PERMIT AND INTERLOCAL AGREEMENT
(No. VB-5)

THIS PERMIT and INTERLOCAL AGREEMENT, dated this 17th day of March, 2011, by and between **INDIAN RIVER FARMS WATER CONTROL DISTRICT**, a drainage district organized and existing under the General Drainage Laws of the State of Florida, whose address is 7305 4th Street, Vero Beach, Florida, hereinafter referred to as the "District", and the **CITY OF VERO BEACH**, a municipal corporation of the State of Florida, hereinafter referred to as the "Permittee".

NOW, THEREFORE, the District does hereby grant unto the Permittee a permit for a period of one year from January 1, 2011, unless sooner terminated as hereinafter provided, to maintain, inspect, operate and repair electrical transmission lines and utility poles on, over and across District right-of-way along the Main Canal at the locations and in accordance with the plans and specifications attached hereto and marked "Exhibit A" and signed by the parties and, by reference, made a part hereof, together with the right of ingress and egress on and over the property at said locations; provided, however, that as a condition precedent to the right herein granted, Permittee agrees to and with the District as follows:

1. That the rights herein granted shall extend into District right-of-way from utility pole to utility pole in the locations and widths, which vary from utility pole to utility pole, as shown on the plans approved by the District in accordance with said "Exhibit A". the rights shall extend only for electrical facilities used exclusively by the City of Vero Beach (unless otherwise agreed to by District) and belonging to the Permittee and the Permittee shall not have any right to assign or sublet this Permit or any part thereof unto a third party.

2. Permittee assumes full responsibility for the operation and maintenance of said electrical facilities and shall save and hold harmless District from any expense, loss, damage or claim in regard thereto, and the District assumes and shall have no liability in connection therewith.

3. That this Permit is subject always to the paramount right of the District to keep and maintain its drainage district functions and operations, and is subject to revocation and cancellation upon thirty days' notice from District to the City and Permittee.

4. In no event shall the District be liable for any damages done or caused by the District to the public, to Permittee or any other person, using right-of-way or property subject to this Permit, and Permittee shall save the District, its officers, agents, supervisors, and employees harmless from any costs, charge or expense or claim or demand of any person against the District arising from or pertaining to any use made of the property or structures subject to this Permit. Permittee shall, as a condition to the effectiveness of this Permit, provide to District evidence satisfactory to District, of adequate reserves held or owned by Permittee, as self insurer, to protect the interests of

District. His Permit shall be null and void if adequate reserves are not maintained by the Permittee.

5. Permittee is cautioned that electrical, water, sewer, gas or other installations or utilities may be located within the permit area, and Permittee shall use diligent efforts to first detect and locate all such installations and shall coordinate construction with all other lawful users of said right-of-way. Permittee shall be liable for all damages proximately resulting from its interference with or interruption of services provided by other lawful right-of-way users.

6. The District may, on thirty days' written notice to the Permittee, require cessation of use into District's facilities, removal or alteration of any installation or construction on District right-of-way.

7. Any construction on District right-of-way or property and cleanup shall be completed promptly by Permittee and in a workmanlike manner with minimum disturbance to existing berm, channel slopes and grade with proper restoration and planting of any disturbed areas to prevent erosion within ten days after completion of construction or installation.

8. The Permittee shall at all times maintain cable markers above ground at 100 foot intervals to show the location of the electrical transmission cables. The electrical transmission lines and utility pole shall be constructed and installed to permit the crossing of heavy equipment used by the District for the maintenance of its laterals, sublaterals and canals and for any similar heavy equipment used by land owners within the District. In any case where the electrical transmission line crosses a pipe or culvert used for drainage or irrigation purposes, or a pipe or culvert is needed hereafter for drainage or irrigation of adjacent lands, and the same is deemed by District or an adjacent landowner to be required to be installed, repaired or replaced, then, upon twenty-four (24) hours' notice, Permittee shall, at Permittee's sole cost and expense, be available at the location of, and arrange for such installation, repair or replacement with personnel and equipment to insure that the force main does not endanger or prevent the installation, repair, replacement or use of pipes or culverts for drainage or irrigation purposes. The District has the right to determine the exact location of each electrical transmission line within the said right-of-way in order that the location of name shall not interfere with the District's functions and operation and of the District land owners.

9. Permittee shall advise District's office prior to commencement or completion of all construction.

10. Permittee shall not discharge any pollutants, contaminants or deleterious materials into waters or structures owned or maintained by, or subject to the jurisdiction of District, no permit anything to obstruct the flow of water, and shall save and hold District harmless from an expense, loss or damage to District or others by any such discharge or obstruction, remedying or removing the same immediately upon request by District.

