

Prepared by/please return to:  
Kris Davis, Esq.  
St. Johns River Water Management District  
Office of General Counsel  
P.O. Box 1429  
Palatka, FL 32178-1429

## TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

**THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT** (Easement Agreement) is made and entered into this 12 day of May, 2020 (Effective Date), between William P. Turnbaugh, as Trustee of the Turnbaugh Revocable Trust U/T/D July 13, 1994, whose Post Office Address is 4910 Suapres Lane, West Melbourne, FL 32904,(Grantor), and the St. Johns River Water Management District, a public body existing under Chapter 373, Florida Statutes, whose mailing address is Post Office Box 1429, Palatka, FL 32177-1429, (Grantee).

### RECITALS

A. Grantor is the fee simple owner of certain real property known as the Turnbaugh Property located in Brevard County, Florida, and Grantor desires to grant Grantee a temporary construction easement over, upon, through, across and under the property described and depicted on Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by reference (the Easement Area).

B. As part of a project to improve water quality in the Indian River Lagoon, Grantee plans to construct a single, permanent underground pipeline (Pipeline) that will be used to transport stormwater from the M-1 Canal west under Interstate 95 and then to a stormwater treatment area (the Project).

C. Grantee desires to utilize the Easement Area for access to adjacent offsite property on which the Pipeline will be constructed, for staging Project-related-equipment, for temporary storage of excavated soils and materials, and for ingress and egress access in, over, through, across and under the Easement Area to conduct these activities, and Grantor desires to grant an easement to Grantee for that purpose.

**NOW THEREFORE**, for and in consideration of the terms, conditions, and mutual covenants contained in this Easement Agreement, Grantor and Grantee agree as follows:

1. The foregoing Recitals are true and correct in all respects and said Recitals, together with the exhibits attached hereto, are incorporated herein by reference and made a part hereof.

2. Grantor grants to Grantee, its agents, representatives, contractors and employees the non-exclusive right, privilege, and permission to use the Easement Area for access to install and construct the Pipeline, for staging Project-related equipment and materials, for temporary storage of excavated soils and materials, and for ingress and egress access over, upon, through, across, and under the Easement Area to conduct these activities Grantee shall also have the right but not the obligation to clear vegetation as needed to conduct the activities authorized herein. The extent of the easement rights granted hereunder shall not be expanded without the prior written consent of the Grantor.

3. Hours of work shall be restricted to daylight hours unless Grantee provides prior notification to Grantor. Grantee shall not conduct Project-related activities on Sundays and state and federal holidays.

4. Grantee is authorized to clear vegetation from the Easement Area as needed for Project-related equipment and vehicular access, construction equipment, materials and soils storage, and Pipeline installation and construction activities.

5. Following completion of construction of the Pipeline and removal of the Project-related equipment and materials, as consideration for Grantor entering into this Easement Agreement, Grantee agrees to return the Easement Area to the grade existing on the Effective Date of this Easement Agreement, to remove from the Property any vegetation that was cleared pursuant to paragraph 4 above, and to install landscaping shrubs within the Easement Area according to the planting note in Exhibit "C" Environmental Resource Requirement number six attached hereto. Grantee agrees that grade will be such that surface water flow will not be altered from that which existed prior to construction. Upon 14 days of completion of planting, Grantee shall notify Grantor by phone. Within 14 days of notification, Grantor may direct additional or larger plantings, not to exceed twice the number of original plantings and up to 45 gallons in container size, within the cleared area to obscure view into adjacent parcel.

6. Grantor does not warrant its title to the Easement Area; however, Grantor does warrant that it has the power and authority to enter into this Easement Agreement and authorize the uses granted herein.

7. This Easement Agreement shall continue in full force and effect for a term of one year from the Effective Date or upon completion of all of the activities authorized herein, including the installation of landscaping shrubs as set forth in paragraph 5 above, whichever occurs last.

8. Grantor retains the right to use the Easement Area in any manner not inconsistent with the rights herein granted to Grantee.

