

Return to: Justin Sago
Sarasota County Government / Planning and Development Services
Property Management (formerly Real Estate Services)
1660 Ringling Boulevard, 2nd Floor, Suite 240
Sarasota, Florida 34236

Sec 32 / Twp 38S / Rng 19E
PID # 0385090002

Contract No. _____

UTILITY AND ACCESS EASEMENT AGREEMENT

This Utility and Access Easement Agreement (“Agreement”) is made this _____ day of _____, 20__, by and between **SARASOTA COUNTY**, a political subdivision of the State of Florida, whose post office address is P.O. Box 8, Sarasota, Florida 34230, (hereinafter referred to as “County”), and the **CITY OF VENICE**, a Florida municipal corporation of the State of Florida, whose address is 401 West Venice Avenue, Venice, Florida 34285, (hereinafter referred to as “City”), (together referred to as “Parties”).

WITNESSETH:

WHEREAS, County owns a 167,626.7 square foot, irregularly-shaped, tract of real property located within a portion of the North ½ of the Southeast ¼ of the Northeast ¼ of Section 32, Township 38 South, Range 19 East, Sarasota County, with a street address at 2201 Pinebrook Road, Nokomis, Florida (“Property”); and

WHEREAS, County is utilizing a portion of the Property for the attenuation of stormwater flowing from Pinebrook Road; and

WHEREAS, City has identified a portion in the northwesterly corner of the Property as a desired location for a municipal well that would provide portions of the City with potable water (“Well”); and

WHEREAS, the location, construction, operation, and maintenance by the City of the Well within the Easement Area, as defined below, will not interfere with the current use of the Property by County; and

WHEREAS, the Parties share a common interest in the upgrade, enhancement, and expansion of utility services to the residents of the County and City.

NOW, THEREFORE, in consideration of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **RECITALS.** The recitals set forth above are true and correct and are incorporated herein by reference.

2. **CONVEYANCE OF UTILITY AND ACCESS EASEMENT.** County, for and in consideration of the sum of ten dollars (\$10.00) and other valuable consideration paid, the receipt of which is hereby acknowledged, grants, bargains, sells and conveys to City a non-exclusive permanent easement upon, over, under, and through the area legally described and shown as the “UTILITY AND ACCESS EASEMENT” in “Exhibit A,” attached hereto and incorporated herein (“Easement Area”), for the following purposes:

- A. To construct, maintain, operate, repair, or replace a municipal raw water production well, an underground 12-inch raw water transmission main, and appurtenant facilities, including but not limited to perimeter fencing, gates, lighting, and a concrete pad, with the right to modify the elevation and add or remove fill within the Easement Area; and

- B. To construct, maintain, and operate a reinforced turf driveway for non-public access to construct, maintain, operate, repair, or replace the facilities authorized within this Agreement; and
- C. To construct, maintain, and operate a barrier gate, which shall be located greater than one hundred fifty (150) feet westerly of the westerly right-of-way line for Pinebrook Road and shall not impede access to any portions of the Property outside of the Easement Area.

3. **CONVEYANCE OF TEMPORARY EASEMENT.** The rights granted herein are made in conjunction with that certain Temporary Construction Easement recorded in the Public Records of Sarasota County, Florida.

4. **REVERSION.** Upon termination or abandonment of the Easement Area by City, or a cessation of the uses authorized under this Agreement, all rights and interests granted to City, by this Agreement shall revert to County. City shall, upon written notice from County, restore the Easement Area to the condition in which it existed at the time this Agreement was executed by the Parties. Restoration shall include, but is not limited to, the removal of all facilities, structures, improvements, fill materials, and any hazardous waste materials. Responsibility for removal, cleanup, or mitigation of any hazardous materials introduced to the Easement Area or surrounding lands, as a result of City's actions under this Agreement, shall survive any termination of this Agreement, or any reversion of the rights contained herein, forever.

5. **CITY RIGHTS AND FURTHER RESPONSIBILITIES:**

- A. City shall prepare an environmental assessment of the Easement Area, which shall be provided to County. Any impact to wetlands and environmental resources located or discovered within the Easement Area shall be mitigated at the sole expense of City.
- B. Water Use Permits associated with the Well will list City as the Owner/Permittee and any modifications to the permits that may become necessary shall be the sole responsibility of the City.
- C. All obligations arising out of City's construction, operation, and maintenance of the Well, or any of the appurtenant facilities thereto, including but not limited to, testing procedures, as may be required by the Southwest Florida Water Management District or any governmental agency shall be the responsibility of City and at City's sole expense.
- D. A non-exclusive underground electrical distribution easement, in the name of the electrical utility, will be required to provide electricity to the Well. Said easement shall be obtained directly from County by the electrical utility. City shall be responsible for all of County's costs associated with this non-exclusive underground electrical distribution easement.
- E. City shall notify County via e-mail and, except for in emergency situations, at least twenty-four hour (24) hours prior to the use of any backup generators within the Easement Area. Said notice shall include the size of the generator, fuel type, and quantities of fuel to be stored on site within the Easement Area. Safety precautions shall be maintained in accordance with all Federal, State, and local laws to prevent fuel spills and hazardous conditions to persons, property or the environment.
- F. Perimeter fencing, the barrier gate, and improvements installed within the Easement Area and areas contained within fence or gate limits shall be maintained by City, at City's sole expense. Copies of all keys to gate locks, or combinations for gate locks, shall be provided to County.

