# OVERSIZING AGREEMENT PUBLIC SEWER

This OVERSIZING AGREEMENT ("AGREEMENT") is made and entered into as of the day of January, 2021, by and between the CITY OF NORTH LAS VEGAS, NEVADA, a political subdivision of the State of Nevada, (hereinafter referred to as "CITY"), and Tropical Vegas Industrial Owner, LLC, a Nevada limited liability company (hereinafter referred to as "DEVELOPER").

#### RECITALS

- A. The CITY is authorized to regulate sewer systems pursuant to Title 13, Chapter 13.24 of the CITY's Municipal Code (the "CODE").
- B. The DEVELOPER desires to improve and develop real property located on approximately 80.3 acres in the vicinity of Sloan Lane and Tropical Parkway in the City of North Las Vegas, Nevada, which is known as APNs: 123-27-101-014, 123-27-101-015, 123-27-101-027, 123-27-101-028, 123-28-501-010, 123-28-601-005, 123-28-601-006, 123-28-601-007, 123-28-601-008, 123-28-601-009, 123-28-601-018, 123-28-601-019, 123-28-601-020, 123-28-601-022, 123-28-601-023, 123-28-601-024, 123-28-601-025, 123-27-201-001, 123-27-201-002, 123-27-201-013, 123-27-201-015, 123-27-201-016, 123-27-201-017, 123-27-201-018 (the "PROPERTY").
- C. The DEVELOPER desires to connect the improvements located on the PROPERTY to the CITY's sewer system in accordance with the CODE.
- D. The CITY desires that the size and capacity of the sewer line(s) to be installed by the DEVELOPER be increased (oversized) to provide for anticipated future growth in the general area of the PROPERTY and the DEVELOPER has agreed to install the oversized sewer line(s).
- E. The CODE provides that the CITY may reimburse a developer who constructs, at the request of the CITY, a sewer line that is oversized to a size larger than that required to serve the PROPERTY (the "OVERSIZE SEWER LINE").
- F. The CITY is willing to reimburse the oversizing costs that the DEVELOPER will incur in the construction of the sewer line in accordance with the CODE.

NOW, THEREFORE, in consideration of the above recitals and mutual promises contained herein, the parties hereto agree to the following terms, conditions, and covenants:

## 1. THE DEVELOPER'S RIGHTS AND RESPONSIBILITIES

- 1.1. The DEVELOPER is responsible for all costs, expenses, and liabilities associated with the construction and installation of the OVERSIZE SEWER LINE, subject to the right of the CITY to designate the type of improvements, appurtenances, and any other relevant matter which it considers necessary for the construction of its municipal sewer system. However, the CITY agrees to reimburse the DEVELOPER for the costs associated with oversizing which the DEVELOPER incurs in the construction and installation of the OVERSIZE SEWER LINE as those costs are calculated pursuant to the terms of Section 3.2 below.
- 1.2. The DEVELOPER shall cause to be performed all work necessary to design and construct the OVERSIZE SEWER LINE in accordance with the improvement plans entitled "Tropical Industrial Park" attached as Exhibit "A," and the CITY's current adopted Design and Construction Standards for Wastewater Collection Systems, accepted engineering practices, and the CODE. The DEVELOPER agrees that it will engage an engineer duly licensed by the State of Nevada to perform engineering and design work necessary to fully design the OVERSIZE SEWER LINE.
- 1.3. The DEVELOPER shall obtain a minimum of three (3) competitive bids for construction of the sewer line(s) from contractors that are duly licensed in the State of Nevada with experience on similar sized projects, with such contractors being acceptable to the CITY, and provide the results thereof to the CITY for review and acceptance purposes.
- 1.4. It is acknowledged that the costs for which the DEVELOPER is entitled to reimbursement for constructing and installing the OVERSIZE SEWER LINE is not to exceed Five Hundred Twenty-Five Thousand Five Hundred Seventy-Nine dollars and 99/100 (\$525,579.99) as depicted in Exhibit "B," of this Agreement. The CITY shall make payment to the DEVELOPER only after the CITY has inspected and accepted the OVERSIZE SEWER LINE, and received all documentation as set forth

