

**AGREEMENT BETWEEN**  
**INDIAN RIVER COUNTY, FLORIDA**  
**AND**  
**VERO BEACH MOB, LLC**  
**FOR**  
**VERO BEACH MEDICAL OFFICE BUILDING**

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**FOR THE CONSTRUCTION OF OFF-SITE UTILITIES**

THIS AGREEMENT (“Agreement”) by and between **INDIAN RIVER COUNTY**, a political subdivision of the State of Florida, the address of which is 1801 27th Street, Vero Beach, Florida 32960 (hereinafter the “COUNTY”) and **VERO BEACH MOB, L.L.C.**, a Florida Limited Liability Company, the address of which is 435 5TH AVE N, STE 200, ST. PETERSBURG, FL 33701 (hereinafter the “DEVELOPER”) is effective upon execution by the two parties.

WHEREAS, the DEVELOPER, in conjunction with the construction of improvements at Vero Beach Medical Office Building, located at 3955 Indian River Boulevard, whose legal description is attached as Exhibit “A” (the “Subject Property”), is constructing an off-site force main as specifically depicted in Exhibit “B”; and

WHEREAS, pursuant to Section 918.05, the Code of Indian River County (the “Code”), the COUNTY, requires the DEVELOPER to provide the utility improvements to connect to the regional water main and force main. The COUNTY, pursuant to Section 201.11, of the Code, agrees to reimburse the DEVELOPER, as provided herein, for the cost of oversizing off-site utilities,

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein and other good and valuable consideration, the COUNTY and DEVELOPER agree as follows:

**1. OFF-SITE UTILITIES:**

The DEVELOPER shall construct the necessary off-site utilities described herein as directed by the Indian River County Utilities Department (“IRCDUS”). The COUNTY shall reimburse the DEVELOPER for installing a six-inch diameter force main along the east side of Indian River Boulevard from the north east corner of 41st Street and Indian River Boulevard south to the northern limits of the Subject Property, a distance of approximately 785 feet, as depicted in Exhibit “B” (the “Force Main”). Within 30 calendar days of acceptance of the bill of sale for the Force Main and submittal of the necessary maintenance security, COUNTY shall reimburse DEVELOPER nineteen percent of the estimated installation cost of the Force Main, as set forth in Exhibit “C”. The COUNTY shall pay no more than \$6,416.51 for the Force Main.

2. Amendment:

This Agreement may be modified only by a written instrument executed by all parties to the Agreement.

3. Assignability:

Either party may assign this Agreement so long as the assignment bears acknowledgment of the assignee and the other party. However, the rights granted herein shall run with the land and are not the personal property of the DEVELOPER. Therefore, while the DEVELOPER has the right under this Agreement to freely transfer the rights and obligations granted by this Agreement, the DEVELOPER, nor any assignee, shall have the right to transfer these rights to another property unless this Agreement is amended in writing.

4. Authority:

Each party hereto represents and warrants to the other that the execution of this Agreement and any other documents required or necessary to be executed pursuant to the provisions hereof are valid, binding obligations and are enforceable in accordance with their terms.

5. Captions:

Captions, if included, in this Agreement are included for convenience only and are not to be considered in any construction or interpretation of this Agreement or any of its provisions.

6. Construction Plans, Technical Specifications and Contract Documents:

The DEVELOPER agrees to complete a final set of construction drawings and make submission for a Utilities Construction Permit (UCP) to IRCDUS, to Indian River County Public Works for a Right-of-Way permit (ROW), which includes, but is not limited to meeting all security requirements of section 312.11 of the Code, to the Florida Department of Environmental Protection (FDEP) for a general permit, and for all other necessary permits. The DEVELOPER shall not commence construction until all permits are approved and obtained.

7. Definition

All pronouns shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the party or parties may require.

8. DEVELOPER'S Obligations:

The design, preparation of contract documents, permitting, and construction of the Force Main shall be the DEVELOPER's responsibility and expense until such time the necessary testing, acceptance of the FDEP Certification Of Completion, and acceptance of the Force Main dedication to IRCDUS per IRCDUS's Water & Wastewater Utility Standards, December 2019 or latest edition, has been completed and 1-year warranty is in place.

10. Entire Agreement

This Agreement embodies the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties, nor any

representations made by either party relative to the subject matter hereof, which are not expressly set forth herein.

