

CONSENT

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**AGENDA REPORT
November 21, 2017**

SUBJECT:

Interlocal agreement with the City of Cocoa Beach for 800 MHz public safety radio tower siting

FISCAL IMPACT:

There will be no impact to the General Fund. The cost of tower construction and site development is covered under the 800 MHz expansion and enhancement project, approved by the Board in 2013.

DEPT/OFFICE:

Emergency Management

REQUESTED ACTION:

It is requested that the Board of County Commissioners authorize the County Manager or his designee to negotiate and establish an interlocal agreement with the City of Cocoa Beach for an 800 MHz radio tower off Tom Warriner Blvd. on City property that will become part of the 800 MHz Public Safety Radio Network administered by Emergency Management. It is further requested that the County Manager or his designee be authorized to sign/execute any documents and renewals on behalf of the Board as may be required to execute/administer any modification to the agreement and any subsequent extensions, subject to approval by the County Attorney's Office.

SUMMARY EXPLANATION and BACKGROUND:

The Brevard County 800 MHz Public Safety Radio System was built over 25 years ago as a four-multisite EDACS trunked system utilizing Harris Corporation technology. The system supports 70 county and local agencies, and provides interoperability with the State of Florida Law Enforcement Radio System (SLERS) and Florida Region V. In 2013, Emergency Management received funding to expand and improve this outdated radio system for better signal coverage. The project requires upgrading the 4-site multisite system to a 3-cell simulcast system: North, South and Beach. The North area and South area simulcast sections have been completed. In the last phase of the project, a new tower was erected in Indian Harbour Beach, on City-owned property; a site within the City of Cocoa Beach area is required to complete the Beach area simulcast and fill in the radio coverage gaps on the Central/North area of the barrier islands. The selected property was unanimously approved by the Cocoa Beach City Commission on June 16, 2017.

CLERK TO THE BOARD INSTRUCTIONS:

Please send Clerk Memorandum to Emergency Management along with one (1) set of copies.

ATTACHMENTS:

Description

No Attachments Available

REVIEWERS:

Department

No Reviewers Available

Reviewer

Action

County Manager

Frank Abbate

Frank Abbate

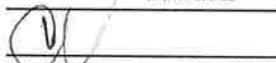
**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: City of Cocoa Beach	
2. Fund/Account #: 0031/220700	3. Department Name: Emergency Management
4. Contract Description: Interlocal Agreement with Cocoa Beach for 800 MHz Tower	
5. Contract Monitor: Lisa Morgan	7. Contract Type:
6. Dept/Office Director: Kimberly Prosser	INTERGOVT/LOCAL

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Prosser, Kimberly <small>Kimberly Prosser, Director of Emergency Management, 11/16/2017</small>	11/16/2017
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lairsey, Matt <small>Matt Lairsey, Director of Risk Management, 11/17/2017</small>	11/17/2017
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>		11/17/17

SECTION III - REVIEW AND APPROVAL TO EXECUTE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Data (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

November 22, 2017

M E M O R A N D U M

TO: Kimberly Prosser, Emergency Management Office Director

RE: Item II.C.3., Interlocal Agreement with City of Cocoa Beach for 800MHz Public Safety Radio Tower Siting

The Board of County Commissioners, in regular session on November 21, 2017, authorized the County Manager, or his designee, to negotiate and establish an interlocal agreement with the City of Cocoa Beach for an 800MHz radio tower off Tom Warriner Boulevard, on City property that will become part of the 800MHz Public Safety Radio Network administered by Emergency Management; authorized the County Manager, or his designee, to be authorized to execute any documents and renewals on behalf of the Board of Commissioners, as may be required to execute/administer any modification to the agreement and any subsequent extension, subject to approval by the County Attorney's Office. Enclosed are three fully-executed Interlocal Agreements for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

Encls. (3)

cc: County Manager
Contracts Administration
Finance
Budget

**INTERLOCAL AGREEMENT REGARDING CONSTRUCTION, LOCATION AND USE
OF A PUBLIC SAFETY COMMUNICATIONS TOWER**

This is an agreement, made and entered into by and between BREVARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

AND

the CITY OF COCOA BEACH, a municipal corporation of the State of Florida hereinafter referred to as "CITY."

WHEREAS, the CITY has been approached by Brevard County concerning the use of the City property described herein (the "Property") for the construction of a Public Safety Communications Tower Site; and,

WHEREAS, a Public Safety Communications Tower (the "Tower") is considered a public utility facility and allowable in the Public and Semi-Public (PS – 1) zoning district; and

WHEREAS, the Property is currently zoned PS – 1 and there is a forty - five (45) foot maximum height restriction for buildings citywide but the Tower does not include a building that exceeds 45 feet; and

WHEREAS, representatives of Brevard County appeared before the City Commission and presented substantial evidence justifying the need for such a tower due to gaps in public safety communications putting City and County residents and emergency service personnel at risk; and,

WHEREAS, the current Brevard County public safety radio system was a 4-tower multi-site system and is being expanded and enhanced to become a 9- tower simulcast system, including the construction and installation of a tower in the City of COCOA BEACH to aid in relieving this gap in public safety communications service; and,

WHEREAS, it promotes the public welfare of the residents located in the City and the County if the two entities work together to provide adequate public safety communications; and