- in Section 9. The DEVELOPER's right to reimbursement for the oversizing costs shall be limited to the estimated costs described herein.
- 1.5. The DEVELOPER shall submit the proposed construction contract(s) for the OVERSIZE SEWER LINE, or portions thereof, to the CITY for its review and approval, with such approval not be unreasonably withheld or delayed. The CITY reserves the right to retain an independent cost consultant to verify construction costs.
- 1.6. The period for completion of the OVERSIZE SEWER LINE shall not exceed 24 months from the acceptance of the lowest bid for the construction of the OVERSIZE SEWER LINE. The schedule may be revised and amended upon a mutual agreement of the parties to extend the timeframe. The DEVELOPER shall utilize commercially reasonable efforts to complete the project within such timeframe. The completion timeframe shall be reasonably extended in the event of natural events or disasters, unforeseen circumstances unable to be contemplated through the bidding process, any delays by government agencies or other third parties not in privity or control of the DEVELOPER, any material or supply shortages unknown at the time of the acceptance of the contractor's bid, or any other ordinary events of force majeure, war, acts of terrorism, vandalism or other events that may cause delay to complete construction.
- 1.7. The DEVELOPER must obtain and pay for any customary construction permits for the OVERSIZE SEWER LINE, or portions thereof, in accordance with the CITY'S normal construction permitting processes for such project.
- 1.8. The DEVELOPER agrees that the OVERSIZE SEWER LINE will be designed, constructed, and installed in a good and workmanlike manner in compliance with the CODE, the CITY's current adopted Design and Construction Standards for Wastewater Collection Systems, accepted engineering practices, and in accordance with the design and engineering plans approved by the CITY.
- 1.9. The DEVELOPER acknowledges that additional sewer system improvements from the OVERSIZE SEWER LINE to and within the PROPERTY may be required in order to serve the PROPERTY (the "ADDITIONAL SYSTEMS"), and that such ADDITIONAL SYSTEMS shall be designed and constructed at the DEVELOPER'S sole cost.

1.10. The DEVELOPER hereby acknowledges that during construction of the OVERSIZE SEWER LINE compliance with any federal, state, or local laws or regulations, including the Endangered Species Act ("ENVIRONMENTAL REGULATIONS"), shall be the responsibility of the DEVELOPER and nothing herein shall be deemed to constitute approval by the CITY, either directly or indirectly, of any activity that results in violations of any such laws or regulations.

### 2. RIGHT OF REIMBURSEMENT

- 2.1. It is understood and agreed that the DEVELOPER shall be reimbursed for the costs which it incurs in constructing and installing the OVERSIZE SEWER LINE, subject to the limitations set forth in this AGREEMENT.
- 2.2. It is understood and agreed that all of the costs and expenses of installing the ADDITIONAL SYSTEMS from the OVERSIZE SEWER LINE to and within the PROPERTY for the PROPERTY'S benefit are the sole responsibility of the DEVELOPER without any right of reimbursement from the CITY.

### 3. COSTS OF OVERSIZING AND AMOUNT REIMBURSABLE

- 3.1. It is understood and agreed that the not-to-exceed or maximum costs of the construction and installation of the OVERSIZE SEWER LINE which are subject to reimbursement under the terms of this AGREEMENT have been determined pursuant to the calculations set forth on Exhibit "B". DEVELOPER agrees that the cost of reimbursement for the OVERSIZE SEWER LINE is not to exceed Five Hundred Twenty-Five Thousand Five Hundred Seventy-Nine and 99/100 (\$\$525,579.99). The CITY will not participate in any additional cost incurred during construction, unless created by the CITY, the CITY's third party verifier, or an inspector of the CITY, including costs associated with rock or hard materials encountered during construction.
- 3.2 If the actual costs of the construction and installation of the OVERSIZE SEWER LINE are less than the estimated costs thereof, the DEVELOPER shall be entitled to reimbursement only for such actual costs, subject to the limitations contained in this AGREEMENT.
- 3.3. Subject to the limitations set forth herein, the costs of the OVERSIZE SEWER LINE were calculated as the difference between the amount of the lowest responsive and

responsible bidder's bid received for the sewer line(s) sized to meet only the DEVELOPER's needs (nominal size) and the same bidder's bid for the sewer line(s) sized to meet the CITY's and DEVELOPER's needs (oversize). Should the difference between the "oversize" and "nominal size" price of the lowest responsive and responsible bidder be more than ten (10) percent higher than the difference between the "oversize" and "nominal size" price of the other two bids, the CITY can elect to pay the lowest cost differential.

## 4. CITY RIGHTS AND RESPONSIBILITIES

- 4.1. The CITY shall participate in the costs of construction of the OVERSIZE SEWER LINE in the not to exceed or maximum amount depicted in Exhibit "B" of this AGREEMENT and set out in Section 3 of this Agreement and shall make payment to the DEVELOPER pursuant to the terms of this AGREEMENT after the CITY has inspected and accepted each segment of the OVERSIZE SEWER LINE and received all documentation as outlined in Section 9 hereof.
- 4.2. As a condition precedent to any reimbursement, the DEVELOPER must submit to the CITY a written request for payment, a statement of completion that the OVERSIZE SEWER LINE was constructed pursuant to the approved plans and specifications, lien releases from the DEVELOPER'S contractor(s) and materials suppliers for all materials and labor, a statement from all subcontractors affirming that they have received payment in full, an itemized invoice reflecting actual costs paid, and a written instrument transferring the ownership of the OVERSIZE SEWER LINE and appurtenances to the CITY, as set forth in Section 9 herein.

### 5. TIME OF PERFORMANCE

5.1. This AGREEMENT shall become effective upon final signature by the CITY and continue for a period of two years. The right of the DEVELOPER to reimbursement hereunder shall cease and terminate with respect to the OVERSIZE SEWER LINE, when the DEVELOPER has received full reimbursement of the costs which it was entitled to pursuant to Section 3 and which it incurred for the OVERSIZE SEWER LINE, or after the time period has expired.

