



STAFF REPORT

City Commission Regular Meeting

June 27, 2024

To: City Commission

From: Dale L. Martin, City Manager

Date: August 22, 2024

Item Name: Proposed Resolution 2024-38- Grant of Easements to DC BLOX for the Purpose of Undersea Cable Landings.

Background: Over the course of the past approximately eighteen months, DC BLOX, an owner/operator of multi-tenant data centers throughout the southeastern United States, entered into discussions with several Flagler County governments about the construction of such a center in Palm Coast. City of Flagler Beach officials were not part of any broader conversations among other governments related to the proposed project.

The original proposal sought landing sites for undersea cables at two locations: N. 11th Street and S. 6th Street. The proposed S. 6th Street landing site would have encumbered future use of the City parking facility, so an alternative landing location at Veterans Park was considered. That site was subsequently rejected by the City Commission, and DC Blox efforts returned to a modified S. 6th Street landing site within the S. 6th Street right-of-way rather than within the parking facility parcel. The landing at S. 6th Street also requires additional underground infrastructure at the Wickline Park property.

Due to the complexities (financial and technical) of the project, the City retained a specialized consultant to assist the City. A copy of the report prepared by Mr. Michael Tammaro is attached. DC Blox has also submitted a proposal which is attached. In summary, the latest DC Blox proposal indicates that only the modified S. 6th Street landing site will be utilized (use of the N. 11th Street site will be "deferred"). DC Blox would receive thirty-five year easements on various parcels required for its infrastructure and a six-month temporary easement on the S. 6th Street parking facility for construction operations.

Mr. Tammaro places a value of the S. 6th Street landing site at \$1.2 million, a value to which the DC Blox proposal recognizes and accepts: "If we focus on a single landing site with six conduits, it also aligns with Mr. Tammaro's NPV assessment of \$1.2M for 6th St. South." Mr. Tammaro argues for fixed compensation associated with the \$1.2 million value (\$800,000 immediately and \$400,000 and a defined future date) while DC Blox proposes for such compensation beyond the first three (\$600,000, or \$200,000 per cable) per conditional upon the addition of the final three cables.

Fiscal Impact: If and when received, the compensation received from this project will be allocated to the City's General Fund.

Staff Recommendation: Staff recommends a hybrid compensation proposal: \$800,000 within ninety days after USACE/FDEP permits have been issued for construction; \$200,000 in four years or the installation of a fourth cable, whichever is earlier; and \$100,000 for each of the final two cables when installed. The associated easements would be reviewed and approved by the City Attorney.

Attachments: Resolution 2024-28
Correspondence, M. Tammaro to Mayor, "Council" (Aug 8, 2024)
Correspondence, DC Blox to D. Martin, D. Smith (undated, but received Aug 8, 2024)

RESOLUTION 2024-38

A RESOLUTION BY THE CITY OF FLAGLER BEACH, FLORIDA, APPROVING AN EASEMENT AGREEMENT BETWEEN THE CITY OF FLAGLER BEACH AND DCB ORCHID TO CONSTRUCT INFRASTRUCTURE WITHIN THE CITY OF FLAGLER BEACH AND UTILIZE THE ASSOCIATED PROPERTY FOR THE PURPOSES OF LEASING THE INFRASTRUCTURE, PROVIDING FOR CONFLICT AND EFFECTIVE DATE.

WHEREAS, the City Commission wishes to engage with DCB Orchid to construct state of the art communications infrastructure; and

WHEREAS, the easement is necessary to construct the infrastructure within our municipal limits.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH:

SECTION 1. The Flagler Beach City Commission approves Resolution 2024-38 and the Easement Agreement with its attached Exhibits "A" and "B" and authorizes the Mayor to endorse.

SECTION 2. All resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 3. This Resolution shall become effective immediately as provided by law.

PASSED AND ADOPTED THIS _____ DAY OF AUGUST, 2024.

CITY OF FLAGLER BEACH, FLORIDA
CITY COMMISSION

ATTEST:

Patti King, Mayor

Penny Overstreet, City Clerk

**THIS INSTRUMENT PREPARED BY
AND SHOULD BE RETURNED TO:**

Jo O. Thacker, Esq.
Nelson Mullins Riley & Scarborough LLP
390 North Orange Avenue, Suite 1400
Orlando, FL 32801

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this “**Agreement**”) is made and entered into as of the ____ day of _____, 2024, by and between the CITY OF FLAGLER BEACH, FLORIDA, a municipal corporation of the State of Florida (the “**Grantor**”), and DCB Orchid, LLC, a Delaware limited liability company (the “**Grantee**”) (Grantor and Grantee are sometimes together referred to herein as the “**parties**”, and separately as the “**party**”).