9. In consideration of the privileges granted in this Easement Agreement, Grantee shall not claim any damages from Grantor in connection with or on account of any injuries or damages arising in or on the Easement Area while being used by Grantee and its agents, representatives and employees or arising from use of the Easement Area by third parties. Grantee shall maintain a program of insurance covering its liabilities as prescribed by Section 768.28, Florida Statutes and, subject to that statute, is solely responsible for the negligent acts or omissions of its officers, employees and agents, if such negligent acts or omissions result in injury to persons or damage to property. Grantor does not warrant or represent that the Easement Area is safe or suitable for the purpose for which Grantee is permitted to use it. In further consideration of the rights and privileges granted in this Easement Agreement, for those activities conducted in the Easement Area through Grantee's use of a contractor, Grantee shall ensure that the contractor names William P. Turnbaugh, as Trustee of the Turnbaugh Revocable Trust U/T/D July 13, 1994 as an additional insured under the contractor's automobile and general liability policies, and under any other insurance policies as may be required for the work being performed. Evidence of insurance must be submitted to and approved by the Grantor prior to the commencement of Grantee's, or Grantee's contractor's, activities in the Easement Area, but said approval shall not be unreasonably withheld. Nothing in this Easement Agreement constitutes a waiver of Grantee's sovereign immunity or the limits of liability established under Florida law.

10. Grantee shall not invite the general public to access, utilize or go upon the Easement

Area.

11. Grantee shall have its contractor remove all equipment and materials from the Easement Area within sixty (60) days of the date upon which Grantee ceases all activities on the Easement Area.

12. This Easement Agreement may neither be assigned nor transferred without prior written approval of Grantor.

13. This Easement Agreement is binding upon and shall inure to the benefit of Grantor and Grantee and their heirs, representatives, successors and assigns.

14. This Easement Agreement embodies the entire understanding of the parties and there are no further agreements or understandings, written or oral, in effect between Grantor and Grantee relating to the subject matter of this Easement Agreement. This instrument may be amended or modified by an instrument of equal formality signed by Grantor and Grantee and duly recorded in the Public Records of Brevard County, Florida.

15. For purposes of this Easement Agreement, and unless otherwise specified, all notification must be provided to the following parties:

To Grantor:

William P. Turnbaugh  
4910 Suapres Lane  
West Melbourne, FL 32904  
321-258-8209

To Grantee:

Director, Office of Real Estate Services  
St. Johns River Water Management District  
PO Box 1429  
Palatka, Florida 32178-1429  
rbuch@sjrwmd.com  
(386) 312-2362

16. Grantee shall give the Grantor at least five (5) business days advance written notification of commencement of the activities authorized herein.

17. Nothing contained in this Easement Agreement shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the Grantee as it now or hereafter exists under applicable laws, rules and regulations.

18. Nothing contained in this Easement Agreement shall be construed or interpreted as a waiver of any right, privilege or immunity, whether in contract or tort, that Grantee may enjoy under the doctrine of sovereign immunity, or the limitations of liability set forth in section 768.28, Florida Statutes.

19. This Easement Agreement shall not be construed more strictly against one party than

against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both Grantor and Grantee have contributed substantially and materially to the preparation hereof.

20. This Easement Agreement shall be construed and interpreted according to the laws of the state of Florida. Any provision found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining provisions. In the event of any legal action regarding this Easement Agreement, each party shall bear its own attorney's fee and costs.

21. Grantor and Grantee agree to cooperate with each other and to expeditiously execute, obtain and deliver any documents, approvals, permits, or other authorizations necessary to carry out the rights obligations hereunder.

22. The Effective Date of this Easement Agreement shall be the date when the last of the parties hereto has executed the same, which date shall be inserted at the top of the first page hereof.

23. This Agreement may be signed in counterparts and all counterparts so executed shall constitute one contract, binding on all signatories hereto.

**IN WITNESS WHEREOF**, the parties have executed this Easement Agreement on the day and year set forth below.

(Remainder of page intentionally left blank;  
signature pages follow.)

**WITNESSES**

Signed, sealed and delivered  
in the presence of:

Signature \_\_\_\_\_  
*Susan Lane*  
Print Name \_\_\_\_\_

Signature \_\_\_\_\_  
*James P. Turnbaugh*  
Print Name \_\_\_\_\_

**GRANTOR**

Turnbaugh Revocable Trust U/T/D July 13,  
1994.