### 6. LIMITATION ON AMOUNT OF REIMBURSEMENT

6.1. The right of reimbursement for the OVERSIZE SEWER LINE shall be limited to the costs of the OVERSIZE SEWER LINE which are set forth on Exhibit "B" and in Section 3 above or the actual direct costs which are attributable to the OVERSIZE SEWER LINE, whichever is lower.

### 7. INSPECTION

7.1. The CITY shall participate from time to time in the inspection and approval of the construction and installation of any part of the OVERSIZE SEWER LINE. The DEVELOPER agrees that any inspection of the installation of the OVERSIZE SEWER LINE which is conducted by the CITY hereunder or the CITY'S subsequent acceptance of the OVERSIZE SEWER LINE shall not relieve or release the DEVELOPER from its responsibility to correct any defective material or faulty workmanship, or both, in the construction and installation of the OVERSIZE SEWER LINE or any problem which results from the negligent design thereof as provided in Section 8 hereof.

# 8. CORRECTION OF DEFECTIVE MATERIALS, FAULTY WORKMANSHIP AND NEGLIGENT DESIGN

8.1. The DEVELOPER shall guarantee all material and workmanship and the design thereof for a period of one (1) year from the date of acceptance by the CITY of the entire OVERSIZE SEWER LINE ("DEFECT PERIOD"). Should any defective material or workmanship affecting the OVERSIZE SEWER LINE installed by the DEVELOPER or any problem which results from the negligent design thereof be discovered within one (1) year of the date of completion and acceptance of the entire OVERSIZE SEWER LINE by the CITY, the DEVELOPER shall, within commercially reasonable time, either (a) cause the defect to be corrected, or (b) reimburse the CITY for all costs incurred by CITY in correcting said defect.

## 9. OWNERSHIP OF OVERSIZE SEWER LINE

9.1. Upon completion of installation of the OVERSIZE SEWER LINE and, as a condition precedent to the acceptance thereof by the CITY, the DEVELOPER will convey by written instrument to the CITY all rights, title, and interest in the OVERSIZE SEWER LINE and appurtenances and warrant that it is free of all liens and other encumbrances.

- 9.2. It is understood and agreed that the OVERSIZE SEWER LINE shall thereafter, upon its acceptance by the CITY, become and remain the exclusive property of the CITY.
- 9.3. The DEVELOPER shall transfer to the CITY all warranties in the improvements that have been provided by the DEVELOPER'S contractors; provided, however, that for the DEFECT PERIOD, DEVELOPER shall retain the non-exclusive right to pursue any claim pursuant to such warranties in order to correct any negligent design or defect, as may be required pursuant to Section 8.1 above.

## 10. INSURANCE AND INDEMNIFICATION

- 10.1. The DEVELOPER shall procure and maintain the insurance required in Exhibit "C" attached hereto, which shall name the CITY as additional insured on its certificate of insurance evidencing the coverages indicated in Exhibit "C" and provide said certificates annually to the CITY. Upon request by the CITY, the DEVELOPER shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles.
- 10.2. The DEVELOPER shall require all contractors and consultants to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damages and injuries, and other insurance necessary to protect the CITY'S and the DEVELOPER'S interests in the project. The DEVELOPER shall require such contractors and consultants to cause the CITY and the DEVELOPER to be listed as additional insureds with respect to such liability insurance.
- 10.3. Notwithstanding any of the insurance requirements hereinabove set forth or limits of liability set forth in the relevant insurance policies, and to the fullest extent permitted by law, the DEVELOPER shall protect, indemnify, and hold harmless the CITY, its elected officials, officers, attorneys and employees from any and all claims, damages, losses, expenses, suits, actions, decrees, judgments, reasonable attorneys' fees, and court costs which the CITY, its elected officials, officers, attorneys or employees may suffer, or which may be sought against, recovered from or obtainable against the CITY, its elected officials, officers, attorneys or employees as a result of, by reason of, or arising out of the negligent acts or omissions of the DEVELOPER, its subcontractors, or agents or anyone employed by the DEVELOPER or its

- subcontractors or agents, solely for the design, construction, and installation of the OVERSIZE SEWER LINE.
- 10.4. It is expressly agreed that the CITY and the DEVELOPER shall each initially pay their respective costs in defending themselves in any and all suits or actions which may be brought against them, their elected officials, officers, attorneys or employees because of, or by reason of, the negligent act or omission of either of them unless such suit or action is defended on their behalf by the OVERSIZE SEWER LINE contractor. However, the parties hereto agree that in the event the suit or action is reduced to judgment then the cost of such defense shall be ultimately divided or distributed between the parties in the following manner:
  - (a) An adjudication by the court or trier of fact that neither the CITY nor the DEVELOPER is responsible or liable for the plaintiffs' injuries or damages, then each party shall bear its own costs and expenses of litigation.
  - (b) An adjudication by the court or trier of fact that the DEVELOPER is solely responsible and liable for the plaintiffs' injuries or damages while the CITY is relieved of any responsibility and liability, then the DEVELOPER shall reimburse the CITY for all of its costs and expenses of litigation;
  - (c) An adjudication by the court or trier of fact that the CITY is solely responsible for the plaintiffs' injuries or damages while the DEVELOPER is relieved of any responsibility and liability, then the CITY shall reimburse the DEVELOPER for its costs and expenses of the litigation;
  - (d) An adjudication by the court or trier of fact which determines responsibility and liability on a comparative basis between the parties, then the CITY and the DEVELOPER shall share in the total costs and expenses of litigation in that amount determined by multiplying the total percentage of fault or liability attributable to the respective parties by the total costs and expenses of litigation.
  - (e) In the event that the suit or action is settled between the litigants, each party shall be responsible for all of its costs and expenses of litigation, unless the settlement agreement provides otherwise.