WHEREAS, the Property is the only public location that could support the proposed tower by Brevard County and provides enough separation from property lines and is considered the best location on public property to enhance the proposed 9 tower simulcast system; and,

WHEREAS, the proposed monopole tower is two hundred fifty (250) feet and includes a twenty five (25) foot antenna for a total height of two hundred seventy five (275) feet; and,

WHEREAS, both the COUNTY and the CITY acknowledge that the tower height exceeds the allowable building height in the City, but the Tower will not include a building that exceeds 45 feet, and that the proposed height is required to provide public safety communications to the entire CITY; and,

WHEREAS, both the COUNTY and the CITY approve the proposed height and acknowledge that approval as part of this interlocal agreement

WHEREAS, on July 20, 2017 the City of COCOA BEACH City Commission approved this agreement; and,

WHEREAS, it is the purpose and intent of this Agreement for COUNTY and CITY to provide for a means by which each governmental entity may exercise cooperatively its respective powers and privileges in order to further a common goal; and

WHEREAS, the CITY covenants and agrees that the County's emergency communications system is the primary function of this telecommunications facility and shall take precedence over any other use of the Property; and

WHEREAS, this Agreement is an interlocal agreement entered into pursuant to Section 163.01, Florida Statutes, and the Florida Intergovernmental Cooperation Act of 1969, amended. Prior to the effectiveness of any provisions of this Agreement and any amendments hereto, this Agreement including any amendments shall be filed as provided by Section 163.01; and

WHEREAS, the COUNTY has requested the use of CITY property for the installation of a Public Safety Communications Tower Site; and,

WHEREAS, the CITY wishes to participate in the project by providing the property necessary for the installation of the Tower and associated facilities, and

WHEREAS, the facilities to be located on the Property are to be administered by the Office of Emergency Management on behalf of the County for the purpose of supporting the county-wide public safety radio communications network; and

WHEREAS, the facilities and related structures at this location shall remain solely property of Brevard County; and

WHEREAS, the CITY is willing to permit the COUNTY to use the Property as a site for a Public Safety Communications Tower Site pursuant to the terms and conditions hereinafter set forth;

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, CITY and COUNTY agree to perform the following acts and to be bound by the following statements:

ARTICLE 1 DEFINITIONS AND IDENTIFICATIONS

The following terms are defined as set forth herein unless the context affirmatively dictates to the contrary.

1.1 "Agreement" - means this document, articles 1 through 7 inclusive. Other terms and conditions are included in the attachments and documents that are expressly incorporated by reference.

1.2 "Board" - The Brevard County Board of County Commissioners.

1.3 "City Contract Administrator" - The City of COCOA BEACH City Manager or his/her designee will be the City Contract Administrator. The primary responsibilities of the City Contract Administrator are to coordinate and communicate with COUNTY and to manage and supervise execution and completion of the Scope of Agreement and terms and conditions of this Agreement as set forth herein.

1.4 "County Contract Administrator" - The Brevard County Manager, his/her designee, is the County Contract Administrator. The primary responsibilities of the County Contract Administrator are to coordinate and communicate with CITY and to manage and supervise the execution and completion of the Scope of Agreement and terms and conditions of this Agreement as set forth herein.

ARTICLE 2 SCOPE OF AGREEMENT

2.1 COUNTY LEASE OF PROPERTY. The CITY and COUNTY agree that the COUNTY shall lease the Property described in Attachment A attached hereto and made a part hereof. The term of the lease shall be 20 years ("Initial Term") commencing upon the date the Tower Facilities (as defined later on herein) are completed and the annual lease payment from the COUNTY to the CITY shall be one dollar (\$1.00) paid on January 1st of each year and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged. Unless terminated and as long as the COUNTY is not in breach of this Agreement the lease term shall automatically renew ("Renewal Term or Renewal Terms") for the same duration as the Initial Term unless a different term is agreed upon by the parties. All Renewal Terms shall be governed by the provisions of this agreement unless modified by the parties. Nothing herein is intended to prohibit successive Renewal Terms.

2.2 SITE PLAN. The Site Plan attached hereto as Attachment B includes the detailed site plans and plans and specifications, including monopole structural specifications and certification that the monopole structure meets or exceeds the wind load requirements for the CITY, setting forth the proposed tower and antenna and other equipment, the height and location of such equipment, the equipment shelters related to the use of the equipment on the portion of the Property so designated for such placement and other work performed on the Tower and Property. Any deviation from the referenced Equipment to be installed as set forth in Attachment B may be made only with the prior written consent of the CITY.

2.3 TITLE AND QUIET POSSESSION. The CITY represents and agrees (a) that it is the owner of the Property; (b) that it has the right to enter into this Agreement; and (c) that the person signing this Agreement for the CITY has the authority to sign.

2.4 OWNERSHIP AND REMOVAL OF IMPROVEMENTS. Landscaping installed and all other similar improvements made by the COUNTY shall become the property of the CITY upon expiration or termination of this Agreement. The tower, building, antennas, equipment, conduits, fixtures and personal property shall remain the property of the COUNTY.