WITNESSETH:

WHEREAS, the Grantor is the owner of that certain real property located in Flagler County, Florida, Parcel ID #s 12-12-31-4500-00730-0340 and 12-12-31-4500-00120-0020, as more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (“Grantor Property”); and

WHEREAS, Grantee is the developer of that certain project to be a multi-tenant and multi-cable subsea cable landing station (“CLS”) located within the City of Palm Coast and intends to construct a subsea cable landing infrastructure (“Outfall”), consisting of ocean ground beds, bored underground conduits and infrastructure within the City of Flagler Beach (the “Project”), utilizing the Property for the purposes of leasing its conduits and associated infrastructure, either by a Commercial Lease or Indefeasible Right of Use (“IRU”), as Grantee in its sole judgment, may deem necessary or appropriate for the provision of services; and

WHEREAS, Grantor desires to grant Grantee, and Grantee desires to obtain from Grantor, certain temporary and exclusive permanent easements on and over the Property, subject to the terms and conditions of this Agreement, for purposes of surveying, developing, constructing, installing, placing, reconstructing, replacing, altering, monitoring, maintaining, repairing, and operating a subsea cable landing site required for the Project.

NOW, THEREFORE, for and in consideration of Ten and 00/100 Dollars (\$10.00) in hand paid by the parties, the mutual covenants, promises, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The above recitals are true and correct, form a material part of this Agreement and are incorporated herein by reference.

2. **Grant of Easements.** Subject to the terms, conditions, and limitations set forth herein, the Grantor hereby grants and conveys to Grantee, its successors and assigns, the following easements:

a. **Exclusive Easement.** An exclusive, transferable and assignable easement (the “Easement”) upon, over, under, within, through and across, and right to use, those certain portions of Grantor’s Property being more particularly shown in Exhibit “B” (the “Easement Area”), for the purposes of (i) providing pipes, lines, systems, facilities and related equipment, and upgrades for the delivery of the fiber optic infrastructure and service to Grantee’s CLS to be a landing station for optical communication cables as part of the Project and (ii) providing power to the cables to regenerate the optical signal including without limitation: the right of Grantee, its successors, assigns, contractors, subcontractors, agents and permittees to lay, construct, locate, install, use, operate, maintain, inspect, repair, tie into, connect to, relocate and replace such fiber optic service cables, lines, systems, metering and regulating stations and facilities with necessary valves, meters, fittings, service lines, controls, devices, equipment and other usual appurtenances and improvements (collectively, “Improvements”) upon, over, under, within, through and across the Easement Area as are customary and reasonably necessary for the purpose of delivering such Improvements to Grantee’s CLS which might now or hereafter be installed within the Easement Area by Grantee, those using the Easement Area or any other Persons. Nothing herein shall be construed to limit Grantor or the public’s use of the surface area of the Property. The Parties acknowledge and agree that, as of the Effective Date, the surface area of the Property is currently used for public parking. The Easement and use thereof shall not impede or impair the public’s use or Grantor’s normal use of the Property. Grantee shall have the on-going right to construct and maintain the Improvements which may impact Grantor’s temporary use of the Property. The Easement shall remain in full force and effect until the earlier of: (i) August 22, 2059, or (ii) six (6) months after the Project ceases operations by written notice from Grantee to Grantor, unless earlier terminated in accordance with Section 3.

b. **Temporary Construction Easement.** Grantor further hereby grants to Grantee a temporary, non-exclusive easement (the “Temporary Construction Easement”) upon, over and across the Easement Area for the purposes of constructing and completing the Improvements. The Temporary Construction Easement shall expire without the need for further documentation upon the earlier to occur of (i) the date the Improvements are completed, (ii) the date which is eighteen (18) months following commencement of the Improvements.

3. **Payment for Easement.** As compensation for the Easements and interests granted in this Agreement, Grantee shall pay Grantor a one-time fee of \$200,000 per cable. An advance payment in the amount of \$600,000 for the first three cables (the “Advance Payment”) shall be paid within 90 days after Grantee receives the permits from the Florida Department of Environmental Protection (“FDEP”) and the United States Army Corp of Engineers (“USACE”), which are required to construct the Outfall. Grantee shall pay Grantor a fee of \$200,000 for each additional cable within 90 days after Grantee’s receipt of each respective permit authorizing Grantee to land each cable within the Easement Area. In the event Grantee has not made the Advance Payment to Grantor on or before December 31, 2027, this Agreement shall automatically

terminate and be of no further force and effect, unless such termination is waived by the Parties in writing.

