

Prepared by and Return to:
City of Port St. Lucie
City Attorney's Office
121 S.W. Port St Lucie Blvd.
Port St. Lucie, Florida 34984

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Utility Easement

This Utility Easement ("**Easement**") is made and entered into as of this 30th day of SEPTEMBER, 2021, by and between OCULUS SURGICAL, INC., a Florida Corporation ("**Grantor**"), whose address is 562 NW Mercantile Place, Suite 104, Port St. Lucie, Florida 34986, and the CITY OF PORT ST. LUCIE, a Florida municipal corporation ("**Grantee**"), whose address is 121 S.W. Port St. Lucie Blvd., Port St. Lucie, Florida 34984.

A. Grantor is the owner in fee simple of that certain real property (the "**Property**") lying, located and being in St. Lucie County, Florida, and more particularly described on Exhibit A attached hereto and incorporated herein by reference; and

B. Grantor desires to grant to Grantee a perpetual non-exclusive easement for utility purposes over, under and across that certain portion of the Property more particularly described on Exhibit B (the "**Easement Premises**"), attached hereto and incorporated herein by reference, which shall run with and be a burden upon the Property.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Grant of Easement. By this instrument and subject to its terms and conditions, Grantor hereby grants and conveys to Grantee, its employees, agents, contractors, successors, and permitted assigns (collectively, the "**Grantee Parties**"), a perpetual, non-exclusive easement over, under and across the Easement Premises for the purposes of installation, operation, maintenance, repair, expansion (solely within the boundaries of the Easement Premises) and replacement of sanitary sewer main, multiple manholes and related appurtenances, mains or facilities related thereto (collectively, the "**Utility Facilities**") (provided, however that, except for the manholes located within the Easement Area, the remainder of the Utility Facilities located or to be located within the Easement Premises shall be underground), together with a perpetual non-exclusive ingress and egress easement over and across the paved driveways and parking areas, as the same may exist from

time to time, within the Property, for the purposes of access to, installation of, modification of, and/or maintenance, replacement or repair of, any of the Utility Facilities. This Easement shall run with and be a burden upon the Property.

2. Improvements. Grantor agrees that there will be no improvements planted or constructed within the boundaries of the Easement Premises by Grantor, without the written approval of Grantee, except for those above and underground improvements contemplated by that certain site plan approved by the applicable governmental authorities for the Property (the "**Site Plan**"). Should Grantor plant or construct any improvements not shown or contemplated by the Site Plan without the written approval of Grantee, such improvements may be subject to removal or destruction by Grantee, without liability or responsibility thereof on the part of Grantee.

3. Maintenance and Repair. Grantee hereby agrees to maintain the Utility Facilities located within the Easement Premises in good order and repair and in compliance with all applicable laws.

4. Right of Relocation. Grantor shall have the absolute right, in its sole discretion and at its sole expense, to relocate the Utility Facilities within the Property so long as (i) the relocated Utility Facilities shall continue to provide the same level of sanitary sewer service as existed prior to the date of such relocation; and (ii) Grantor obtains all necessary municipal permits from Grantee, in its permitting capacity, in connection therewith. Upon such relocation, the Easement Premises shall automatically be deemed to be the area within which the Utility Facilities are relocated (without the necessity of Grantee executing any documentation evidencing the same) and may be evidenced by a written instrument executed solely by Grantor and recorded in the Public Records of St. Lucie County, Florida; provided, however, in the event that the Easement Premises is relocated as set forth herein then, without limiting the effectiveness of the foregoing, Grantor and Grantee shall, upon Grantor's or Grantee's written request, execute documentation in form and substance reasonably acceptable to Grantor and Grantee evidencing such relocated Easement Premises for recordation in the Public Records of St. Lucie County, Florida.