The COUNTY shall, upon expiration or termination of this Agreement, remove its building, antennas, equipment, conduits, fixtures and all personal property. In the event that the CITY requires removal of such improvements upon expiration or earlier termination of this Agreement, such removal shall be accomplished at the sole expense of the COUNTY and shall be completed within 90 days after receiving written notice from the CITY that it requires removal of the improvements. In the event that the equipment is not removed by the COUNTY as required by this paragraph, such equipment/facilities shall become the property of the CITY upon the expiration of the ninety (90) calendar days.

2.5 USE. The CITY hereby grants the COUNTY the non-exclusive right to use the Property for the transmission and receipt of wireless communication signals in any and all frequencies and the construction, operation, and maintenance of the tower, antennas, buildings, and related facilities and activities, except guy wires, and all other uses permitted under applicable zoning regulations ("Intended Use"). Provided; however, that the CITY grants to the COUNTY the exclusive right to use that portion of the Property described in Attachment A for the actual site of the Tower. The COUNTY intends to construct, as part of the improvements, a telecommunication tower (monopole) and associated antennae of a height not to exceed the total height of two hundred seventy five (275) feet. All such construction shall be in accordance with EIA/TIA222G, Category III standards for government emergency radio communications specifications. CITY agrees to cooperate with COUNTY in obtaining, at COUNTY'S expense, all licenses and permits required for COUNTY'S use of the Property (the "Governmental Approval"). COUNTY may construct additional improvements, demolish and reconstruct improvements, or restore, replace and reconfigure improvements at any time during the Initial Term or any Renewal Term of this Lease, with prior written notice to and subsequent written consent from the CITY; provided, however, no building built in conjunction with the Tower shall exceed forty-five (45) feet in height. All such improvements and/or reconstruction shall conform to all applicable federal, state, agency and local codes, regulations, rules and the provisions of this agreement. Nothing herein shall be deemed a waiver of any City of COCOA BEACH code requirements, including but not limited to, permitting requirements and previously approved plans. COUNTY shall have no right to create or cause a lien or encumbrance on the Property and that the interest of the CITY shall not be subject to liens for improvements made by the COUNTY, and that the COUNTY shall notify any contractor making such improvements of this provision of the Agreement.

2.6 IMPROVEMENTS UTILITIES: ACCESS.

(a) COUNTY shall have the right at COUNTY's sole cost and expense, to erect and maintain on the Property improvements, personal property and facilities, including without limitation, one tower, and one structural tower base, radio transmitting and receiving antennas, communications equipment, equipment cabinet and/or shelters and related facilities, except guy wires (collectively the "Tower Facilities"), provided that no building associated with the Tower shall exceed forty-five (45) feet in height. CITY grants COUNTY the right to clear all trees, undergrowth, or other obstructions and to trim, cut, and keep trimmed and cut all tree limbs to the Property necessary to construct the Tower Facilities which may interfere with or fall upon COUNTY's tower or COUNTY's other improvements, communications equipment or easement rights. CITY grants COUNTY a non-exclusive easement (as described in subsection (d) below) in, over, across and through other real property owned by CITY as reasonably required for construction, installation, maintenance, and operation of the Tower Facilities.

(b) COUNTY shall have the right to install utilities, at COUNTY's expense, and to improve present utilities on the Property (including but not limited to the installation of emergency power generators). COUNTY shall have the right to permanently place utilities on (or to bring utilities across or under) the Easement(s) to service the Leased Premises and the Tower Facilities. All utilities shall be installed underground. In the event that utilities necessary to serve the equipment of COUNTY or the equipment of COUNTY's licensee(s) or sublessee(s) cannot be located within existing easement(s) for ingress and egress, CITY agrees to cooperate with COUNTY and grant such easements as are reasonably necessary to provide utility services to the Property. CITY shall, upon COUNTY's request, execute a separate written easement to the utility company providing the service for COUNTY in a form which may be filed of record evidencing this right.

(c) CITY represents and warrants to COUNTY that COUNTY, and its employees, agents, subcontractors, and licensees shall, at all times during this Agreement, enjoy ingress, egress, and access from the Property to an open and improved public road which presently exists, and which easement(s) shall be adequate to service the Property and the Tower Facilities. If no such public road exists, or ceases to exist in the future, CITY will grant an appropriate easement to COUNTY, COUNTY's sublessees and licensees so that COUNTY may, at its own expense, construct a suitable private access drive to the Property and the Tower Facilities. To the degree such access is across other property owned by CITY, CITY shall execute an easement evidencing this right and CITY shall maintain access to the easement(s) in a free and open condition. CITY, other lessees, licensees, invitees or agents of the CITY which may utilize the easement(s) shall cause no interference to the easement(s). CITY shall provide such access to the Property across CITY's adjacent property, and over all paved or unpaved roads owned or controlled by CITY, to allow COUNTY, or its sublessees, to use, maintain and repair the improvements located on the Leased Premises. Such access shall be provided twenty-four (24) hours per day, seven (7) days per week.

(d) INGRESS/EGRESS EASEMENT. The CITY hereby grants the COUNTY a non-exclusive ingress/egress easement to the Property, depicted on **Attachment A** and on **Attachment A1** attached hereto. COUNTY agrees to construct the easement at its sole cost and the maintenance and repair of the easement shall, be the responsibility of the COUNTY. A copy of the easement is attached hereto as **Attachment C** and further described in **Attachment C1**. CITY agrees to maintenance/repair of the 20-foot easement, AKA Tom Warriner Boulevard. COUNTY agrees to maintenance/repair of the 15-foot access easement to the tower.