4. **Construction Easement Specific Terms and Conditions.**

a. **Advance Payment/Permits.** Before commencing any construction or installation, Grantee shall cause the Advance Payment to be made to Grantor, and Grantee shall have obtained all required permits for the construction, installation, use, and operation of the Improvements including, but not limited to, the FDEP and USACE permits. Grantee shall furnish detailed plans of the work and other information required by Grantor and shall pay all required fees prior to issuance of said permits in accordance with the rates in effect at the time of the payment. Grantee shall comply with all terms and conditions of said permits. Nothing herein shall be construed as a waiver or agreement to alter Grantor’s municipal approval processes undertaken in Grantor’s capacity as a municipality.

b. **Requirements.** No construction or installation of the Improvements may commence until all required bonds, letters of credit, certificates of insurance, and other instruments required by this Agreement have been filed with, accepted, and approved by Grantor, which acceptance and approval shall not be unreasonably delayed, conditioned, or withheld.

c. **Barricades and Signs.** During the course of construction on the Property, Grantee shall cause suitable barricades, warning signs, signals, and other measures to be erected, placed, and used to safeguard members of the general public, to adequately give notice, protection and warning of the existence of the actual conditions present so as to prevent injury or damage to any Person, vehicle, or property by reason of the construction work being conducted on the Property, and shall comply with all federal, state, and local laws and regulations.

d. **Restoration.**

i. Grantee shall not open, disturb, or obstruct any more of the Property than is reasonably necessary and shall not allow any portion of the Property so disturbed or obstructed by it to remain open, disturbed, or obstructed for a longer period of time than shall be reasonably necessary. After the construction and installation of any portion the Improvements is completed, Grantee shall, at its cost, repair and return the Property to a condition to a minimum of the same or similar condition existing before the start of the construction and installation. Grantee shall be responsible for any damage to street pavements, existing utilities, curbs, gutters, sand dunes, vegetation, landscaping, grounds, walkways, sidewalks and any other structures or improvements on the Property due to Grantee’s construction and installation of the Improvements (the “Damaged Property”), and shall repair, replace, and restore in-kind, the said Damaged Property at its sole expense within thirty (30) days after the construction and installation is completed, subject to extension as provided in the Agreement . If Grantee fails to repair, replace, and restore said Damaged Property to the reasonable satisfaction of Grantor, after thirty (30) days’ written notice given by Grantor to Grantee, Grantor may cause such necessary repairs to be made.

All out-of-pocket costs incurred by Grantor, as well as reasonable, direct charges for Grantor's employee labor and use of Grantor's equipment, shall be charged against Grantee and payable within ten (10) business days or may be collected by exercising the right to draw on letters of credit. Grantor may collect such costs, and any expenses and reasonable attorney fees incurred in collecting such costs, as debts owed to Grantor, by bringing action in any court of competent jurisdiction or in any manner allowed by law.

ii. If weather or other conditions do not permit the complete restoration required by this Agreement, Grantee shall temporarily restore the Damaged Property to the reasonable satisfaction of Grantor. Such temporary restoration shall be at Grantee's sole expense and Grantee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

5. **Easement Locations.**

a. **As-Built Plans.** Grantee shall maintain and regularly update an accurate map of Grantee's Improvements. Within one-hundred eighty (180) days after completion of the construction and installation of the Improvements, Grantee shall provide Grantor with "as-built" drawings and an accurate map or maps showing the location of the Improvements, and any other facilities requested by Grantor to be included on the maps. Such as-built drawings and maps shall be drawn to scale, and shall include a digitized map(s) in both printed and electronic form readable by the current version of Auto CAD. Grantee shall supply and specify the location of all of its underground facilities by depth, line, grade and proximity to other facilities. Grantee shall, upon request, provide updated maps annually, or when any change in the location of any of the Improvements has occurred. If no changes have occurred since the last update provided by Grantee, an update shall not be required.