Signature \_\_\_\_\_  
*William P. Turnbaugh* Trustee  
Print Name \_\_\_\_\_  
William P. Turnbaugh, Trustee

STATE OF Florida  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of  physical presence or  online  
notarization this 3 day of April, 2020 by William P. Turnbaugh, as Trustee of the  
Turnbaugh Revocable Trust U/T/D July 13, 1994, who is personally known to me or who produced  
\_\_\_\_\_ as identification.

(NOTARIAL SEAL)

Signature \_\_\_\_\_  
Notary Public - State of Florida  
Print Name: Helena L Fitzgerald  
My Commission Expires: June 8, 2022



**WITNESSES**

Signed, Sealed and Delivered  
In the Presence of:

Signature *Kathy Breed*  
Print name: Kathy Breed

Signature *Kim Driggers*  
Print name: Kim Driggers

**GRANTEE**

St. Johns River Water Management District  
By: *Ann B. Shortelle*  
Ann B. Shortelle, Ph.D., Its Executive Director

Attest: *William Abrams*  
William Abrams, General Counsel

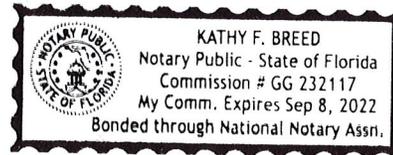
**STATE OF FLORIDA  
COUNTY OF PUTNAM**

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 12 day of May, 2020, by Ann B. Shortelle, Ph.D., as Executive Director of the St. Johns River Water Management District, on behalf of the District, who is personally known to me, and who did not take an oath.

*Kathy F. Breed*  
NOTARY PUBLIC, State of Florida  
Kathy F. Breed  
Name of Notary typed, printed or stamped  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

For use and reliance only by  
St. Johns River Water Management District  
Legal Form and Content Approved:

By: *Kris Davis*  
Kris Davis, Asst. General Counsel



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

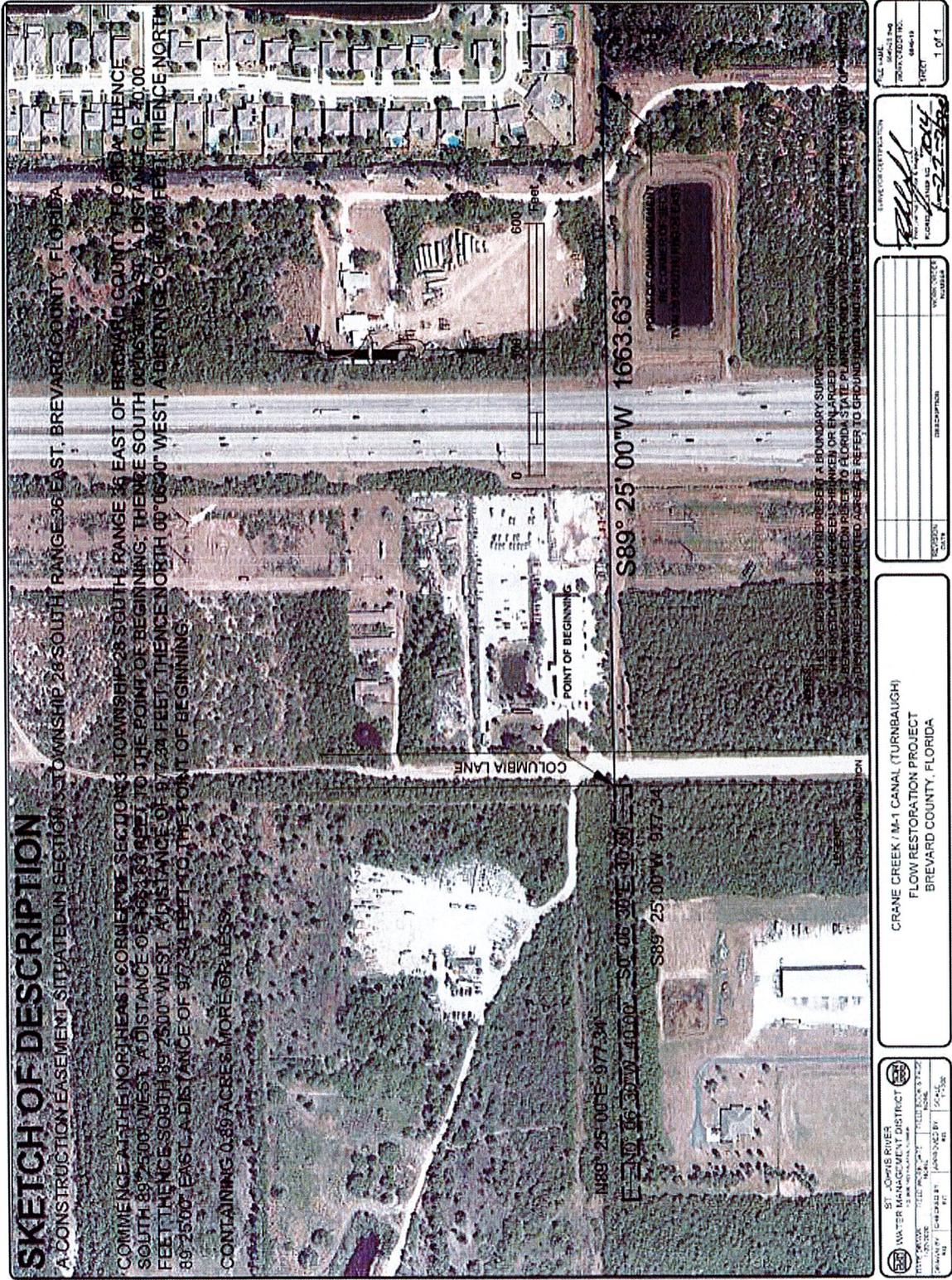
**Crane Creek 40-foot construction easement (TURNBAUGH PROPERTY)**