2.7 IMPROVEMENTS: LANDSCAPING. COUNTY shall maintain perimeter landscaping in compliance with COCOA BEACH Land Development Regulations. In addition, COUNTY shall adhere to any and all applicable land development regulations.

2.8 SITE SUITABILITY. COUNTY shall be solely responsible for determining the suitability of the Property for the uses defined herein.

2.9 ADDITIONAL COUNTY IMPROVEMENTS. In addition to the other improvements required of the COUNTY, other required improvements shall include the following:

(a) Diesel fuel storage not to exceed three hundred seventy two (372) gallons and shall include an approved containment system.

(b) Security fence shall be eight (8) feet in height with an additional two (2) feet offset for a total height of 10 feet. No barbed wire will be utilized.

(c) No building on the site shall exceed forty-five (45) feet in height.

2.10 CO-LOCATE/PAYMENTS. In the event that the COUNTY leases or issues licenses for tower/ground space to wireless communications service providers, then the COUNTY shall pay to the CITY a share of the net income from the tenants/licensees as follows:

(a) For the first five-year term, fifteen (15%) percent from the first tenant and twenty five (25%) percent from the second tenant and all tenants thereafter; with a five (5%) percent increase from each tenant/licensee every five (5) years.

(b) The City's percentage shall be calculated on the sum remaining (net sum) each year after property taxes, insurance costs, maintenance costs, repair costs, reconstruction costs, and other costs of operation, and that portion of the County's annual actual construction cost of the tower (as amortized over a period of twenty (20) years) are deducted from the lease payments/licensee payments.

(c) The COUNTY shall remit any payment due to the CITY at the end of each quarter of the fiscal year (December 31, March 31, June 30 and September 30).

ARTICLE 3
EFFECTIVENESS; TERM AND TIME OF PERFORMANCE

3.1 This Agreement shall become effective only upon execution by all parties and filing with the Clerk of Courts as required by Section 163.01(11), Florida Statutes.

3.2 Time shall be deemed of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

3.3 Neither the CITY nor the COUNTY may terminate this agreement for any reason whatsoever until after the Initial Term. After the Initial Term either party may terminate this Agreement with at least 90 days prior written notice of termination to the other party.

ARTICLE 4
CHANGE IN SCOPE OF SERVICES

Any change of the Scope of Services must be by a written amendment, executed by CITY and COUNTY in accordance with Section 7.10 below. Notwithstanding the forgoing, the CITY Contract Administrator and the COUNTY Contract Administrator may from time to time in writing jointly agree to procedures to implement this Agreement.

ARTICLE 5
GOVERNMENTAL IMMUNITY

CITY is a municipality as defined in Section 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by CITY to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by CITY to be sued by third parties in any matter arising out of this Agreement or any other contract. Likewise, COUNTY is a political subdivision of the State of Florida, as defined in Section 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by COUNTY to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by COUNTY to be sued by third parties in any matter arising out of this Agreement or any other contract.

**ARTICLE 6
TERMINATION**

6.1 This Agreement may be terminated for cause by vote of the COUNTY or CITY'S governing body if, after written notice from the contract administrator of the aggrieved party, the party in breach has not corrected the breach within thirty (30) days of receiving such notice; provided, however, that if the nature of the breach is such that it cannot be corrected within thirty (30) days, the aggrieved party may terminate this Agreement pursuant to this provision only if the party in breach has failed to commence action to correct the breach within thirty (30) days of receiving such notice and thereafter diligently pursues action to promptly correct the breach.

6.2 Any written notice given pursuant to this Article shall be provided in accordance with the "NOTICES" section of this Agreement. A notice of termination for breach shall specifically identify the breach and such notice shall be provided in accordance with the "NOTICES" section of this Agreement.

**ARTICLE 7
MISCELLANEOUS**

7.1 UNLAWFUL DISRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES. Neither CITY nor COUNTY shall unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. CITY and COUNTY shall comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by this Agreement including, without limitation, Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. CITY and COUNTY decisions regarding the delivery of services under this Agreement shall be made without unlawful regard to or unlawful consideration of race, age, religion, color, gender, national origin, marital status, physical or mental disability, political affiliation, and without regard to or consideration of any other factor which cannot be lawfully used as a basis for service delivery.

7.2 INDEPENDENT CONTRACTOR. CITY and COUNTY are independent contractors under this Agreement. Service provided by CITY pursuant to this Agreement shall be subject to the supervision of CITY and services provided by COUNTY pursuant to this Agreement shall be subject to the supervision of COUNTY. In providing such services, the CITY, its officers, employees, or agents are not authorized to and shall not act as officers, employees, or agents of COUNTY and the COUNTY, its officers, employees, or agents are not authorized to and shall not act as officers, employees, or agents of CITY. This Agreement shall not constitute or make the parties hereto a partnership or joint venture.