b. **Repair, Maintenance and Additional Installations.**

i. Grantee shall construct, install, and maintain the Improvements in a good and safe manner, and in a manner that complies with all applicable federal, state, and local requirements, laws, ordinances, and regulations. Grantee shall at all times employ a standard of care consistent with good commercial practices and shall use industry standard methods and devices for preventing failure or accidents which are likely to cause damages, injuries, or nuisances to the public. Grantee acknowledges and agrees it is responsible for the work of all its subcontractors or others performing work on Grantee's behalf.

ii. In the event of an unexpected repair or emergency, Grantee may commence such repair and emergency response work as required under the circumstances, provided Grantee shall notify Grantor before commencing such repair or emergency work. Grantee shall perform the unexpected or emergency repair in the manner that causes the least interference with the use of the surface of the Property by Grantor or the public. Such unexpected or emergency repairs shall be completed and the site returned to its former condition in accordance with the Agreement, in a commercially reasonable manner.

iii. Grantee shall have the right to post signs at the Property to safeguard members of the general public, and prevent injury or damage to any Person, vehicle or other property by reason of the presence of the Improvements under the surface of the Property, including, but not limited to, signs specifying a maximum capacity or weight. Such signage must comply with the requirements of the City of Flagler Beach Code, including the requirements for approval of the same.

iv. If Subsea cables are not installed in some of the conduits during the term of the Construction Easement, Grantee may install Subsea cables in the empty conduits during the term of this Agreement.

1. Grantee shall provide Grantor with a schedule of its proposed installation activities before commencing any such activities.

2. Grantee shall communicate with Grantor to coordinate such installation, repair, or maintenance.

3. All installation, maintenance, and repair locations, activities, and schedules shall be coordinated with Grantor's designee to minimize public inconvenience, disruption, or damages. Grantee shall submit a written installation, repair, or maintenance schedule at least thirty (30) working days before commencing any such activities. Said schedule shall identify the portions of the surface of the Property that will be disturbed or that will need to be used in connection with the installation. Grantee shall further notify Grantor not less than five (5) working days in advance of such installation, maintenance, or repair. Grantee shall comply with all applicable provisions set forth in in the Agreement regarding barricades and signage, regarding repair and restoration of the Property after construction, installation, maintenance, or repair work.

v. Grantor and its agents, assigns, and successors agree that the Grantee shall not be liable for any maintenance work whatsoever to the surface of the Easement Areas except for any manhole covers installed, any damage or changes to the surface caused by the existence of Grantee's Improvements, or if the Grantee performs excavation within the Easement Areas in order to effectuate maintenance or repair of the Improvements or in order to install additional Subsea cables within the Conduits. All other maintenance of the surface of the Easement Areas shall be done by the Grantor or its designee, and the Grantee shall have no duty or liability to perform any routine maintenance work to the surface of the Easement Areas other than that work which arises out of maintaining, repairing, or installing the Improvements.

c. Improvements Before and After Termination.

i. Any and all Improvements installed on the Property by Grantee at any time during the term of any of the Easements granted in this Agreement shall, until the

termination or expiration of the Easement, , be and remain the property solely of Grantee or its successors or assigns. Grantor may not, and may not permit any other Person to, access, and use or damage any of the Improvements or Easement. Notwithstanding the foregoing, it shall be the responsibility of Grantee to ensure any manhole covers are securely locked at all times.

ii. Upon the termination or expiration of the Easement, at the option of Grantor, Grantee shall remove the Improvements as directed by Grantor. Any Improvements left in place shall become the property of Grantor. If Grantor directs Grantee to remove all or part of the Improvements and Grantee fails to do so within one hundred eighty (180) days after the date of written notice by Grantor, then Grantor may cause such Improvements to be removed, without further notice.

6. **Maintenance and Repair of Easement Areas.** Grantee agrees, at Grantee's sole cost and expense, to utilize and control the Easement Area and all improvements constructed or installed by or on behalf of Grantee and located on or in the Easement Area for the purposes set forth herein during the construction period. Grantor shall bear the cost of any maintenance or repair that is necessitated by the acts or omissions of Grantor and its respective partners, members, officers, managers, directors, agents, or employees during the construction period. Grantee shall return Grantor Property to a similar state as the Grantor Property was in prior to the construction. Grantor agrees to maintain Grantor's property thereafter in such a manner as to not disturb or interfere with Grantee's easement rights and Grantor shall be responsible for the repairs and maintenance of any structures or improvements within the Easement area. This shall include not placing permanent structures within the Easement area or planting trees/shrubs with extensive root systems.