11. This Permit shall exist only so long as Permittee may be in full compliance with all requirements of the Department of Environmental Protection for the State of Florida, as such requirements relate to this project, and if, at any time, the Permittee shall fail to meet such requirements, then this Permit shall, ipso facto, immediately become null and void.

12. Permittee, as a condition to the continuance of this Permit, shall reimburse District, immediately on demand, for any fees for testing or other professional services, costs or expenses to District associated with or arising from Permittee's use of District right-of-way.

13. The Permittee shall pay to the District an annual rent of One Thousand Nine Hundred Fifty and No/100 Dollars ($1,950.00), payable in advance, which is computed as follows: 1.3 lineal miles of right-of-way subject to this Permit at Fifteen Hundred Dollars ($1,500.00) per lineal mile. In addition to the permit fee payable hereunder, if the permit applied for or the use for which the permit is granted requires engineering or legal work for purposes of processing and approval by District, then Permittee shall pay promptly when invoiced all engineering and legal fees incurred by District in connection herewith and shall indemnify District for the same, saving and holding District harmless from any liability in connection therewith.

14. This Permit shall be effective January 1, 2011, and continue for a period of one year unless sooner terminated as provided herein.

15. In the event that this Permit is canceled or terminated, the Permittee shall, at its expense, promptly remove all electrical transmission lines and utility poles from the right-of-way of the District.

16. This Permit will lapse and be of no further force or effect if, within six months from date, Permittee fails to remove or replace old culverts into the Main Canal for Permittee's airport property, removal all utility poles and place all transmission poles on the line west of the Main Canal bridge on the South side and East of bridge on the North right-of-way of the Main Canal, fence and secure District's right-of-way at each road crossing; upon lapse of this Permit, as aforesaid, Permittee shall vacate and remove all of Permittee's property and equipment from District right-of-way.

17. This Permit shall be considered to be a license only, for the limited purpose of installation, placement and maintenance of the improvements specified on the face hereof, and does not convey any other right, title or interest of the District in the subject right-of-way property.

18. In the event of any dispute arising hereunder, the parties agree that, as a condition precedent to litigation, the parties shall first submit the same to non-binding arbitration for resolution.

19. Permittee assumes full responsibility for any construction, operation or maintenance on District property or right-of-way subject to the Permit and understands and agrees that Permittee's use of District property for Permittee's purposes and benefit is at Permittee's sole risk; any loss or damage to Permittee's property, installations,

facilities or personnel while on District property or right-of-way, regardless of the cause of the same, including, without limitation, negligence or want or care on the part of District, its agents or employees, whether by reason of the provision of Chapter 556, Florida Statutes, or otherwise, is Permittee's and not District's and, as a condition of this Permit, Permittee promises, covenants and agrees that neither Permittee, nor anyone claiming by, through or under Permittee, shall have any claim or cause of action against District by reason of such loss or damage. The parties hereto further acknowledge and agree that District has no obligation to allow Permittee to enter upon or use District's property or right-of-way, and does so only in consideration of Permittee's release of District from any responsibility or liability whatsoever, including for damage caused by District's negligence, now or in the future, and Permittee agrees that it is able, at its own expense, to insure against loss or damage, without granting any right of subrogation to claims against District or Permittee is a self-insurer, warranting and representing to District that Permittee assumes all risk of loss or damage, and shall save and hold harmless District from any expense, loss, damage or claim in regard thereto, and the District assumes and shall have no liability in connection therewith including, without limitation, attorney's fees, fines and penalties.

20. This Permit may not be assigned or subletted to a third party and any transfer of Permittee's property abutting District's property or right-of-way shall, ipsofacto and without more, cancel, nullify and revoke this Permit.

21. Should Permittee, during the term hereof, become a "member operator", as defined by Florida Statutes, Section 556.102(7), then such membership shall, ipsofacto and without more, cancel, nullify and revoke this Permit.

22. In consideration of the grant of this Permit, Permittee, if a public or private body with the power of eminent domain, expressly waives and relinquishes power of eminent domain or condemnation of the property as to which this Permit applies for the use for which the Permit is granted. This clause shall survive termination or expiration of this Permit.

IN WITNESS WHEREOF, said District has caused these present t be executed in its name by its Secretary and its corporate seal hereto affixed, by due authority of its Board of Supervisors, this _____ day of _____, 2011.

Signed, sealed and delivered
in the presence of:

_____

_____
as to District

(SEAL)

INDIAN RIVER FARMS WATER CONTROL DISTRICT

By:_____
David E. Gunter, Secretary

Permittee hereby accepts the terms of this Permit, and covenants and agrees that it will comply with the terms and condition of this Permit.

Dated this 17th day of March, 2011.