- G. Landscape maintenance costs associated with the Easement Area shall be paid by City by an annual payment based on County's existing mowing contract for the Property, which shall be billed by the County and sent to the City's Representative. Said payment shall be ten percent (10%) of the mowing contract held by the County for the Property.

6. COUNTY RIGHTS AND RESPONSIBILITIES.

- A. County shall have the right to use the Easement Area for any use not inconsistent with the City's enjoyment of the rights herein granted.
- B. County shall have the right, but not the obligation, to maintain any portion of the Easement Area, which shall include any fencing, gates, or roads.
- C. County shall not impede access to or from the Easement Area by City and shall erect no fences, gates or other structures that would interfere with City's enjoyment of the Easement Area, without prior consent of the City.

7. INSURANCE. The Parties are self-insured for all liability claims and related expenses pursuant to the provisions of Section 768.28, Florida Statute.

8. NOTICES. All notices and other communications required or permitted to be given under this Agreement shall be in writing, and shall be hand-delivered, sent overnight delivery by a reputable overnight delivery carrier or mailed by United States registered or certified mail, return receipt requested, postage prepaid, to the addresses set forth below:

COUNTY: Stormwater Senior Manager
Sarasota County Public Works
1001 Sarasota Center Blvd.
Sarasota, FL 34240

WITH COPIES TO: Office of the County Administrator, Sarasota County
1660 Ringling Boulevard, 2nd Floor
Sarasota, FL 34236

AND

Office of the County Attorney, Sarasota County
1660 Ringling Boulevard, 2nd Floor
Sarasota, FL 34236

CITY: City Manager, City of Venice
401 West Venice Avenue
Venice, FL 34285

WITH COPIES TO: Utilities Director, City of Venice
200 North Warfield Avenue
Venice, FL 34285

AND

Kelly Fernandez, City Attorney
236 Pedro Street
Venice, FL 34285

9. **HOLD HARMLESS.** The Parties hereby agree that County shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by any person caused by or resulting from the presence or operation of any improvements authorized by this Agreement. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, agents, or employees thereof. To the express limits of Section 768.28, Florida Statutes, City shall indemnify, defend, and hold harmless County against any and all claims, liabilities, losses, and damages whatsoever arising from injury to persons or property occasioned wholly or in part by any negligent act or omission of City, its employees, or agents. To the express limits of Section 768.28, Florida Statutes, County shall indemnify, defend, and hold harmless City against any and all claims, liabilities, losses, and damages whatsoever arising from injury to persons or property occasioned wholly or in part by any negligent act or omission of County, its employees, or agents. Notwithstanding any term of this Agreement to the contrary, no term of this Agreement shall be construed as a waiver of the Parties' rights of sovereign immunity or the provisions of Section 768.28, Florida Statutes. These indemnifications shall survive termination of this Agreement.

10. **DISPUTE RESOLUTION.** In the event of a dispute between the Parties under this Agreement, the City Manager and the County Administrator or their designated representatives shall review such dispute and options for resolution. Any dispute not resolved by the representatives shall be referred to the City Manager and the County Administrator to address. The decision of the City Manager and the County Administrator regarding the dispute shall be final. In the event the City Manager and County Administrator are unable to agree, then the matter shall be referred to the respective Commission/Council, who jointly may elect to hold a joint meeting. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.

11. **WAIVER OF JURY TRIAL.** The Parties hereby expressly agree that in the event of litigation regarding this Agreement, any and all rights to jury trial are waived.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

DATED this ____ day of _____, 20____ by the City of Venice, Florida.

DATED this ____ day of _____, 20____ by Sarasota County, Florida.