7. **Insurance.** Grantee shall procure and at all times maintain comprehensive public liability and property damage insurance, with companies authorized to do business in the State of Florida, against claims for personal injury, death, or property damage occurring upon the Grantor Property, including the Easement Areas, arising directly or indirectly out of the use by Grantee of the Grantor Property, and/or the exercise by Grantee, of any rights under this Agreement, with minimum coverage of \$2,000,000.00 in the aggregate and \$1,000,000.00 per occurrence and worker's compensation insurance as required by applicable law (and employer's liability insurance). All such insurance policies shall (i) name the Grantor (or the then owner of all or a portion of the Grantor Property) as an additional insured, (ii) provide that it cannot be cancelled without at least thirty (30) days prior written notice being given to the Grantor, and (iii) be primary, and not contributory, as to any insurance coverage maintained by the Grantor. Grantee shall upon request provide evidence of such insurance to the Grantor.

8. **Indemnification.** Grantee agrees to indemnify, defend, and hold the Grantor and its respective partners, members, officers, managers, directors, agents, and employees (collectively, the "**Indemnified Parties**") harmless from and against any and all actions, causes of action, suits, proceeding, claims, demands, damages, surcharges, liabilities, fines, penalties, judgments, costs, and expenses whatsoever (including, without limitation, reasonable paralegal and attorneys' fees at trial and appellate levels) to the extent arising directly or indirectly out of

the use by Grantee of the Grantor Property, and/or the exercise by Grantee of any rights under this Agreement; provided, however, no such indemnification of the Indemnified Parties shall be given to the extent the foregoing arises from or is attributable to the sole negligence or willful misconduct of any of the Indemnified Parties and no such indemnification shall include indemnification of indirect, special, consequential, or punitive damages.

9. **Reservation of Rights.** Grantor reserves for itself and its successors, assigns, employees, agent, contractors, tenants, invitees, and licensees, the non-exclusive right to use, pass and repossess over and upon the Conduit Easement Area. Grantor and its respective successors and assigns, further reserves the right to grant other non-exclusive easements with respect to all or a portion of the Grantor Property, which are not in conflict with the rights granted hereunder. The Grantee shall exercise its rights under this Agreement with due regard to the rights reserved by the Grantor.

10. **Enforcement.** In the event Grantor fails to maintain and repair the Easement Areas after thirty (30) days prior notice from the Grantee, then the Grantee shall have the right, but not the obligation, to maintain and repair the Easement Areas. If the Grantee takes such action, then the Grantee shall be entitled to reimbursement from the Grantor for the maintenance and repair costs incurred by the Grantee.

11. **Further Assurances.** The parties hereto shall execute and deliver, or cause to be executed and delivered, such additional or further agreements, or other instruments, as may be required to evidence the agreement of the parties herein contained and the transactions contemplated hereunder.

12. **Covenants Running with the Land.** This Agreement shall be binding upon and inure to the benefit of each party and each party's respective successors and assigns. This Agreement and the easements, rights, benefits, and obligations of the parties under this Agreement shall run with, benefit and bind, as applicable, the titles to the Grantor Property.

13. **No Third Party Beneficiaries.** Except as otherwise expressly stated herein, this Agreement shall not be deemed to confer in favor of any third parties any rights whatsoever as third-party beneficiaries, the parties hereto intending by the provisions hereof to confer no such benefits or status unless otherwise expressly stated in this Agreement.

14. **No Public Dedication.** Nothing contained in this Agreement shall create or shall be deemed to create any easements or use rights in the general public or constitute a public dedication for any reason whatsoever.

15. **Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the matters set forth herein and no other agreement, oral or written, not set forth herein, nor any course of dealings of the parties, shall be deemed to alter or affect the terms and conditions set forth herein.

16. **Amendments.** This Agreement may be amended or modified only by a writing signed by all the parties hereto or their express assigns, which must be duly recorded in the Public Records of Flagler.

17. **Singular and Plural Usages.** Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

18. **Headings.** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

19. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereto, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. **Execution in Counterparts.** This Agreement may be executed by the parties in multiple counterparts, which when taken together shall have the full force and effect of a fully executed agreement between the parties.

21. **Attorneys' Fees.** In the event that a party finds it necessary to commence an action against another party to enforce any provision of this Agreement or because of a breach by another party of any terms hereof, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees, paralegal fees and costs incurred in connection therewith, at both administrative, trial and appellate levels, including bankruptcy and collection proceedings, without regard to whether any legal proceedings are prosecuted to judgment.

22. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given: (i) three (3) days after depositing with the United States Postal Service, postage prepaid, registered or certified mail; (ii) one day after depositing with a nationally recognized overnight courier service; or (iii) on the day of hand delivery (provided such delivery occurs prior to 5:00 pm, E.S.T. or E.D.T., as applicable), to the address listed below or to such other address as a party may from time to time designate by written notice in accordance with this paragraph.

<p>To Grantor</p> <p>City Manager City of Flagler Beach 105 S 2nd Street P.O. Box 70 Flagler Beach, FL 32136</p> <p>With a copy to:</p> <p>City Attorney City of Flagler Beach 105 S 2nd Street P.O. Box 70 Flagler Beach, FL 32136</p>	<p>To Grantee</p> <p>DCB Orchid, LLC 1040 Crown Pointe Parkway, Suite 560 Atlanta, GA 30338 Attention: Chief Financial Officer Email: kevin.odonnell@dcblox.com</p> <p>With a copy to:</p> <p>Nelson Mullins Riley & Scarborough LLP 390 N. Orange Avenue, Suite 1400 Orlando, FL 32801 Attention: Jo O. Thacker Email: jo.thacker@nelsonmullins.com</p>
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23. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any litigation or administrative proceeding shall be exclusively in Flagler County, Florida.

24. **Conflicts of Law.** If there is a conflict between the provisions of this Agreement and any law, whether federal, state, or City, including all future laws and ordinances, the law and conflicting Agreement provision will, to the extent reasonably possible, be construed so as to be consistent with each other and if such construction is not reasonably possible, the conflicting provision of this Agreement shall be deemed superseded by such law and have no effect, notwithstanding the contract clause of the United States Constitution.

25. **Waiver of Jury Trial.** EACH PARTY HEREBY WAIVES ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE BETWEEN THE PARTIES ARISING FROM THIS AGREEMENT, FROM ANY CLAIM ARISING HEREUNDER, OR IN ANY COURSE OF CONDUCT RELATED HERETO.

26. **Recording.** This Agreement shall be recorded in the official records of Flagler County, Florida.

[Signatures are on the following pages]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

Signed, sealed and delivered in the presence of:

GRANTOR:

Witness Signature

Print Name: _____

Address: _____

By: _____

Name: _____

Title: _____

Witness Signature

Print Name: _____

Address: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ____ day of _____, 2024, by _____, He [] is personally known to me, or [] has produced _____ (type of identification) as identification.

(NOTARY SEAL)

Notary Signature: _____

Print Name: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

Signed, sealed and delivered in the presence of:

GRANTEE:

By: _____

Witness Signature

Manager

Print Name: _____

Address: _____

Witness Signature

Print Name: _____

Address: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ____ day of _____, 2024, by _____, as _____ of DCB Orchid, LLC, a Delaware limited liability company, on behalf of the company. He [] is personally known to me, or [] has produced _____ (type of identification) as identification.

(NOTARY SEAL)