11. Governing Law & Jurisdiction:

This Agreement shall be governed by the laws of the State of Florida and the laws of the United States pertaining to transactions in such state, and all actions arising out of this Agreement shall be brought in Indian River County, Florida, or, in the event of federal jurisdiction, the United States District Court for the Southern District of Florida. All of the parties to this Agreement have participated freely in the negotiation and preparation hereof. Accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

12. Insurance and Indemnification:

The DEVELOPER shall ensure that, at least ten (10) days prior to the commencement of any work, the selected contractor and any subcontractor provides to the COUNTY a certificate of commercial general liability insurance with a reputable insurance company subject to approval by the COUNTY'S risk manager in an amount not less than \$3,000,000 combined single limit for bodily injury and property damage in accordance with the COUNTY'S Administrative Policy Manual. The DEVELOPER shall ensure that, at least ten (10) business days prior to the commencement of any work the selected contractor and any subcontractor provides to the COUNTY a certificate of business auto liability insurance with a reputable insurance company subject to approval by the COUNTY'S risk manager in an amount not less than \$3,000,000 per occurrence combined single limit for bodily injury and property damage in accordance with the COUNTY'S Administrative Policy Manual. The commercial general liability and auto liability insurance policies shall name Indian River County, a political subdivision of the State of Florida, as an additional insured. In addition, the DEVELOPER shall ensure that, at least ten (10) business days prior to the commencement of any work the selected contractor and any subcontractor provides to the COUNTY a certificate of statutory workers' compensation insurance and employers' liability with a limit of \$100,000 for each accident, \$500,000 disease (policy limit) and \$100,000 disease (each employee) in accordance with the COUNTY'S Administrative Policy Manual. The DEVELOPER shall provide to the COUNTY at least thirty (30) days' written notice by registered mail, return receipt requested, addressed to the COUNTY'S risk manager, prior to cancellation or modification of any required insurance.

The DEVELOPER hereby releases and holds harmless the COUNTY, and the COUNTY'S officers, employees and agents, from and against any and all claims for damages, costs, third party claims, judgments, and expense to persons or property that may arise out of, or be occasioned by, any work contemplated by this agreement, or from any act or omission of any representative, agent, client, and/or employee of DEVELOPER, and DEVELOPER shall indemnify the COUNTY against any such claims and any judgments that may be entered in connection therewith, including attorney fees. DEVELOPER shall indemnify the COUNTY against any claim for damage that any utility, whether publicly or privately owned, may sustain or receive in connection with any work contemplated by this agreement. DEVELOPER shall not make any claim of any kind or character whatsoever against the COUNTY for damages that it may suffer by reason of the installation, construction, reconstruction, operation, and/or maintenance of

any public improvement, or utility, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water and/or sanitary sewer mains and/or storm sewer facilities, and whether such damage is due to flooding, infiltration, backflow, and/or seepage caused from the failure of any installation, natural causes, or from any other cause of whatsoever kind or nature. It is the intention of this indemnification agreement on the part of DEVELOPER, and a condition of this agreement, that it shall be full and total indemnity against any kind or character of claim whatsoever that may be asserted against the COUNTY. DEVELOPER hereby agrees to defend any and all suits, claims, and causes of action brought against the COUNTY arising out of or in connection with any work contemplated by this agreement, and DEVELOPER agrees to pay any judgment or judgments, including attorney fees, that may be rendered against the COUNTY or against the COUNTY'S officers, employees or agents in connection therewith.

13. Maintenance Security:

The DEVELOPER agrees to convey all right, title and interest in the aforementioned utility improvements to Indian River County, Florida, and provide security as set forth herein, subject to the COUNTY'S approval, for a period of one (1) year after the COUNTY'S acceptance of the improvements, plus an additional three (3) months, for an aggregate of fifteen (15) months. The maintenance security may only be in one of the following forms: (a) cash, whereupon the COUNTY and the Developer shall enter into the COUNTY'S standard Cash Escrow Deposit Agreement; (b) Letter of Credit, in the County's standard form, drawn and payable by a financial institution located within Florida; or (c) surety bond issued by a surety company licensed to do business in the State of Florida and having an A.M. Best rating of no less than A-VI. The value of the maintenance security shall be twenty-five percent (25%) of the total construction value of the utility improvements as certified by the Developer's licensed engineer and approved in writing by the County.

14. Multiple Counterparts:

This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) Agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party to be charged.

15. Permits:

The DEVELOPER shall be responsible for obtaining all construction and operating permits required for the construction, delivery, use and monitoring of the water distributed to and wastewater collected from the Subject Property. If, through no fault of the parties involved, any federal, state or local government or agency (excluding the COUNTY) fails to issue necessary permits, or fails to grant necessary approvals, or requires a material change in the system, then to the extent necessary and if possible, the parties agree to negotiate an amendment to the Agreement to reflect the change in condition. If the COUNTY determines that it is impossible or impracticable to perform under the terms of this Agreement because of the above, then COUNTY shall have the right to terminate this Agreement, and the parties shall have no further obligations to each other.