5. Termination of Temporary Construction Easement. Grantor and Grantee hereby agree that by recording this Easement in the Public Records of St. Lucie County, Florida, that certain Temporary Construction Easement dated October 23, 2021 between Grantor and Grantee, as successor by assignment from Port St. Lucie Governmental Finance Corporation, recorded in Official Public Records 4499, Page 2038 of the Public Records of St. Lucie County, Florida (the "**Temporary Construction Easement**") is hereby terminated in its entirety (except for those obligations and provisions that specifically survive termination thereof), and is hereby released from the Property.

6. Insurance. Grantee shall provide Grantor a certificate of insurance and endorsement upon request, evidencing:

a. Grantee Insurance: Grantee is a qualified self-insurer in the State of Florida and granted immunity under Florida Statute 768.28. Liability is limited to \$200,000 per claimant,

\$300,000 per claim or occurrence for negligent acts of the Grantee (as it now is written as it may be amended by the legislature at future dates).

b. Grantee Contractor Insurance: Grantee shall cause each of Grantee's contractors and subcontractors that are involved with the installation, operation, maintenance, repair, expansion and replacement of the Utility Facilities to procure and maintain at such contractor's and subcontractor's sole expense, the following minimum insurance, with insurers with a rated "A-, VII" or higher by A.M. Best's Key Rating Guide (i) Commercial General Liability Insurance in minimum limits of \$1,000,000 each occurrence / \$2,000,000 aggregate, (ii) Workers' Compensation Insurance per Florida Statute 440 (iii) Employers' Liability Insurance with limits of \$100,000 each accident, \$100,000 each disease/employee, \$500,000 each policy/maximum and, (iv) Business Automobile Liability Insurance which shall apply to all owned, non-owned, leased and hired automobiles with limits of \$1,000,000 combined single limit. In the event that any contractor or subcontractor does not own any automobiles, the Business Auto Liability requirement shall be amended allowing such contractor or subcontractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability policy, or separate Business Auto Coverage form. Upon request, copies of Grantee's contractor's and subcontractor's policies will be furnished to Grantor by Grantee. Grantee understands and agrees that the use of the Easement Premises for the purposes described herein is expressly contingent upon acceptance and compliance with the provisions contained herein.

c. Subrogation: Grantee and Grantee's contractor and subcontractor insurance shall be primary and include a waiver of subrogation in favor of Grantor. Grantee shall require its contractors and subcontractors to list Grantor, its officers, agents and employees, as Additional Insureds on their General Liability and Business Automobile Policies.

7. No Waiver Of Sovereign Immunity. Grantee does not waive any of their sovereign immunity protections by contract or by law. Grantee acknowledges that nothing contained in this Easement or related documents increases the Grantee's limits of liability set forth in Section 768.28, Florida Statutes, or waives the Grantee's sovereign immunity protections existing under the laws of the State of Florida.

8. Authority. Grantor hereby covenants and warrants that Grantor owns the Property and has the right and authority to grant this Easement.

9. Binding Effect. The rights contained within this Easement shall run with the Property and shall be binding upon and inure to the benefit of Grantor, Grantee and their successors and permitted assigns.

10. No Gift or Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the real property described herein to the general public or for general public purposes whatsoever, it being the intention of the parties that this Easement shall be strictly limited to and for the purposes herein expressed.

11. No Modification. Except as expressly set forth in Section 4 above, this Easement may not be amended or modified in any respect whatsoever or rescinded, in whole or in part, except by the agreement of both Grantor and Grantee, and then only by written instrument duly executed, acknowledged and recorded in the Public Records of St. Lucie County, Florida.

12. Assignment. The rights and obligations of Grantee under this Easement may not be assigned in whole or in part to a non-governmental entity without the prior written consent of Grantor, which consent may be withheld in its sole and absolute discretion.

13. Entire Easement. This Easement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations and understandings are superseded hereby.