A CONSTRUCTION EASEMENT SITUATED IN SECTION 3, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA.

**COMMENCE** AT THE NORTHEAST CORNER OF SECTION 3, TOWNSHIP 28 SOUTH, RANGE 36 EAST OF BREVARD COUNTY, FLORIDA; THENCE SOUTH 89°25'00" WEST, A DISTANCE OF 1663.63 FEET TO THE **POINT OF BEGINNING**; THENCE SOUTH 00°06'30" EAST, A DISTANCE OF 40.00 FEET; THENCE SOUTH 89°25'00" WEST, A DISTANCE OF 977.34 FEET; THENCE NORTH 00°06'30" WEST, A DISTANCE OF 40.00 FEET; THENCE NORTH 89°25'00" EAST, A DISTANCE OF 977.34 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 0.89 ACRES MORE OR LESS

**EXHIBIT "B"**  
**SKETCH OF DESCRIPTION**



# EXHIBIT "C" PLANTING NOTE

GENERAL NOTES

1. BENCHMARK ELEVATIONS SHOWN ON THE PLANS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAD 88).
2. THE LOCATIONS OF THE UTILITIES SHOWN IN THE PLANS (INCLUDING THOSE DESIGNATED V, VA, AND VNI) ARE BASED ON LIMITED INVESTIGATION TECHNIQUES AND SHOULD BE CONSIDERED APPROXIMATE ONLY. THE VERIFIED LOCATIONS/ELEVATIONS APPLY ONLY AT THE POINTS SHOWN. INTERPOLATIONS BETWEEN THESE POINTS HAVE NOT BEEN VERIFIED.
3. UTILITY/AGENCY OWNERS:

COMPANY	TELEPHONE NUMBER
BREVARD COUNTY PUBLIC WORKS - TRAFFIC SIGNALS & FIBER	(321) 633-2077
FLORIDA CITY GAS - GAS	(321) 638-4424
FLA GAS TRANS. - MELBOURNE - GAS PIPELINE	(407) 838-7171
FLORIDA POWER & LIGHT - BREVARD - ELECTRIC	(386) 586-6483
LEVEL 3 COMMUNICATIONS - FIBER OPTIC	(877) 366-8344 x2
CITY OF MELBOURNE UTILITIES ADMINISTRATION - WATER DISTRIBUTION	(321) 608-5056
CITY OF MELBOURNE UTILITIES ADMINISTRATION - WASTEWATER REUSE	(321) 608-5056
CITY OF MELBOURNE UTILITIES ADMINISTRATION - SEWAGE COLLECTION	(321) 608-5056
CENTURYLINK (FORMERLY ONWEST COMMUNICATIONS) - FIBER OPTIC	(888) 992-9924
AT&T DISTRIBUTION - TELEPHONE	(561) 997-0240
UMTI FIBER LLC - FIBER OPTIC	(321) 259-0807
BRIGHT HOUSE NETWORKS, LLC BREVARD - FIBER OPTIC	(321) 757-6451
CITY OF WEST MELBOURNE - WATER	(321) 837-7711
CITY OF WEST MELBOURNE - SEWER	(321) 965-6485
CROWN CASTLE FIBER	(866) 610-7059