The DEVELOPER shall comply with reasonable requests by the COUNTY concerning on-site operations and maintenance prior to County acceptance including but not limited to all FDEP regulations relating to bacteriological and hydrostatic testing, cross connection control, monitoring, color-coding of water and wastewater equipment. DEVELOPER shall meet all necessary IRCDUS construction requirements, including the posting of the required security.

16. Recording of Agreement:

This Agreement, and any assignment, may be recorded in the official records of Indian River County by the COUNTY. If recorded, the DEVELOPER shall pay for all recording costs.

17. Severability / Invalid Provision:

If any provision of the Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid, or unenforceable provision or by its severance from this Agreement.

18. Term:

The term of this Agreement is five (5) years. Unless otherwise agreed to by the parties in writing, this Agreement shall not be renewed automatically for successive terms. Notwithstanding the foregoing, this Agreement shall be coterminous with FDEP Permit for construction and with the County's Utility Construction Permit, whichever provides a shorter time period, but shall be not more than five (5) years from the date of issuance. The County may terminate this Agreement early in its sole discretion if it determines that the development project intended to be served by the improvements is suspended or discontinued.

19. Time of Essence:

Time is of the essence of this Agreement; however, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the State of Florida, then, in such event, the time of such period shall be extended to the next business day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the COUNTY and the DEVELOPER have accepted, made, and executed this Agreement as follows:

DEVELOPER: Vero Beach MOB, LLC.

\_\_\_\_\_  
Witness Signature

By: \_\_\_\_\_

\_\_\_\_\_  
Witness Printed Name

Printed name: Patrick Marston  
Vero Beach MOB, LLC.  
Its Managing Member

\_\_\_\_\_  
Witness Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Witness Printed Name

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, \_\_\_\_\_ of Vero MOB, LLC., who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Name: \_\_\_\_\_  
Commission # \_\_\_\_\_  
Expiration Date \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
INDIAN RIVER COUNTY, FLORIDA

Attest: \_\_\_\_\_  
Jeffery R. Smith, Clerk of the Circuit Court

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Susan Adams, Chairman

BCC Approved: \_\_\_\_\_

Approved as to Form and Legal Sufficiency

Approved by:

\_\_\_\_\_  
County Attorney

\_\_\_\_\_  
Jason E. Brown, County Administrator

**EXHIBIT - A**  
**Legal Description**

A PARCEL IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 32 SOUTH, RANGE 39 EAST. INDIAN RIVER COUNTY, FLORIDA, LYING WEST OF INDIAN RIVER BOULEVARD AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE SOUTH 00 DEGREES 12 MINUTES 45 SECONDS WEST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 413.25 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF INDIAN RIVER BOULEVARD; THENCE SOUTH 44°52'02" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1292.33 FEET, TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE SOUTH 89°56'21" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 915.10 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE NORTH 00°12'45" EAST, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 916.91 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH

THOSE LANDS RECORDED IN OFFICIAL RECORDS BOOK 1040, PAGE 436 OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AN ACCESS EASEMENT FOR INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED REAL PROPERTY:  
A PARCEL OF LAND SITUATED IN PART OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 25 OF TOWNSHIP 32 SOUTH, RANGE 39 EAST. BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 25 OF TOWNSHIP 32 SOUTH, RANGE 39 EAST, INDIAN RIVER COUNTY, FLORIDA, RUN SOUTH 89° 52' 41" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER A DISTANCE OF 411.03 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN SOUTH 44° 56' 05" EAST A DISTANCE OF 1.83 FEET; THENCE RUN SOUTH 46° 47' 31" WEST A DISTANCE OF 127.63 FEET; THENCE RUN NORTH 44°57' 30" WEST A DISTANCE OF 124.78 FEET TO THE SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER; THENCE RUN NORTH 89° 52' 41" EAST ALONG SAID NORTH LINE A DISTANCE OF 42.31 FEET; THENCE RUN SOUTH 44° 57' 30" EAST A DISTANCE OF 45.84 FEET; THENCE RUN NORTH 46° 47' 31" EAST A DISTANCE OF 47.59 FEET TO THE SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER; THENCE RUN NORTH 89° 52' 41" EAST ALONG SAID NORTH LINE A DISTANCE OF 70.51 FEET TO POINT OF BEGINNING.