#### 11. TERMINATION

- 11.1. The following event shall constitute an EVENT OF DEFAULT hereunder:
  - (a) failure by the DEVELOPER to perform or observe any of the covenants, agreements, or conditions for which it's responsible for under this AGREEMENT; or
  - (b) failure by the DEVELOPER to meet the deadlines in the schedule of completion.
- 11.2. The CITY shall have the right to terminate this AGREEMENT at any time, for such Events of Default pursuant to Section 11.1 (a) and (b) above, upon thirty (30) days' prior written notice to the DEVELOPER after first providing the DEVELOPER written notice and reasonable opportunity to cure any such alleged default. Such notice shall be deemed to have been given on the date on which it is delivered in person to a representative of the DEVELOPER as set forth in Section 15.4 herein. Funds which have been expended by or on behalf of the DEVELOPER for the construction and installation of the OVERSIZE SEWER LINE as of the date of the DEVELOPER'S termination, shall be reimbursed to the DEVELOPER as hereinabove provided, up to the amount of the corresponding estimated costs for completed phases acceptable to the CITY, and such reimbursement shall by paid to the DEVELOPER within forty-five (45) days of the date this AGREEMENT is terminated, provided that ownership of the OVERSIZE SEWER LINE is conveyed in a manner acceptable to the CITY pursuant to Section 9 herein

## 12. ASSIGNMENT AND TRANSFER; NO THIRD-PARTY BENEFICIARIES

- 12.1. The CITY and the DEVELOPER are hereby bound and the successors, executors, administrators, and legal representatives of the CITY and the DEVELOPER are hereby bound to the other party to this AGREEMENT and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this AGREEMENT.
- 12.2. The DEVELOPER shall not voluntarily assign, sell, convey, grant, sublet, transfer, pledge, mortgage, subordinate, or otherwise encumber its rights under or interest (including, but without limitation, money that is due or may become due except to the DEVELOPER'S financial institution as may be required by the DEVELOPER'S

financing) in this AGREEMENT without the advance written consent of the CITY. All transfers of interest by the DEVELOPER, shall be subject to the CITY's review of and approval of transfer documentation to assure the transfer is consistent with the terms and goals of this AGREEMENT, and with the public interest.

12.3. This AGREEMENT is intended to be only for the benefit of the CITY and DEVELOPER and not for the benefit of any third party. The parties expressly declare that they would not have executed the AGREEMENT if it conferred a benefit upon any person not named as a party to it.

### 13. REPRESENTATIONS AND WARRANTIES

The DEVELOPER hereby represents and warrants for, in addition to any other representations and warranties made in this AGREEMENT, with the knowledge and expectation of the CITY's reliance thereon, as follows:

- 13.1. DEVELOPER is a limited liability company duly formed, licensed, validly existing, and in good standing under the laws of the State of Nevada, and duly authorized to do business in the State of Nevada.
- 13.2. The execution, delivery and performance of this AGREEMENT and the taking of all other lawful actions necessary to consummate the project contemplated hereunder, by the persons executing, delivering or performing the same on behalf of the DEVELOPER, have been duly and validly authorized (and by their execution hereof or of any document delivered in connection with the OVERSIZE SEWER LINE contemplated hereunder such persons individually represent and warrant that they are so authorized), and this AGREEMENT and the other agreements and instruments contemplated hereby, constitute legal, valid, and binding obligations of the DEVELOPER enforceable against the DEVELOPER in accordance with its terms.
- 13.3. To DEVELOPER's actual knowledge, the execution, delivery and performance by the DEVELOPER of this AGREEMENT and such other instruments and documents to be executed and delivered in connection herewith by the DEVELOPER do not, and will not, result in any violation of, or conflict with, or constitute a default under, any provisions of any instrument to which the DEVELOPER is a party or by which the DEVELOPER is bound or of any judgment, decree or order of any court or governmental body or any law, rule or regulation applicable to the DEVELOPER.