Notary Signature: _____

Print Name: _____

EXHIBIT "A"
LEGAL DESCRIPTION

Exhibit A

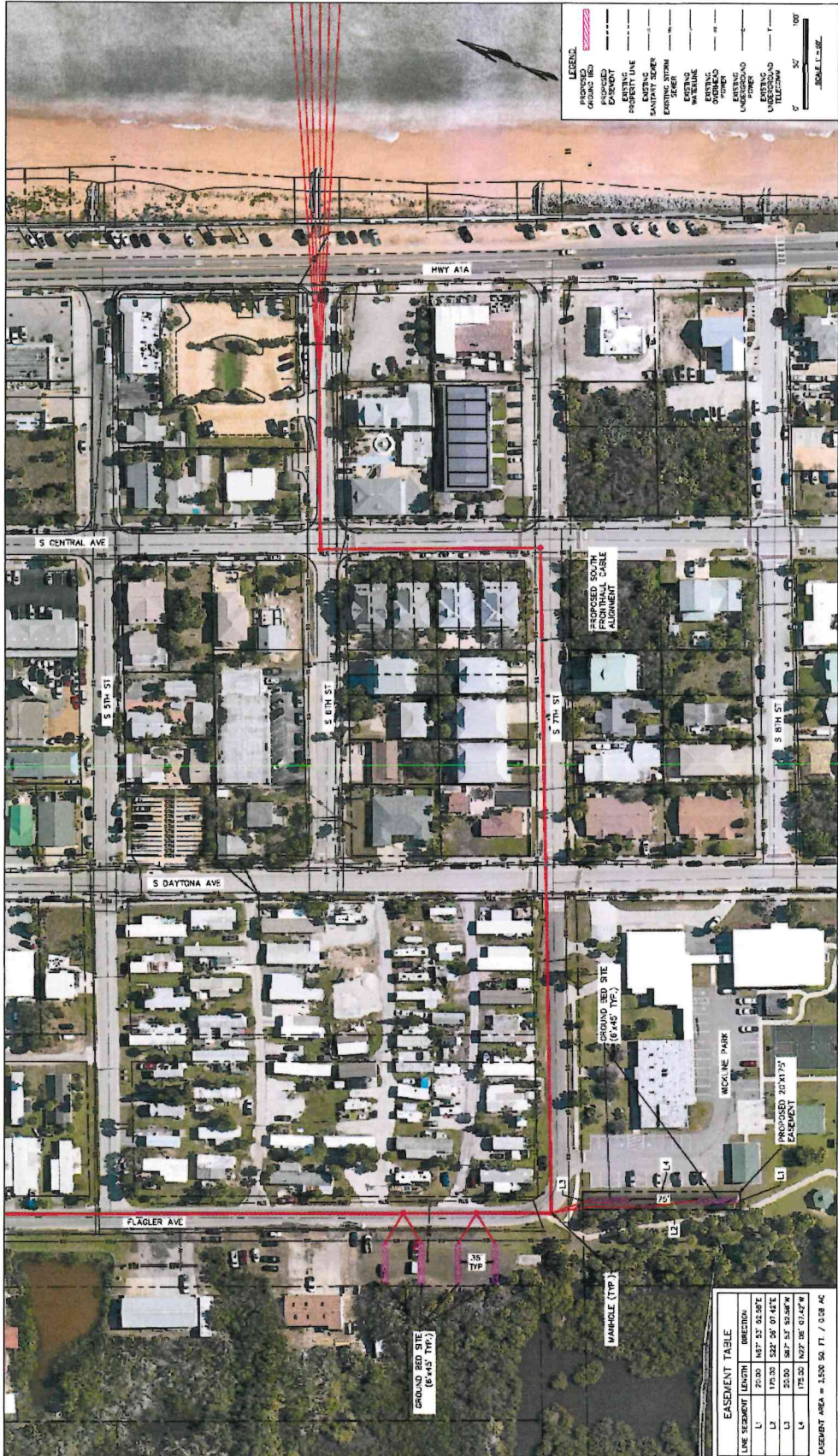
Lots 2 through 6, A RESUBDIVISION OF BLOCK 12, of MOODYS SUBDIVISION according to the map or plat thereof as Recorded in Plat Book 3, Page 29 of the Public Records of Flagler County, Florida.

Land in Government Lots 1-3, of Section 12, Township 12 South, Range 31 East, Lying Easterly of Highway A1A and Westerly of the Atlantic Ocean and lying Easterly of Lots 1, 2, 3 and 4, Block 12, Moody Subdivision, A subdivision according to the plat or map thereof described in Map Book 1, Page 24 of the public records of Flagler County, Florida, to include riparian rights in said property, being more particularly described as follows:

Bounded on the north by the northerly lot line of Lot 1, Block 12 of said Plat of Moody Subdivision projected easterly to the Atlantic Ocean and Bounded on the South by the Southerly lot line of Lot 4, Block 12 of said Plat of Moody Subdivision projected easterly to the Atlantic Ocean and bounded on the east by the mean high water line of the Atlantic Ocean and bounded on the west by the easterly boundary of the right of way of State Road A1A.

**COMPOSITE EXHIBIT B
“EASEMENT AREA”**

[LEGAL DESCRIPTION TO BE ADDED PRIOR TO RECORDATION]