14. 713 Notice. Under Florida Section 713.10, Florida Statutes, the interest of Grantor in the Property or the improvements therein, shall not be subject to liens for any improvements made by or on behalf of Grantee and it is specifically provided that neither Grantee nor any one claiming by, through or under Grantee, including, without limitation, contractors, subcontractors, materialmen, mechanics and/or laborers, shall have any right to file or place any mechanics' or materialmen's liens of any kind whatsoever upon the Property or the improvements thereon; and any such liens are hereby specifically prohibited. All parties with whom Grantee may deal are put on notice that Grantee has no power to subject Grantor's interest to any mechanics' or materialmen's lien of any kind or character, and all such persons so dealing with Grantee must look solely to the credit of Grantee and not to Grantor's said interest or assets.

[Remainder of Page Left Blank Intentionally.]

IN WITNESS WHEREOF, Grantor and Grantee have executed and delivered this Easement and have intended the same to be and become effective on the month, day, and year written above.

Witnesses:

GRANTOR:

Oculus Surgical, Inc.,
a Florida Corporation:

William Leber
Printed Name: William Leber

By: [Signature]
Printed Name: MICHAEL ANSORGE
Title: CEO

[Signature]
Printed Name: Russ McDougall

STATE OF FLORIDA)
) SS:
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this September day of 30, 2021, by Michael Ansoerge the CEO of Oculus Surgical, Inc., a Florida Corporation, on behalf of said corporation, who is personally known to me, or who has [] produced the following identification _____.



NOTARY SEAL/STAMP

Tara Hogan
Signature of Notary Public

Name: Tara Hogan

Notary Public, State of Florida
My Commission expires 4/8/2023

Witnesses:

GRANTEE:

CITY OF PORT ST. LUCIE
a Florida municipal corporation

Printed Name: _____

By: _____
Printed Name: Shannon Martin
Title: Vice Mayor

Printed Name: _____

STATE OF FLORIDA)
) ss
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____ 2021, by Shannon Martin, as Vice Mayor of the City of Port St. Lucie, and on behalf of the City of Port St. Lucie, who is [X] personally known to me, or who has [] produced the following identification _____.

Signature of Notary Public

Name: _____

Notary Public, State of Florida
My Commission expires _____

NOTARY SEAL/STAMP

Exhibit A

The Property

Lot 4 of Southern Grove Plat No. 14, according to the Plat thereof recorded in Plat Book 71, Page 35, of the Public Records of St. Lucie County, Florida.

Exhibit B

Easement Premises

[SEE ATTACHED]

NOTE:

THIS IS NOT A SURVEY

DESCRIPTION NOT
VALID WITHOUT
SKETCH.

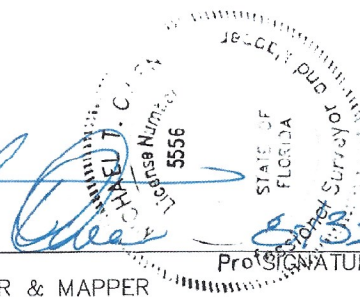
DESCRIPTION:

A PARCEL OF LAND LYING IN TRACT 2, SOUTHERN GROVE, PLAT NO. 29, AS RECORDED IN PLAT BOOK 88, PAGE 34 OF THE PUBLIC RECORDS OF SAINT LUCIE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT 2, SAID POINT ALSO BEING THE INTERSECTION OF THE SOUTH LINE OF RELOCATED UTILITY SITE 2 OF SOUTHERN GROVE PLAT NO. 14, AS RECORDED IN PLAT BOOK 71, PAGE 35, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA AND THE EAST LINE OF TRACT 1 AS RECORDED IN SAID SOUTHERN GROVE PLAT NO. 29; THENCE SOUTH 13°30'27" EAST, ALONG THE EAST LINE OF SAID TRACT 1, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING;