Signed, sealed and delivered
in the presence of:

Sheri Phillips

Heather McCarty

as to Permittee

CITY OF VERO BEACH

By: _____
Mayor

Attest: Tammy K Vest
City Clerk

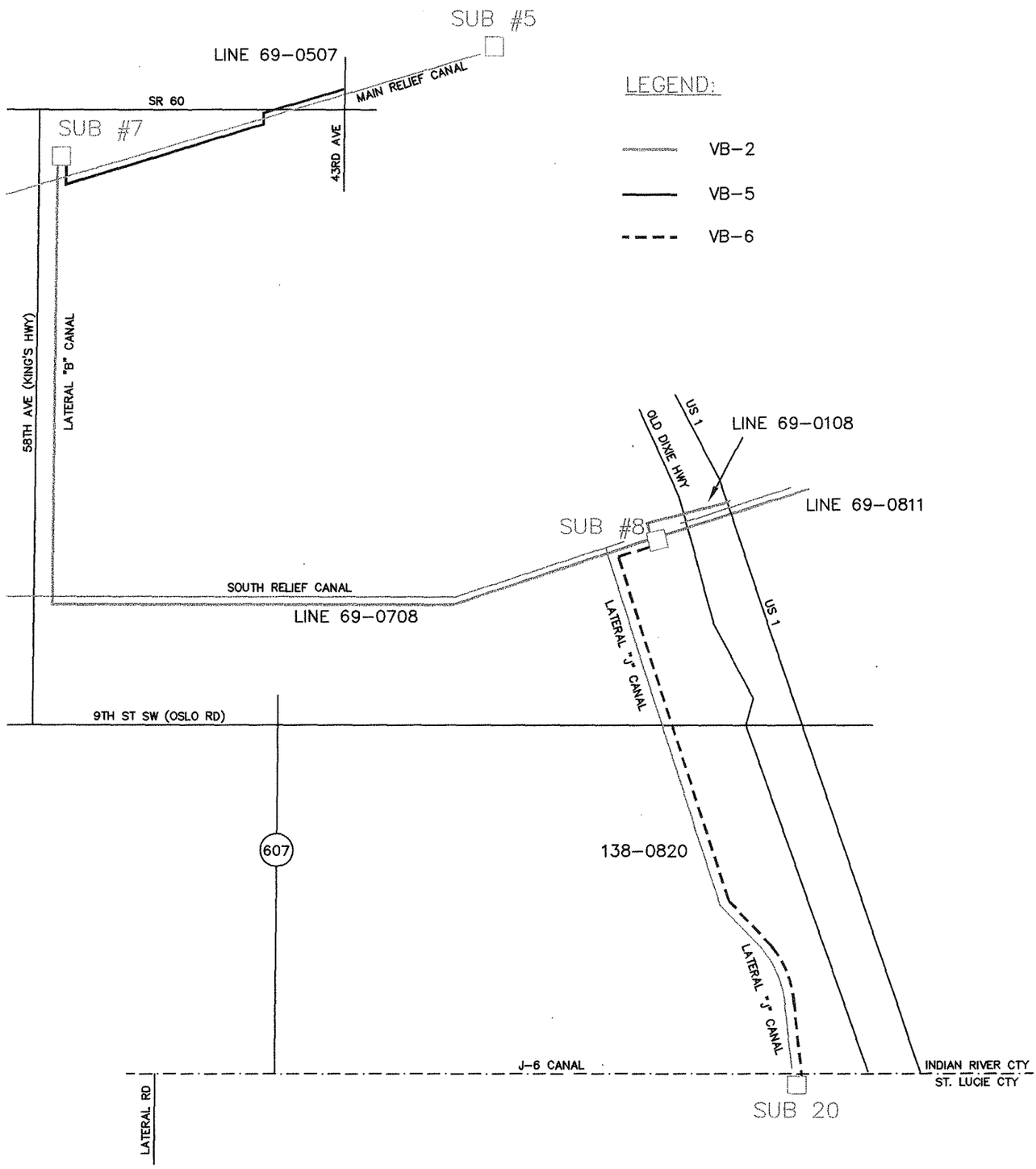
(SEAL)

CITY OF VERO BEACH	APPROVED	DATE
City Manager	MKS	3/4/11
City Attorney	MMC	2/23/11
City Clerk		
Utilities	[illegible]	3/7/11
Public Works		
Finance		
Human Resources		
Planning		

ATTACHMENT PROVIDED BY COVB
FOR MUNICIPAL PURPOSES
MARCH 2011

VB-2, VB-5, VB-6
INDIAN RIVER FARMS PERMITS
CITY OF VERO BEACH
TRANSMISSION LINES ON
INDIAN RIVER FARMS RIGHT-OF-WAY

North

DWG: DVA APP: JD/LTR

DATE: 09/26/01