

Prepared by and after recording return to:

Jennifer W. Shuler, Esq.
Indian River County
1801 27th St., Building A
Vero Beach, Florida 32960

SEPTIC TANK ENCROACHMENT AGREEMENT

THIS SEPTIC TANK ENCROACHMENT AGREEMENT (“**Agreement**”) is made this ____ day of November 2024 by and between Indian River County, a political subdivision of the State of Florida (“**County**”), whose address is 1801 27th Street, Vero Beach, Florida 32960, and Jack R. Kown (“**Owner**”), whose address is 425 11th Court, Vero Beach, Florida 32962. The County and Owner are sometimes individually referred to herein as a “**Party**” and collectively as the “**Parties.**”

Recitals

WHEREAS, the Owner owns that certain real property located at 425 11th Court, Vero Beach, Indian River County, Florida having Indian River County Parcel Identification Number 33391300012000100011.0 (“**Property**”);

WHEREAS, the Property contains a platted drainage easement and the County has a right to said easement (“**Easement**”);

WHEREAS, the Easement contains a stormwater pipe for the purposes of providing drainage conveyance;

WHEREAS, Owner’s existing septic tank encroaches onto the County Property (“**Encroachment**”) as reflected on the drawing attached hereto as Exhibit A and by this reference made a part hereof (“**Encroachment Area**”); and

WHEREAS, Owner has requested consent from the County to keep, maintain, and repair but not replace the Encroachment upon the County Property within the Encroachment Area, and the County is willing to grant such consent upon the terms and conditions hereafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth in this Agreement, Owner and the County hereby agree as follows:

1. Recitals. The Parties agree that the foregoing recitals are true and correct and are incorporated herein by this reference.

2. Encroachment. The County hereby consents for Owner to keep, maintain, and repair but not replace the Encroachment in the Easement within the Encroachment Area, subject to compliance with the following terms and conditions:

a. Any maintenance on the Encroachment shall not impact the drainage pipe within the Easement.

b. Owner will repair any damage to the drainage pipe resulting from maintenance of the Encroachment during the term of this Agreement, unless such damage is caused by the County's negligence or misconduct.

c. Except as to the Encroachment, Owner shall not construct any additional improvements of any kind within the confines of the Encroachment Area or the Easement.

d. Notwithstanding the foregoing, in the event the Encroachment is destroyed or damaged and in need of replacement, now or in the future at any time, the Encroachment must be removed from the Easement and any replacement must be installed or constructed outside of the Easement.

3. Termination. The County may terminate this Agreement at any time upon at least one (1) year's prior written notice to Owner. Owner may terminate this Agreement at any time upon at least thirty (30) days' prior written notice to the County.

4. Removal; Restoration. Upon the termination of this Agreement, upon the County's written request, Owner shall remove the Encroachment and restore the Encroachment Area, normal wear and tear excepted.

5. Liability and Indemnification. The County shall in no way be liable or responsible for any accident or damage that may occur in conjunction with any of the activities described in this Agreement, unless caused by the County's negligence or misconduct. Owner shall defend, hold harmless and indemnify the County with respect to any and all actions, causes of action, liabilities, losses, damages or expenses (including reasonable attorneys' fees) arising out of or relating to any negligence, intentional misconduct, breach of this Agreement or breach of applicable law by Owner in conjunction with any of the activities described in this Agreement, unless caused by the County's negligence or misconduct; provided, however, in no event shall Owner be liable for any consequential, special, exemplary, punitive, indirect or incidental losses or damages. This section shall survive the termination of this Agreement with respect to any acts or omissions occurring prior to the date of termination.

6. Complete Agreement. This Agreement represents the complete and integrated agreement of the Parties with respect to the subject matter herein and supersedes all prior oral or written agreements.

7. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, each shall have all remedies available at law or in equity.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

9. Counterparts. This Encroachment Agreement may be executed in counterparts, each of which when conformed shall be an original and all of which together shall constitute a single document.

[Remainder of page intentionally left blank; Signature pages and Acknowledgements follow]

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of the date and year first above written.

ATTEST:

**RYAN L. BUTLER
CLERK & COMPTROLLER**

**INDIAN RIVER COUNTY, a political
subdivision of the State of Florida**

By: _____
Deputy Clerk

By: _____
Its: _____
Print Name: _____

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND
CONDITIONS**

By: _____
Jennifer Shuler, County Attorney

By: _____
Department Director

WITNESSES:

Owner:

Sign: _____

Sign: _____

Jack R. Kown

Print: _____

Address: _____

Sign: _____

Print: _____

Address: _____

ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by Jack R. Kown.

[NOTARIAL SEAL]

Notary: _____

Print Name: _____

Notary Public, State of Florida

My commission expires: _____

Personally Known OR Produced

Identification/Type of Identification

Produced _____

Exhibit A
Encroachment Area