4. SPECIAL EVENT DAYS FOR THIS PROJECT INCLUDE: TBD

ENVIRONMENTAL RESOURCE REQUIREMENTS

1. THE USE OF DRILLING FLUIDS SHALL NOT CAUSE OR CONTRIBUTE TO A VIOLATION OF STATE GROUND WATER QUALITY CRITERIA OR STANDARDS, AS DEFINED IN CHAPTER 62-520, F.A.C.
2. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ANY DIRECTIONAL DRILLING ACTIVITIES, CONTRACTOR SHALL PROVIDE ALL HOURS TELEPHONE CONTACT INFORMATION OF ALL CONTRACTORS RESPONSIBLE FOR DRILLING AND FOR CONTAINMENT AND CLEANUP IN THE EVENT OF A DRILLING FLUID FRACTURE OR SPILL.
3. THE CONTRACTOR SHALL AT ALL TIMES DURING DIRECTIONAL DRILLING ACTIVITIES, MAINTAIN APPROPRIATE EQUIPMENT AND MATERIALS IN A READILY-ACCESSIBLE LOCATION AND CONDITION, TO EFFECTIVELY CONTAIN AND CLEAR UP A DRILLING FLUID FRACTURE OR SPILL.
4. THE CONTRACTOR SHALL AT ALL TIMES DURING DIRECTIONAL DRILLING ACTIVITIES, ENSURE THAT APPROPRIATELY-TRAINED PERSONNEL MONITOR DOWNHOLE EQUIPMENT POSITION, DRILLING FLUID CIRCULATION AND PRESSURES, AND ACTIVELY MONITOR THE ENTIRE UTILITY LINE ROUTE FOR SURFACE FRACTURE OR DRILLING FLUIDS.
5. ALL DRILLING ACTIVITIES SHALL BE DISCONTINUED AND THE DRILLING FLUID OR SLURRY SHALL BE CONTAINED USING APPROPRIATE METHODS AS SOON AS POSSIBLE. IN THE EVENT OF A DRILLING FLUID FRACTURE OR SPILL, REMOVAL OF DRILLING FLUID OR SLURRY FROM WETLANDS AND OTHER SURFACE WATERS SHALL BE INITIATED AND COMPLETED IN THE MOST EXPEDITIOUS MANNER PRACTICAL. REMOVED DRILLING FLUID SHALL BE CONTAINED OR DISPOSED OF IN AN APPROPRIATE UP-LAND LOCATION ANY FRACTURE OR SPILL OF DRILLING FLUID INTO WETLANDS OR OTHER SURFACE WATERS SHALL BE REPORTED TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION WITHIN 24 HOURS FOLLOWING DETECTION OF THE SPILL OR FRACTURE.
6. CONTRACTOR SHALL STABILIZE AND REPAIR ALL DISTURBED / CLEARED PORTIONS OF THE TEMPORARY CONSTRUCTION EASEMENT AREA REPAIRED AT 8-FOOT ON CENTER WITH 15-GALLON WAX INFILTRATE (TRICRA CERIFERAL) OR DIMER APPROVED EQUIVALENT, WITH MINIMUM PLANT HEIGHT OF 10 FEET AT THE TIME OF PLANTING.

DATE	REVISIONS	DESCRIPTION	DRAWN BY	CHECKED BY
DIVISION: SURVEY & PLANNING PROJECT NUMBER: 1704 HANSON PROFESSIONAL SERVICES INC. 8005 GOLF PARKWAY WEST, SUITE 204 MELBOURNE, FLORIDA 32909 CERTIFICATE OF AUTHORIZATION: 00007941				
EGRID: BREVARD				
SHEET NO. 2				
GENERAL NOTES				