7.3 THIRD PARTY BENEFICIARIES. Neither CITY nor COUNTY intends to directly or substantially benefit a third party by this Agreement. The parties expressly acknowledge that it is not their intent to create any right in or obligations to any third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

7.4 NOTICES. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

County Manager
2725 Judge Fran Jamieson Way
Building "C"
Viera, Florida 32940

With a copy to

Director, Emergency Management
1746 Cedar Street
Rockledge, FL 32955

FOR CITY:

City Manager
2 South Orlando Ave.
Cocoa Beach, FL 32931

7.5 COMPLIANCE WITH LAWS. CITY and COUNTY shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing their respective duties, responsibilities, and obligations pursuant to this Agreement.

7.6 ASSIGNMENT. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party without the written consent of the contract administrator of the other party.

7.7 SEVERANCE. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7.8 GOVERNING LAW AND VENUE. This Agreement shall be governed, interpreted, and construed according to the laws of the State of Florida. Venue for any legal action by any party to this Agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury.

7.9 ATTORNEY'S FEES. In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

7.10 MODIFICATIONS TO CONTRACT. This Agreement, together with any Attachments, constitutes the entire contract regarding the listed municipal services between the COUNTY and CITY and supersedes all oral understandings regarding these services. This Agreement and any Attachments may only be amended, supplemented, or canceled by a written instrument duly executed by the parties hereto.

7.11 CITY'S LAWS. Nothing contained in this Agreement shall constitute a waiver of CITY'S legislative, governmental, or police powers nor shall this Agreement prohibit or restrict CITY in promoting and protecting the health, safety, and welfare of CITY and its inhabitants.

7.12 RECORDING. This Agreement shall be recorded in the Official Records of Brevard County, Florida.

7.13 RECORDS

(a) The CITY and COUNTY shall maintain at all times, complete detailed records with regard to work performed under this Agreement. The CITY and COUNTY will maintain complete file(s) on all projects, available for inspection by each other or the general public, at City Hall or the Brevard County Emergency Operations Center containing documentation of records related to this Agreement, the Services performed pursuant to this Agreement, and individual work or permits considered pursuant to this Agreement. Said records are classified as "public records" as that term is defined herein. With regard to any records maintained by the CITY and/or COUNTY relating to this Agreement or the Services performed pursuant to this Agreement, each shall have the right to inspect said records with reasonable notice to the other. All such records shall be maintained according to applicable law.

(b) Any public records created by either party for accounting purposes, management of this Agreement, or otherwise, which documents would be classified as a public record will be open to the each party hereto for inspection and copying during regular business hours. The reasonable cost of preparing and photocopying the documents is waived.

7.14 GOVERNMENTAL IMMUNITY. The city is a municipality as defined in Section 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by the CITY to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by the CITY to be sued by third parties in any matter arising out of this Agreement or any other contract. Likewise, the COUNTY is a political subdivision of the State of Florida, as defined in Section 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by the COUNTY to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by COUNTY to be sued by third parties in any matter arising out of this Agreement.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature:

THE COUNTY

CITY OF COCOA BEACH

Brevard County Board of County Commissioners, A Political subdivision of the State of Florida

By: 

By: 
Ben Malik, Mayor,
City of Cocoa Beach

Date: NOV 21 2017

Date: November 13, 2017

As approved by the Board on:

As approved by the City Commission on:

November 21, 2017
Date:

July 20, 2017
Date:

Reviewed for legal form and content:

Reviewed for legal form and content:

Christine Valliere
Assistant County Attorney

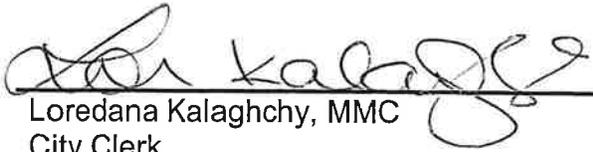

Gretchen R. H. Vose, Esq.
City Attorney

SEAL

ATTEST/AUTHENTICATED:

ATTEST:


Clerk of the Board of County Commissioners of Brevard County, FL
Scott Ellis


Loredana Kalaghchy, MMC
City Clerk

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature:

THE COUNTY

CITY OF COCOA BEACH

Brevard County Board of County Commissioners, A Political subdivision of the State of Florida

By: _____

By: 
Ben Malik, Mayor,
City of Cocoa Beach

Date: _____

Date: November 13, 2017

As approved by the Board on:

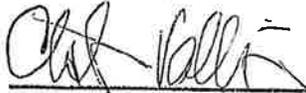
As approved by the City Commission on:

Date:

July 20, 2017
Date:

Reviewed for legal form and content:

Reviewed for legal form and content:


Christine Valliere
Assistant County Attorney *Wade*

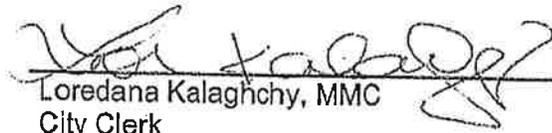

Gretchen R. H. Vose, Esq.
City Attorney

SEAL

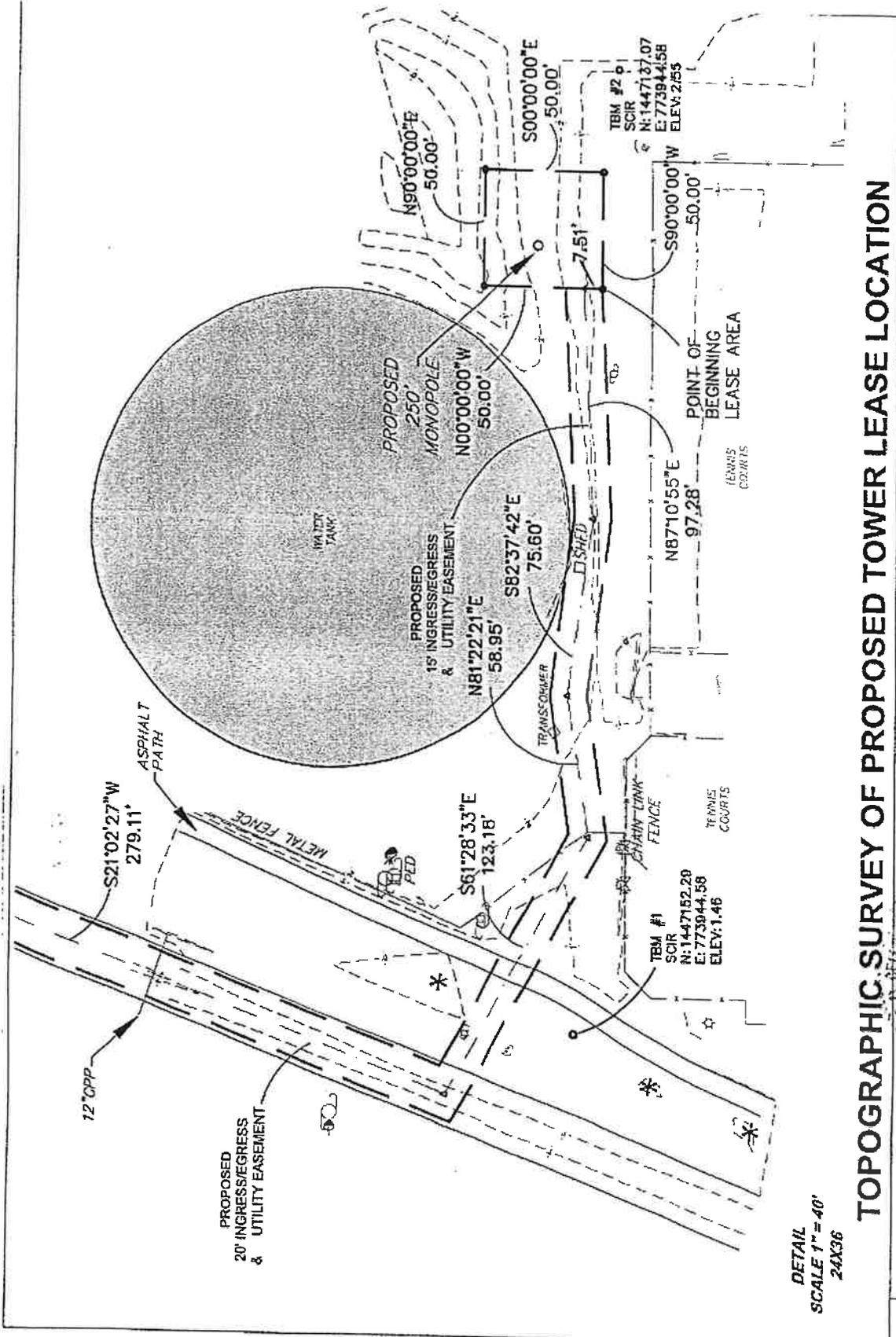
ATTEST/AUTHENTICATED:

ATTEST:

Clerk of the Board of County Commissioners of Brevard County, FL
Scott Ellis


Loredana Kalaghchy, MMC
City Clerk

Attachment A



DETAIL
SCALE 1" = 40'
24X36

TOPOGRAPHIC SURVEY OF PROPOSED TOWER LEASE LOCATION

ATTACHMENT A-1

DESCRIPTION

COMMUNICATIONS TOWER SITE EASEMENT

DESCRIPTION: PROPOSED 50'X50' LEASE AREA

A PARCEL OF LAND TO BE USED FOR LEASE PURPOSES LOCATED AND LYING WITHIN SECTION 16, TOWNSHIP 25 SOUTH, RANGE 37 EAST ON LAND NOW OR FORMERLY OWNED BY THE CITY OF COCOA BEACH (O.R. 533 PAGE 370), BREVARD COUNTY, FLORIDA, AND LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 13 OF GOLF COTTAGES OF COCOA BEACH (PB 54 OPG 89) AND ALSO BEING THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 16 AND THE NORTHWESTERLY RIGHT OF WAY LINE OF TOM WARRINER BOULEVARD (100' RIGHT OF WAY);

THENCE NORTH 89°56'27" EAST, ON THE SAID NORTH LINE OF SECTION 16, A DISTANCE OF 79.57 FEET TO POINT;

THENCE SOUTH 46°25'07" WEST, A DISTANCE OF 99.50 FEET TO A POINT;

THENCE SOUTH 55°14'11" WEST, A DISTANCE OF 126.52 FEET TO A POINT OF CURVATURE;

THENCE ON A CURVE TO LEFT AN ARC DISTANCE OF 306.03 FEET TO A POINT; SAID CURVE HAVING A RADIUS OF 325.00 FEET AND A CHORD BEARING SOUTH 28°15'40" WEST FOR A DISTANCE OF 294.85 FEET;