AND

A DRAINAGE EASEMENT OVER THE FOLLOWING DESCRIBED REAL PROPERTY:  
A PARCEL OF LAND SITUATED, IN PART OF THE SOUTHEAST ONE-QUARTER OF SOUTHWEST ONE-QUARTER OF SECTION 25 OF TOWNSHIP 32 SOUTH, RANGE 39 EAST. BEING MORE FULLY DESCRIBED AS FOLLOWS:

**EXHIBIT - A**  
**Legal Description**

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 25 OF TOWNSHIP 32 SOUTH, RANGE 39 EAST, INDIAN RIVER COUNTY, FLORIDA RUN SOUTH 89° 52' 41" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER A DISTANCE OF 411.03 FEET TO THE WEST RIGHT-OF-WAY LINE OF INDIAN RIVER BLVD. (200 FEET WIDE RIGHT-OF-WAY) AND POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN SOUTH 44° 56' 05" EAST ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 250.09 FEET; THENCE RUN SOUTH 44° 56' 52" WEST A DISTANCE OF 20.00 FEET; THENCE RUN NORTH 44° 56' 05" WEST AND PARALLEL TO THE SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 228.80 FEET; THENCE RUN SOUTH 45° 03' 55" WEST A DISTANCE OF 30.33 FEET; THENCE RUN NORTH 66° 43' 15" WEST A DISTANCE OF 127.40 FEET TO THE AFOREMENTIONED NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER; THENCE RUN NORTH 89° 52' 41" EAST ALONG SAID NORTH LINE A DISTANCE OF 137.59 FEET TO THE POINT OF BEGINNING.

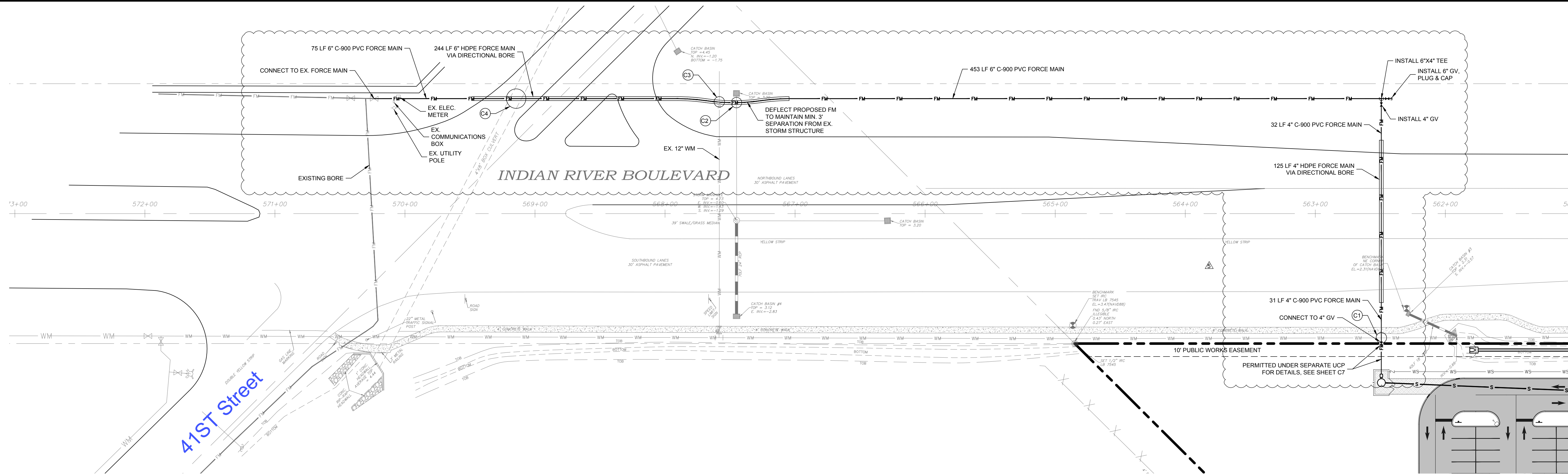
SUBJECT TO

AN ACCESS EASEMENT FOR INGRESS AND EGRESS RECORDED OFFICIAL RECORD BOOK 1040, PAGE 434, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN PART OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 25 OF TOWNSHIP 32 SOUTH, RANGE 39 EAST. BEING MOREFULLY DESCRIBED AS FOLLOWS:

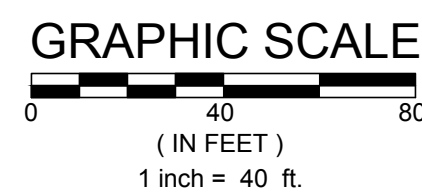
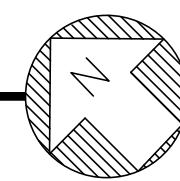
COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 25, TOWNSHIP 32 SOUTH, RANGE 39 EAST, INDIAN RIVER COUNTY, FLORIDA RUN SOUTH 89° 52' 41" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER A DISTANCE OF 411.03 FEET TO THE WEST RIGHT-OF-WAY LINE OF INDIAN RIVER BLVD. (200' WIDE RIGHT-OF-WAY) AND POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN SOUTH 89° 52' 41" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER, A DISTANCE OF 70.51 FEET; THENCE RUN NORTH 46° 47' 31" EAST A DISTANCE OF 50.05 FEET TO THE SAID WEST RIGHT-OF-WAY LINE OF INDIAN RIVER BLVD.; THENCE RUN SOUTH 44 ° 56' 05" WEST ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 48.19 FEET TO THE POINT OF BEGINNING.





**OFF-SITE UTILITIES PLAN**

SCALE: 1" = 40'



CONFLICT TABLE						
CONFLICT NUMBER	GROUND ELEV.	UPPER PIPE	UPPER PIPE BOTTOM	LOWER PIPE	LOWER PIPE TOP	SEP.
1	3.8	16" WM	(-)0.5	4" FM	(-)1.5	1.0'
2	3.2	STORM	-	6" FM	-	1.0'
3	3.2	12" WM	(-)0.8	6" FM	(-)1.8	1.0'
4	-	4'x8' BOX CULVERT	(-)2.0	6" FM	(-)3.0	1.0'

**Exhibit B**

**LEGEND**

- EXISTING CONCRETE
- EXISTING ASPHALT
- PROPOSED ASPHALT
- PROPOSED CONCRETE
- CONFLICT NUMBER

**PERMIT REVIEW  
NOT FOR CONSTRUCTION**

NO.	DATE	REVISIONS
8	08-23-19	1 PER TRC COMMENTS
7	11-28-19	2 PER TRC COMMENTS
6	02-24-20	3 PER TRC COMMENTS
5	02-25-20	4 PER TRC COMMENTS
4	03-19-20	5 PER IRC ENGINEERING

DATE ISSUED	CHECKED	DATE	DESIGNED	JOB NO.
4/2/2020	AJB	APRIL 2019	GWR	19-0021

**MBV ENGINEERING, INC.**  
MOIA BOWLES VILLAMIZAR & ASSOCIATES  
CONSULTING ENGINEERING CA #3728  
1804 SOUTH STREET  
MOBILE, AL 36688-2510  
TEL: (251) 844-2510  
FAX: (251) 844-2517

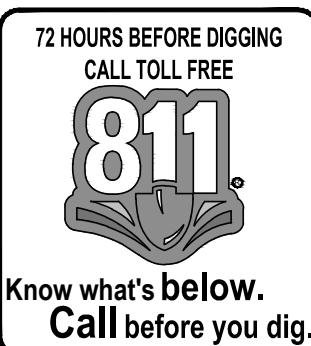
**OFF-SITE UTILITIES PLAN**

VERO BEACH MOB, LLC  
INDIAN RIVER COUNTY  
FLORIDA

AARON J. BOWLES  
LICENSE  
No. 55313  
STATE OF FLORIDA  
PROFESSIONAL ENGINEER

SHEET  
**C8**  
19-0021

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**Exhibit C - Estimate of Construction Cost**  
**Vero Beach MOB Offsite Forcemain**

Bid Item No.	Bid Item Description	Estimated Quantity	Unit of Measure	Unit Price	Total Price
<b>6" Forcemain</b>					
1	6" PVC Forcemain (DR18)	475	lf	\$30.00	\$14,250.00
2	6" HDD (inc HDPE, Fusing, & Bentonite Removal)	310	lf	\$31.50	\$9,765.00
3	6" MJ Adaptor	2	ea	\$600.00	\$1,200.00
4	6" Gate Valve w/ Cap & Restraints	1	ea	\$2,000.00	\$2,000.00
5	4" HDD (inc HDPE, Fusing, & Bentonite Removal)	150	lf	\$25.50	\$3,825.00
6	4" MJ Adaptor	2	ea	\$500.00	\$1,000.00
7	4" Gate Valve	1	ea	\$1,156.10	\$1,156.10
8	HDD Contractor Mobilization	1	ea	\$575.00	\$575.00
<b>Total Construction Cost:</b>					<b>\$33,771.10</b>
<b>IRCDUS Share (19%):</b>					<b>\$6,416.51</b>
<b>Developer's Share (81%):</b>					<b>\$27,354.59</b>