- 13.4. The DEVELOPER has obtained or will obtain any and all licenses, certificates, and permits that are required to be obtained by the DEVELOPER by the Nevada Revised Statutes and the Nevada Administrative Code, and by any other law, rule, regulation, or ordinance applicable to the DEVELOPER and to the DEVELOPER's performance in connection with the OVERSIZE SEWER LINE.
- 13.5 The DEVELOPER or its contractor(s) is duly licensed and authorized to do business in the CITY, and the DEVELOPER's business license is in full force and effect.
- 13.6. The DEVELOPER has examined and carefully studied the exhibits attached hereto, and all data and reference items identified in the exhibits.
- 13.7. The DEVELOPER is familiar with and is satisfied as to all laws and regulations that may affect the project.
- 13.8. The DEVELOPER or its contractor(s) has the skills and experience necessary for successful performance of its obligations under this AGREEMENT.
- 13.9. The DEVELOPER or its contractor(s) will provide a performance bond or other satisfactory instrument in an amount equal to the statutory maximum (but not less than 110 percent) of the estimated construction and installation costs.
- 13.10. The DEVELOPER is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the OVERSIZE SEWER LINE within the time period required by this AGREEMENT, and to perform its obligations under this AGREEMENT.

The representations and warranties made by the DEVELOPER herein shall survive the completion of the OVERSIZE SEWER LINE and the termination or expiration of this AGREEMENT.

### 14. DISPUTE RESOLUTION

14.1 The CITY and the DEVELOPER agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to the project, this AGREEMENT, or the alleged breach thereof ("DISPUTE"), to mediation by a mediator selected by the CITY and the DEVELOPER. If the parties are unable to select a mutually acceptable mediator, the party asserting the DISPUTE shall commence a mediation through the American Arbitration Association. The CITY and the DEVELOPER agree to participate in the mediation process in good faith. The process shall be conducted on a confidential

basis and the parties shall be completed within 180 days of submission to mediation. The mediator's fees and related charges shall be shared equally by the CITY and the DEVELOPER.

14.2. If such mediation is unsuccessful in resolving a DISPUTE, then (a) the parties may mutually agree to a dispute resolution procedure of their choice, or (b) either party may seek to have the DISPUTE resolved by a court of competent jurisdiction in Clark County, Nevada.

### 15. MISCELLANEOUS

- 15.1. Nothing contained in this AGREEMENT shall be construed to create or imply a joint venture, a partnership, or a principal and agent relationship between the CITY and the DEVELOPER and neither party shall have any right, power or authority to create any obligation, expressed or implied, on behalf of the other.
- 15.2. This AGREEMENT may not be amended or modified by any expressed or implied statement or any action or inaction of any officer or employee of the CITY or the DEVELOPER. Any amendments to this AGREEMENT must be in writing and must be formally executed by the CITY and the DEVELOPER.
- 15.3. This Agreement is to be governed by the laws of the State of Nevada.
- 15.4. Any notice required to be given hereunder shall be deemed to have been given when received by the party to whom it is directed by personal services, hand delivery or U.S. mail at the following addresses:

To CITY: CITY OF NORTH LAS VEGAS

Attention: Utilities Director

2250 Las Vegas Blvd., N., Suite 250

North Las Vegas, NV 89030

With a copy to: CITY OF NORTH LAS VEGAS

Attention: City Attorney

2250 Las Vegas Blvd. N, Suite 810

North Las Vegas, NV 89030

To DEVELOPER: Tropical Vegas Industrial Owner, LLC

Attention: Scotty Walker

1300 Dove Street, Suite 200

Newport Beach, CA 92660

15.5. All express representations, waivers, indemnifications, and limitations of liability included in this AGREEMENT will survive its completion or termination for any reason.

- 15.6. Any provision or part of this AGREEMENT held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the CITY and the DEVELOPER, which agree that this AGREEMENT shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 15.7. A party's failure to enforce any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this AGREEMENT.
- 15.8. The terms of the RECITALS are incorporated into the AGREEMENT as if set forth therein as negotiated and agreed upon terms binding against the parties.
- 15.9. With the execution of this AGREEMENT, the DEVELOPER and the CITY shall designate specific individuals to act as the DEVELOPER'S and the CITY'S representatives with respect to the responsibilities under this AGREEMENT. Such individual(s) shall have authority to transmit instructions, receive information, and render decisions relative to the project on behalf of the respective party whom the individual represents.
- 15.10. Pursuant to NRS 239.010, each and every document provided to the CITY is a "public record" open to inspection and copying by any person, except for those documents otherwise declared by law to be confidential. The CITY shall not in any way be liable to the DEVELOPER for the disclosure of any public record.

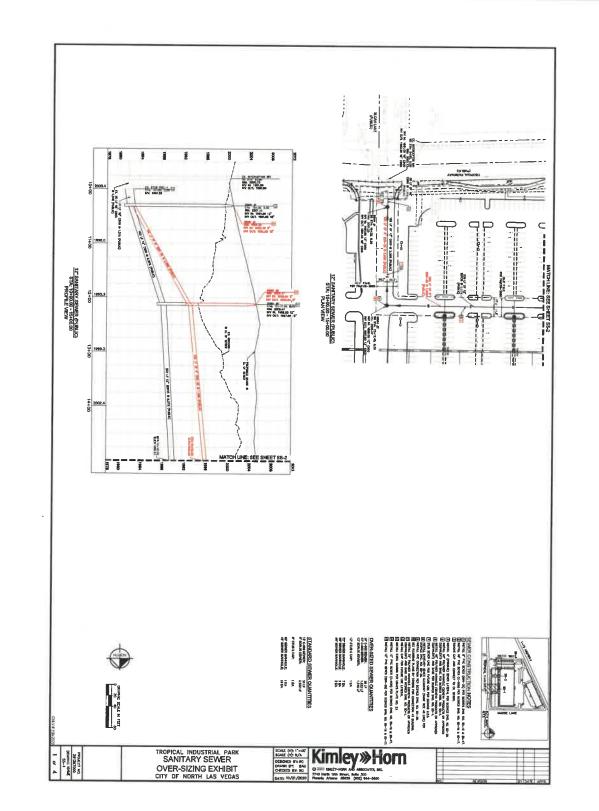
15.11. The headings of the various Sections of this AGREEMENT have been inserted only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this AGREEMENT, or to be used in any manner in the interpretation of this AGREEMENT.