THENCE SOUTH 00°46'36" WEST, A DISTANCE OF 202.12 FEET TO A POINT OF CURVATURE;

THENCE ON A CURVE TO RIGHT AN ARC DISTANCE OF 576.49 FEET TO A POINT; SAID CURVE HAVING A RADIUS OF 1630.00 FEET AND A CHORD BEARING SOUTH 10°54'31" WEST FOR A DISTANCE OF 573.49 FEET;

THENCE SOUTH 21°02'27" WEST, A DISTANCE OF 279.11 FEET TO A POINT;

THENCE SOUTH 61°28'33" EAST, A DISTANCE OF 123.18 FEET TO A POINT;

THENCE NORTH 81°22'21" EAST, A DISTANCE OF 58.95 FEET TO A POINT;

THENCE SOUTH 82°37'42" EAST, A DISTANCE OF 75.60 FEET TO A POINT;

THENCE NORTH 87°10'55" EAST, A DISTANCE OF 97.28 FEET TO A POINT;

THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 7.51' TO THE POINT OF BEGINNING;

THENCE NORTH 00°00'00" WEST, A DISTANCE OF 50.00 FEET TO A POINT;

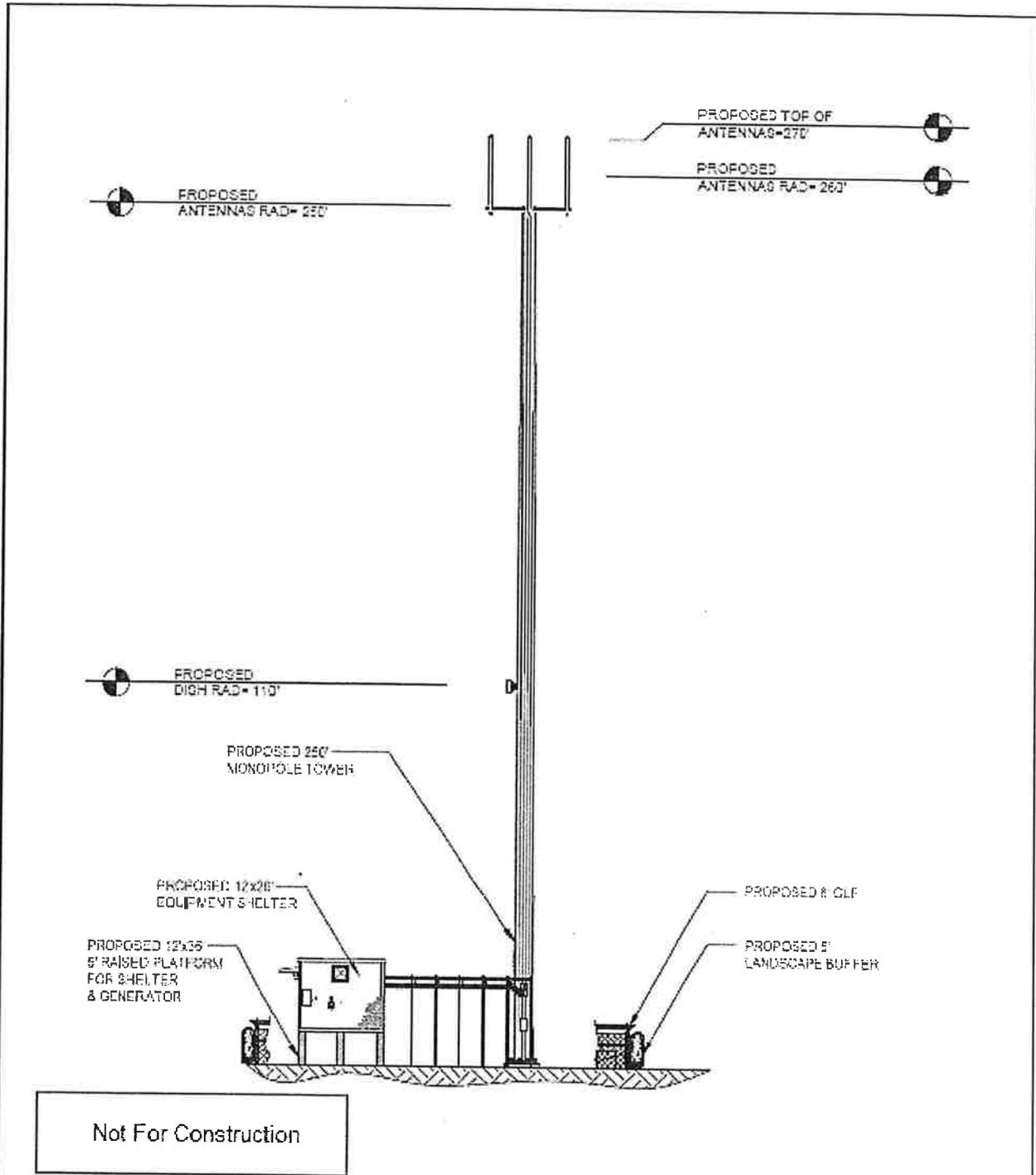
THENCE NORTH 90°00'00" EAST, A DISTANCE OF 50.00 FEET TO A POINT;

THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 50.00 FEET TO A POINT;

THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING;

SAID LEASE CONTAINING 2,500 SQUARE FEET OR 0.06 ACRES MORE OR LESS.