THENCE CONTINUE SOUTH 13°30'27" EAST, ALONG SAID EAST LINE, A DISTANCE OF 20.00 FEET; THENCE NORTH 76°29'33" EAST, A DISTANCE OF 445.68 FEET; THENCE SOUTH 13°30'27" EAST, A DISTANCE OF 173.91 FEET; THENCE NORTH 78°17'21" EAST, A DISTANCE OF 48.30 FEET TO AN EXISTING UTILITY EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 4425, PAGE 22; CONTINUE ALONG SAID UTILITY EASEMENT THE NEXT (3) THREE COURSES: THENCE NORTH 11°42'39" WEST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 78°17'21" WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 11°42'39" WEST, A DISTANCE OF 20.00 FEET; THENCE SOUTH 78°17'21" WEST, A DISTANCE OF 19.23 FEET; THENCE NORTH 13°30'27" WEST, A DISTANCE OF 164.52 FEET; THENCE SOUTH 76°29'33" WEST, A DISTANCE OF 465.68 FEET TO SAID EAST LINE OF TRACT 1 AND THE POINT OF BEGINNING.

CONTAINING 13,460.86 SQUARE FEET (0.31 ACRES), MORE OR LESS



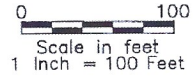
Michael T. Owen
 MICHAEL T. OWEN
 PROFESSIONAL SURVEYOR & MAPPER
 FLORIDA REGISTRATION #5556

8/12/21
 SIGNATURE DATE

SKETCH & DESCRIPTION OF: UTILITY EASEMENT		PORT SAINT LUCIE OFFICE 10250 SW VILLAGE PARKWAY SUITE 201 PORT SAINT LUCIE, FL 34987 ☎ 772-462-2455 www.edc-inc.com	 ENGINEERS & SURVEYORS ENVIRONMENTAL <small>F.B.P.E. CERTIFICATE OF AUTHORIZATION 9035 L.B. CERTIFICATE OF AUTHORIZATION 8058</small>
PREPARED FOR:	OCULUS		
REVISIONS	UPDATED SUBJECT PROPERTY LEGAL -- FS -- 6/17/21 CHANGED EASEMENT LAYOUT -- FS -- 8/12/21		
PROJ. #: 18-398 DATE: 8/12/21 DRAWN BY: FS CHECKED BY: MTO SCALE: 1"=100' CAD FILE: 18-398 SAN EASEMENT_REV2.dwg SHEET Z:\EDC-2018\18-398 - Oculus\SURVEY\Dwg\Sketch & Description\18-398 SAN EASEMENT_REV2.dwg, 8/12/2021 11:26 AM		1 OF 2	