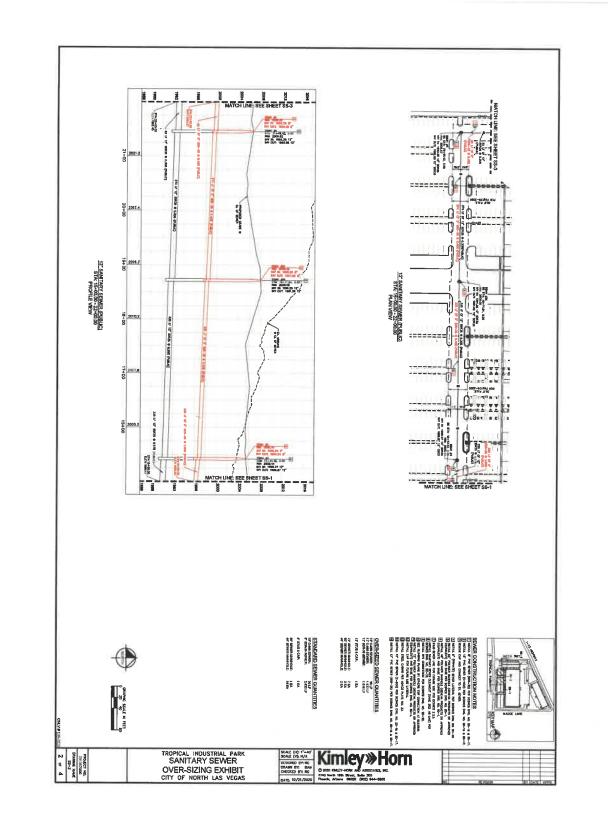
15.12. This AGREEMENT constitutes the entire agreement between the CITY and the DEVELOPER and supersedes all prior written or oral understandings. This AGREEMENT may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

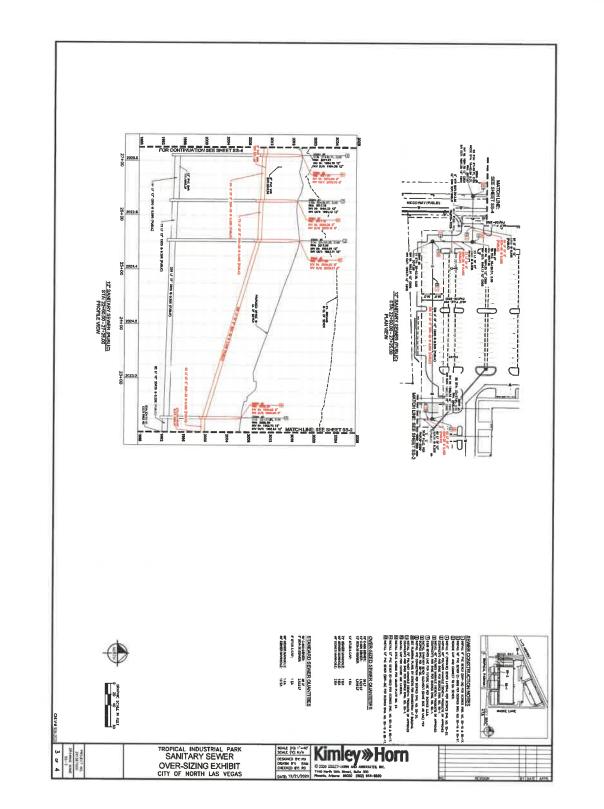
IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized representatives the day and year first above written.

