF THE CITY TO TAKE ALL NECESSARY ACTIONS TO REMOVE THE INTERFERING FACILITIES AND ASSESS ATT FOR THE COSTS INCURRED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach, a political subdivision of the State of Florida (hereinafter referred to as the "City") has undertaken the improvement of Front Beach Road Segment 2, which project endeavors to expand and reconstruct the existing paved travel lanes, install associated safety and drainage improvements, and significantly, to place underground all utility facilities along Front Beach Road from South Thomas Drive west of Richard Jackson Boulevard for approximately 1.1 miles (hereinafter referred to as the "Project"); and

WHEREAS, in 2011, AT&T was notified of the then proposed Project and impending construction, provided the proposed plans for the Project, and provided revisions to the plans as it regarded AT&T's facilities which were incorporated in the City Project Plans; and

WHEREAS, from February through June 2014, the City undertook to refresh the Project construction Plans, and specifically conducted a utility review of the Project in concert with affected utilities; and

WHEREAS, in October 2016, an invitation to attend a pre-bid meeting was extended to AT&T and other utilities, and AT&T did attend that meeting; and

WHEREAS, following award of construction of the Project in September 2016, AT&T was notified of utility coordination meetings held by the City's Project Engineer which began in January 2017 and continued until May 2019, and which meetings served as a means to communicate the progress of construction and schedule for completing the relocation of affected utilities; and

WHEREAS, a representative of AT&T confirmed verbally at a Utility Coordination meeting that AT&T had no conflicts with the Project; and

WHEREAS, in February 2019, the City notified AT&T and the other utilities that GAC has completed its installation of underground conduit, such that AT&T and the other utilities could begin pulling cable and establishing underground connections with their customers; and

WHEREAS, there is no evidence that AT&T has begun pulling its cables through the conduit provided by the City to them for that purpose; and

WHEREAS, the City's contractor reached substantial completion of the Project in August 2019; and

WHEREAS, on August 25, 2020, Gulf Power Company advised the telecommunications companies that it had cut its poles such that telecommunications companies could remove any then remaining cables, following which the poles would be removed from the ROW; and

WHEREAS, the removal of the poles is necessary before the sidewalks and safety features of the Project can be completed; and

WHEREAS, by email dated September 22, 2020, a copy of which is attached to this Resolution, the CRA Director notified AT&T that its facilities were unreasonably interfering with the completion of the Project and requested a date certain for AT& to complete its work; and

WHEREAS, to date, AT&T has taken no action to remove its facilities; and

WHEREAS, Section 337.403, Florida Statutes, provides that:

- (1) If a utility that is placed upon, under, over, or within the right-of-way limits of any public road or publicly owned rail corridor is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor, the utility owner shall, upon 30 days' written notice to the utility or its agent by the authority, initiate the work necessary to alleviate the interference at its own expense except as provided in paragraphs (a)-(j). The work must be completed within such reasonable time as stated in the notice or such time as agreed to by the authority and the utility owner.

...
- (3) Whenever a notice from the authority requires such utility work and the owner thereof fails to perform the work at his or her own expense within the time stated in the notice or such other time as agreed to by the authority and the utility owner, the authority shall proceed to cause the utility work to be performed. The expense thereby incurred shall be paid out of any money available therefor, and such

expense shall, except as provided in subsection (1), be charged against the owner and levied and collected and paid into the fund from which the expense of such relocation was paid.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Panama City Beach, that:

SECTION 1. DETERMINATION OF UNREASONABLE INTERFERENCE AND NOTICE TO THE UTILITY.

a. AT&T received adequate notice of the proposed project first in 2011 when the Project plans were initially developed, again in 2014 when the Project plans were refreshed, and during the bidding and award of the construction of the Project in 2016.

b. Since February 2019, AT&T has received adequate requests and direction to relocate its facilities to eliminate conflicts between the Project and AT&T's facilities. The City finds that AT&T was provided notices, first that the City's contractor had completed laying the underground conduit, and second, that Gulf Power Company had completed the cutting its poles, at the same time and in the same manner as was provided to other telecommunications companies, and that the other telecommunications companies have acted promptly to underground and relocate or remove their facilities.

c. AT&T has made no effort to relocate and underground its facilities since receiving notice of its ability to do so in February 2019, which has resulted in frequently recurring conflicts with the Project, and the failure to remove its above ground facilities now prevents final completion of the Project.

d. The Council finds that, having participated in numerous preconstruction utility coordination meetings, and having received construction plans for the Project on more than one occasion, AT&T knew, or should have known, of the conflicts between its facilities and the Project sufficiently in advance of construction to plan for the timely relocation and undergrounding of its facilities, and for which the failure to act has resulted in delays in the progress and completion of the Project.

e. The City Council finds that the facilities of AT&T are unreasonably interfering with the improvement by the Project.

f. The City hereby directs that AT&T remove and/or relocate and underground its utilities located within the Project limits so as to prevent further Project construction delays and interruption of service.


g. Pursuant to Section 337.403(1), Florida Statutes, the City directs AT&T to remove and/or relocate and underground, at its own expense, all of its utilities within the boundaries of the Project within thirty (30) days of this Resolution. If not timely removed, the City will consider the utilities to be abandoned.

h. The Council authorizes the appropriate officers of the City to take any appropriate action to remove or cause to be removed the facilities of AT&T which are not timely or properly removed pursuant to section (g) of this Resolution, and to assess the costs thereof against AT&T pursuant to Section 337.403(3).

SECTION 2. THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 22nd day of October, 2020.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

Lynne Fasone

From: David Campbell
Sent: Friday, October 23, 2020 12:31 PM
To: Lynne Fasone
Subject: FW: Sidewalk dangerous

David O. Campbell, PE
CRA Manager
City of Panama City Beach
116 S. Arnold Road
Panama City Beach, FL 32413
850-233-5054 ext 2401

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From: David Campbell
Sent: Tuesday, September 22, 2020 1:23 PM
To: Brad Harris <BHarris@gaccontractors.com>; rs634y@att.com; FILLINGIM, MICHAEL <mf2504@att.com>; Pitts, Eric <EPitts@Dewberry.com>
Cc: Amy E. Myers <amyers@handfirm.com>; Cole Davis <cdavis@handfirm.com>; Amy E. Myers <amyers@handfirm.com>; Tony O'Rourke <torourke@pcb.gov.com>
Subject: FW: Sidewalk dangerous

Rob and Michael,

The sidewalks on Richard Jackson Blvd have remained in a dangerous condition waiting for AT&T to relocate their lines so GAC can complete the sidewalk. We have gotten very little response or cooperation from AT&T during the last phases of this project. The contractor reached substantial completion over 1 year ago and yet your utilities remain a hazard. Please provide me with a date that we can expect this work to be done.

Brad, Can you send someone there to clean up the area and try to make it safe for pedestrians to traverse?

All cooperation is greatly appreciated.

David O. Campbell, PE
CRA Manager
City of Panama City Beach
116 S. Arnold Road

Panama City Beach, FL 32413
850-233-5054 ext 2401



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From: Jerry Lutze <emgal4146@gmail.com>
Sent: Tuesday, September 22, 2020 10:58 AM
To: David Campbell <dcampbell@pcb.gov>
Subject: Sidewalk dangerous

[CAUTION] This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you recognize the sender and know the content is safe.

this has been like this for years part of road project but never finished at Jackson/Front beach waiting for lawsuits if falling or having to walk in the

road