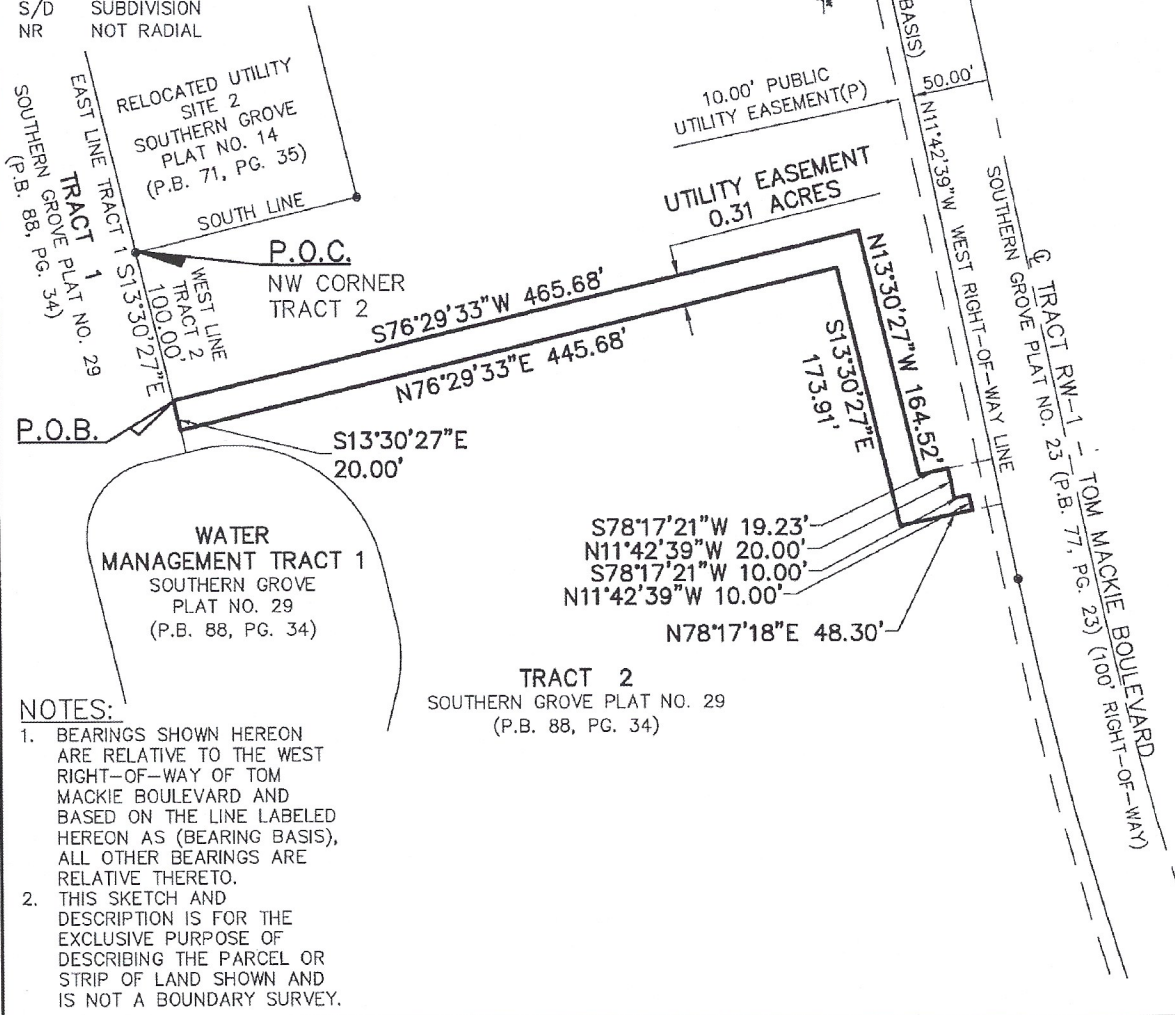
THIS IS NOT A SURVEY

INTENDED DISPLAY SCALE



ABBREVIATION LEGEND

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINUS
- O.R.B. OFFICIAL RECORD BOOK
- P.B. PLAT BOOK
- PG. PAGE
- R/W RIGHT OF WAY
- CL CENTER LINE
- S/D SUBDIVISION
- NR NOT RADIAL



NOTES:

1. BEARINGS SHOWN HEREON ARE RELATIVE TO THE WEST RIGHT-OF-WAY OF TOM MACKIE BOULEVARD AND BASED ON THE LINE LABELED HEREON AS (BEARING BASIS), ALL OTHER BEARINGS ARE RELATIVE THERETO.
2. THIS SKETCH AND DESCRIPTION IS FOR THE EXCLUSIVE PURPOSE OF DESCRIBING THE PARCEL OR STRIP OF LAND SHOWN AND IS NOT A BOUNDARY SURVEY.

**SKETCH & DESCRIPTION OF:
UTILITY EASEMENT**

PREPARED FOR:
OCULUS

PORT SAINT LUCIE OFFICE
10250 SW VILLAGE PARKWAY
SUITE 201
PORT SAINT LUCIE, FL 34987
772-462-2455
www.edc-inc.com



**ENGINEERS & SURVEYORS
ENVIRONMENTAL**
F.B.P.E. CERTIFICATE OF AUTHORIZATION 9955
L.B. CERTIFICATE OF AUTHORIZATION 8058

REVISIONS	UPDATED SUBJECT PROPERTY LEGAL - FS - 6/17/21
	CHANGED EASEMENT LAYOUT - FS - 8/12/21