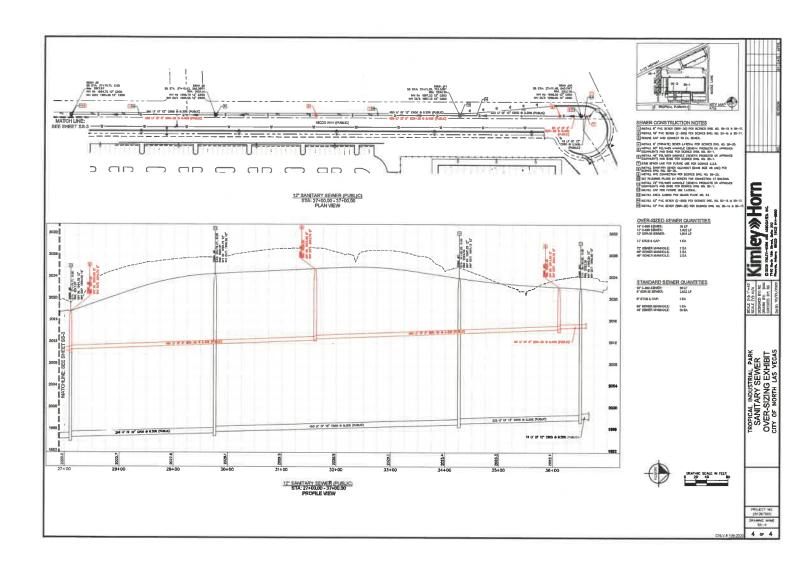
CITY OF NORTH LAS VEGAS, a Nevada Municipal Corporation	Tropical Vegas Industrial Owner, LLC, a Nevada limited liability company
By: JOHN J. LEE, MAYOR ATTEST:	By: JON PHARRIS, VICE PRESIDENT
By:CATHERINE RAYNOR, CITY CLERK	
APPROVED AS TO FORM:	

# EXHIBIT "A" CIVIL IMPROVEMENT PLANS









# EXHIBIT "B" OVERSIZE COST ESTIMATE

**Exhibit B** 

# **Tropical Industrial Park Sewer Oversizing**

**Bid Tab Summary** 

Bidder		8"	12"	Oversizing Cost	
William Charles	Sewer MH	\$434,115.00 \$162,000.00			
	Total	\$596,115.00	\$1,143,350.00	\$547,235.00	
JBM	Lump Sum	\$275,942.01	\$801,522.00	\$525,579.99	Low Bid/OS Cost
	<i>Add alt Rock</i> Total w/ Alt	<i>\$52,752.73</i> \$328,694.74	<i>\$249,491.03</i> \$1,051,013.03	\$722,318.29	
Maui One	Total	\$552,389.00	\$1,133,228.00		

# EXHIBIT "C" INSURANCE

The types of insurance and the limits of liability for that insurance, as required by Section 10 of this AGREEMENT, are as follows:

### 1. By DEVELOPER:

- a. Workers' Compensation: Statutory
- b. Employer's Liability
  - i. Bodily injury, each accident: \$500,000
  - ii. Disease, Policy Limit: \$1,000,000
  - iii. Disease, each employee: \$1,000,000
- c. Commercial General Liability This policy shall include bodily injury, property damage and broad form contractual liability coverage:
  - i. Each Occurrence: \$5,000,000
  - ii. General Aggregate: \$10,000,000
- d. Automobile Liability This policy shall provide coverage for bodily injury and property damage for any owned, hired, leased, borrowed, and non-owned vehicles used in the performance of this Agreement.
  - Combined single limit for bodily injury and property damage for each occurrence: \$1,000,000.
- e. Professional Liability Insurance (Errors and Omissions) This policy shall include coverage for the activities and any errors or omissions of the DEVELOPER's professional staff, including those positions identified in any of the exhibits to this AGREEMENT, in connection with the work performed by the DEVELOPER in connection with this AGREEMENT. These are minimum limits and could be increased to be commensurate with the work performed:
  - i. Each Claim: \$1,000,000
  - ii. Annual Aggregate: \$2,000,000
- f. Additional Insureds. The following persons or entities are to be listed as additional insureds: City of North Las Vegas, Nevada.
- 2. By DEVELOPER's consultants and contractors:
  - a. Workers' Compensation: Statutory
  - b. Employer's Liability
    - i. Bodily injury, each accident: \$500,000
    - ii. Disease, Policy Limit: \$1,000,000
    - iii. Disease, each employee: \$1,000,000

c. Commercial General Liability – This policy shall include bodily injury, property damage and broad form contractual liability coverage:

i. Each Occurrence: \$5,000,000ii. General Aggregate: \$10,000,000

d. Automobile Liability – This policy shall provide coverage for bodily injury and property damage for any owned, hired, leased, borrowed, and non-owned vehicles used in the performance of this Agreement.

Combined single limit for bodily injury and property damage for each occurrence: \$1,000,000.

e. Professional Liability Insurance (Errors and Omissions) – This policy shall include coverage for the activities and any errors or omissions of the DEVELOPER's professional staff, including those positions identified in any of the exhibits to this AGREEMENT, in connection with the work performed by the DEVELOPER in connection with this AGREEMENT. These are minimum limits and could be increased to be commensurate with the work performed:

i. Each Claim: \$1,000,000

ii. Annual Aggregate: \$2,000,000

f. Additional Insureds. The following persons or entities are to be listed as additional insureds: City of North Las Vegas, Nevada, Tropical Vegas Industrial Owner, LLC



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/19/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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P.O. Box 929  NEURIER  ITCOICE May Represent the policy of	Olympic Insurance Agency					PHONE (A/C, No. Ext): (818) 843-4314 FAX (A/C, No.): (818) 842-0378					
RO. 080 929  INSURED CA 95002						E-MAIL karen@oig1047.com					
SIND Marker D.  Tropical Vegas Industrial Cowner LLC & AREG CCP Tropical Vegas  1300 Diver Spread  Newport Reach  Surface 200  Newport Reach  Coverages  CERTIFICATE NUMBER:  SUBJECT C.  INSURER D.	P.O	. Box 929									NAIC #
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2250 Las vegas Bivd. North		City of North Las Vegas Land De	& Community Services	ACCORDANCE WITH THE POLICY PROVISIONS.							
		2250 Las Vegas Blvd. North		AUTHORIZED REPRESENTATIVE							
		· ·	0622								