ATTACHMENT B SITE PLAN



 <p>KCI TECHNOLOGIES FLORIDA LICENSE NO. 1700000000 KCI TECHNOLOGIES, INC. 50401 HIGHLAND MANOR DRIVE SUITE 120 TAMPA, FLORIDA 33610 (813) 740-2300</p>	 <p>COMMUNICATIONS INTERNATIONAL</p>	<p>DRAWING TITLE: COCOA BEACH TENNIS CLUB</p> <p>PROJECT INFORMATION: 4800 TOM WARRINER BLVD COCOA BEACH, FL 32931</p>	<p style="text-align: center;">TOWER ELEVATION</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: small;">DRAWING NO.</td> <td style="font-size: small;">DRAWN BY: JM</td> </tr> <tr> <td style="font-size: small;">DATE ISSUED: 07-18-17</td> <td style="font-size: small;">CHECKED BY: JT</td> </tr> <tr> <td style="font-size: small;">SCALE: NTS</td> <td style="font-size: small;">APPROVED BY: JT</td> </tr> <tr> <td style="font-size: small;">AT PROJECT NO.</td> <td style="font-size: small;">SHEET NO. 2 OF 2</td> </tr> </table>	DRAWING NO.	DRAWN BY: JM	DATE ISSUED: 07-18-17	CHECKED BY: JT	SCALE: NTS	APPROVED BY: JT	AT PROJECT NO.	SHEET NO. 2 OF 2
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DATE ISSUED: 07-18-17	CHECKED BY: JT										
SCALE: NTS	APPROVED BY: JT										
AT PROJECT NO.	SHEET NO. 2 OF 2										

ATTACHMENT C-1
DESCRIPTION
INGRESS/EGRESS EASEMENT

DESCRIPTION: PROPOSED VARIABLE WIDTH INGRESS/EGRESS & UTILITY EASEMENT

A PARCEL OF LAND TO BE USED FOR INGRESS/EGRESS AND UTILITY PURPOSES LOCATED AND LYING WITHIN IN SECTION 16, TOWNSHIP 25 SOUTH, RANGE 37 EAST ON LAND NOW OR FORMERLY OWNED BY THE CITY OF COCOA BEACH (O.R. 533 PAGE 370, AND O.R. 91 PAGE 361), BREVARD COUNTY, FLORIDA, AND LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 13 OF GOLF COTTAGES OF COCOA BEACH (PB 54 OPG 89) AND ALSO BEING THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 16 AND THE NORTHWESTERLY RIGHT OF WAY LINE OF TOM WARRINER BOULEVARD (100' RIGHT OF WAY);

THENCE NORTH 89°56'27" EAST, ON THE SAID NORTH LINE OF SECTION 16, A DISTANCE OF 79.57 FEET TO THE POINT OF BEGINNING OF A 20 FOOT WIDE INGRESS/EGRESS AND UTILITY EASEMENT LYING 10 FOOT ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

THENCE SOUTH 46°25'07" WEST, A DISTANCE OF 99.50 FEET TO A POINT;

THENCE SOUTH 55°14'11" WEST, A DISTANCE OF 126.52 FEET TO A POINT OF CURVATURE;

THENCE ON A CURVE TO LEFT AN ARC DISTANCE OF 306.03 FEET TO A POINT; SAID CURVE HAVING A RADIUS OF 325.00 FEET AND A CHORD BEARING SOUTH 28°15'40" WEST FOR A DISTANCE OF 294.85 FEET;

THENCE SOUTH 00°46'36" WEST, A DISTANCE OF 202.12 FEET TO A POINT OF CURVATURE;

THENCE ON A CURVE TO RIGHT AN ARC DISTANCE OF 576.49 FEET TO A POINT; SAID CURVE HAVING A RADIUS OF 1630.00 FEET AND A CHORD BEARING SOUTH 10°54'31" WEST FOR A DISTANCE OF 573.49 FEET;

THENCE SOUTH 21°02'27" WEST, A DISTANCE OF 279.11 FEET TO A POINT;

THENCE ENDING THE 20 FOOT WIDTH AND BEGINNING A 15 FOOT WIDE INGRESS/EGRESS AND UTILITY EASEMENT LYING 7.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

THENCE SOUTH 61°28'33" EAST, A DISTANCE OF 123.18 FEET TO A POINT;

THENCE NORTH 81°22'21" EAST, A DISTANCE OF 58.95 FEET TO A POINT;

THENCE SOUTH 82°37'42" EAST, A DISTANCE OF 75.60 FEET TO A POINT;

THENCE NORTH 87°10'55" EAST, A DISTANCE OF 97.28 FEET TO THE POINT OF TERMINATION;

THE SIDELINES OF SAID EASEMENT ARE TO BE LENGTHENED OR SHORTENED TO RIGHT-OF-WAY, LEASE OR BOUNDARY LINES TO FORM ONE CONTIGUOUS SHAPE.

SAID EASEMENT CONTAINING +/- 37,121 SQUARE FEET OR 0.85 ACRES MORE OR LESS.

Attachment C