CITY OF VENICE:

City Council of the City of Venice, Florida

BY: _____
Ron Feinsod, Mayor

ATTEST: _____
Lori Stelzer, MMC, City Clerk

Approved as to form and correctness

BY: _____
Kelly Fernandez, City Attorney

SARASOTA COUNTY:

Board of County Commissioners of Sarasota County
Florida

By: _____
Chairman

ATTEST:
Karen E. Rushing, Clerk of the Circuit
Court and Ex-Officio Clerk of the Board
of County Commissioners

BY: _____
Deputy Clerk

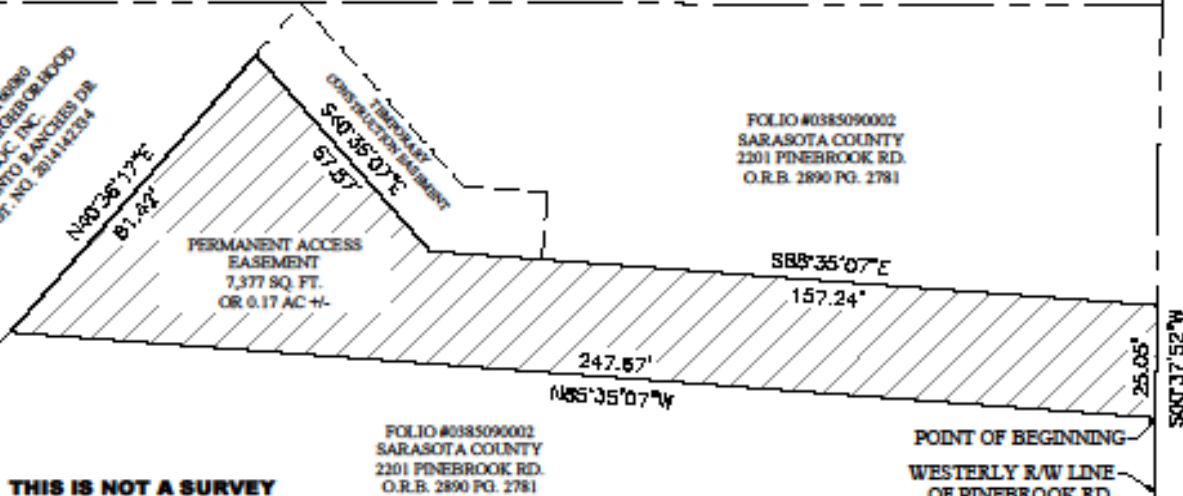
EXHIBIT A

SKETCH & DESCRIPTION CITY OF VENICE - RO-8E WELL PERMANENT ACCESS EASEMENT SARASOTA COUNTY, FLORIDA

FOLIO #0385080002
REAL SUB LLC
2251 PINEBROOK RD.
INST. NO. 2016019275

FOLIO #0385080002
WINDWOOD NEIGHBORHOOD
ASSOC. INC.
BRADENTON BRANCH DR
INST. NO. 2014142354

FOLIO #0385090002
SARASOTA COUNTY
2201 PINEBROOK RD.
O.R.B. 2890 PG. 2781



THIS IS NOT A SURVEY

COMMENCE AT A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF PINEBROOK ROAD (STATION 248+66.82, OFFSET 60.00 FEET LEFT), AS SHOWN AND DESIGNATED ON ROAD PLAT BOOK 4, PAGE 56, RECORDED AMONG THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, SAID POINT ALSO BEING THE NORTHEAST CORNER OF TRACT 500, AS SHOWN AND DESIGNATED ON PLAT BOOK 49, PAGE 9, RECORDED AMONG THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE NORTH 00°37'52" EAST, A DISTANCE OF 441.21 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE FOLLOWING FOUR (4) COURSES:

- 1) NORTH 85°35'07" WEST, 247.67 FEET;
- 2) NORTH 40°38'17" EAST, 81.42 FEET;
- 3) SOUTH 40°35'07" EAST, 57.57 FEET;
- 4) SOUTH 85°35'07" EAST, 157.24 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF PINEBROOK ROAD;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE BEARING SOUTH 00°37'52" WEST, 25.05 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 7,377 SQUARE FEET OR 0.17 ACRES MORE OR LESS.

POINT OF COMMENCEMENT
IRON ROD FOUND (SAR. CO. R/W)
NE CORNER "TRACT 500"

LEGEND
L.B. LICENSED BUSINESS
R.P.B. ROAD PLAT BOOK
PG. PAGE
PSM PROFESSIONAL SURVEYOR AND MAPPER
NO. NUMBER
+/- MORE OR LESS
TWN TOWNSHIP
RNG RANGE
R/W RIGHT OF WAY
AC. ACRES
S.R. STATE ROAD
SQ. SQUARE
FT. FEET

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL
RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND
MAPPER.

PROJECT #	19-2431	
SURVEY #	19-2431	
SECTION	TWN	RNG
	32-385	18E
SCALE	1" = 40'	
SURVEYED	HYATT	
DESIGNED		
DRAWN	SC	3/2020
CHECKED	RH	3/2020



HYATT SURVEY SERVICES, INC.
L.B. NO. 7203
2012 LENA ROAD
BRADENTON, FLORIDA 34211
PHONE: (941) 748-4693
FAX: (941) 744-1643

SHANE A. CHRISTY, PSM
FLORIDA SURVEYORS REGISTRATION NO. 7100