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:

We waive any rights of recovery we may have against any person or organization because of payments we make for injury or damage resulting from your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" if:

- a. you agreed to such waiver;
- b. the waiver is included as part of a written contract or lease; and
- c. such written contract or lease was executed prior to any loss to which this insurance applies.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

COMMERCIAL GENERAL LIABILITY CG 20 01 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

#### **Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

POLICY NUMBER: 600 GL 0185925-00

#### THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY,

# ADDITIONAL INSURED – MORTGAGEE, ASSIGNEE OR RECEIVER

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **SCHEDULE**

Name Of Person(s) Or Organization(s)	Designation Of Premises							
All persons or organizations as required by written contract with the Named Insured	As designated in written contract with the Named Insured							
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.								

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of the premises by you and shown in the Schedule.

#### However:

- The insurance afforded to such additional insured only applies to the extent permitted by law; and
- If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- **B.** This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or
- 2. Available under the applicable Limits of Insurance shown in the Declarations:

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/19/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER					CONTACT Karen Hammer					
Olyı	npic Insurance Agency				PHONE (818) 843-4314 FAX (A/C, No). (818) 842-0378					
					E-MAIL ADDRESS: karen@oia1947.com					
P.O. Box 929										
	Valley			CA 93062	INSURER(S) AFFORDING COVERAGE				NAIC #	
INSU				GA 93002	INSURER A: Ohio Security Insurance Company					
IIVSU					INSURE	RB: Peleus I	nsurance Com	pany		34118
	Caprock Partners Managemen	i, Inc.			INSURE	RC:				
	1300 Dove Street				INSURE	RD:				
	Suite 200				INSURE	RE:				
d	Newport Beach			CA 92660	INSURE	RF:				
COV	/ERAGES CEF	≀TIFIC	ATE	NUMBER: 20-21 TROP (	CERT E	&O/		REVISION NUMBER:		
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LTR	TYPE OF INSURANCE COMMERCIAL GENERAL LIABILITY	INSD	WVD	POLICY NUMBER		(MM/DD/YYYY)	(MM/DD/YYYY)	LIMIT	S	
	COMMERCIAL GENERAL EIABILITY							EACH OCCURRENCE DAMAGE TO RENTED	\$	
	CLAIMS-MADEOCCUR							PREMISES (Ea occurrence)	\$	
						1		MED EXP (Any one person)	\$	
								PERSONAL & ADV INJURY	\$	
	GEN'L AGGREGATE LIMIT APPLIES PER:							GENERAL AGGREGATE	\$	
	POLICY PRO- LOC							PRODUCTS - COMP/OP AGG	\$	
	OTHER:								\$	
	AUTOMOBILE LIABILITY							COMBINED SINGLE LIMIT Ea accident	\$ 1,00	0,000
	X ANY AUTO							BODILY INJURY (Per person)	\$	
Α	OWNED SCHEDULED			BAS2159831297		06/01/2020	06/01/2021	BODILY INJURY (Per accident)	\$	
	AUTOS ONLY HIRED AUTOS NON-OWNED							PROPERTY DAMAGE	\$	
	AUTOS ONLY AUTOS ONLY							(Per accident) Medical payments	\$ 5,00	
	UMBRELLA LIAB OCCUR	1	-							,
	EXCECS LIAD							EACH OCCURRENCE	\$	
	CLAIMS-MADE	1						AGGREGATE	\$	
DED RETENTION \$								LDED L LOTH	\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY YIN							PER OTH- STATUTE ER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	N/A						E.L. EACH ACCIDENT	\$	
	(Mandatory in NH)							E.L. DISEASE - EA EMPLOYEE	\$	
	If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. DISEASE - POLICY LIMIT	\$	
	PROFESSIONAL LIABILITY							PER CLAIM	\$2,0	00,000
В	RETROACTIVE DATE: 2/24/2016			RE4259330-0		06/01/2020	06/01/2021	AGGREGATE LIMIT	\$2,0	00,000
								DEDUCTIBLE	\$15,	000
DESC	RIPTION OF OPERATIONS / LOCATIONS / VEHICL	ES (AC	ORD 10	01, Additional Remarks Schedule,	may be at	tached if more sp	ace is required)			
	ical Vegas Industrial Owner LLC is a subsid									
PRO	JECT LOCATION: NE corner of Nicco Way	and T	ropica	al Parkway, North Las Vegas,	NV 891	15				
Thirt	Day Cancellation Notice except Ten Days	for No	on-pay	ment of Premium.						
CER	CERTIFICATE HOLDER CANCELLATION									
City of North Las Vegas Land Development & Community Services 2250 Las Vegas Blvd. North				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE						
	North Las Vegas			NV 89030			()	SIS		