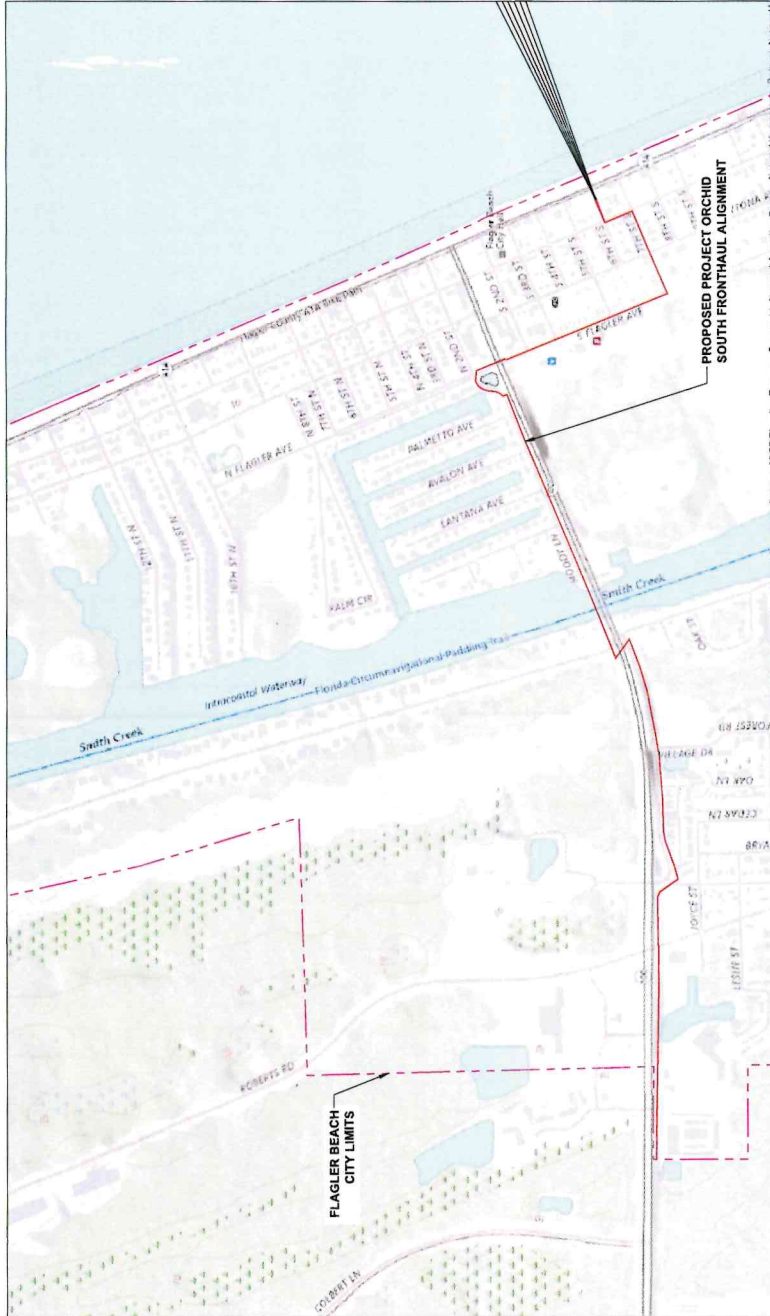


EASEMENT TABLE		
LINE SEGMENT	LENGTH	DIRECTION
L1	20.00	N87°57'02.50"E
L2	175.92	S22°30'07.42"E
L3	50.00	N87°57'50.86"W
L4	175.92	N27°02'07.42"W

EASEMENT AREA = 1,500.00 FT. / 0.08 AC

	DC BLOX INC. 634 BRIDGEMAN DR. ATLANTA, GA 30329		MICHAEL BAKER INTERNATIONAL INC. 1100 N. 17TH STREET, FORT MYERS, FL 33901
PROJECT: DC BLOX PROJECT ORCHID SOUTH FRONTHAUL CABLE OGB LOCATION EXHIBIT		DATE: JULY 2018	
SHEET: 3		OF: 3	

DC BLOX PROJECT ORCHID PROPOSED SOUTH FRONTHAUL ROUTE FLAGLER BEACH, FLAGLER COUNTY, FLORIDA



SHEET NO. C-0		DC BLOX PROJECT ORCHID PROPOSED SOUTH FRONTHAUL ALIGNMENT FLAGLER BEACH, FLAGLER COUNTY, FLORIDA		SCALE AS SHOWN	DATE AUGUST, 2024
DC BLOX INC. 6 W. DRUID AVE. DR. ATLANTA, GA 30329		MICHAEL BAKER INTERNATIONAL INC. 1000 MARKET STREET MOON TOWNSHIP, PENNSYLVANIA			
DESIGNED: JAZ DRAWN: JAZ CHECKED: JAZ REVIEWED: JAZ S.D. 10/1/2024		JAZ JAZ JAZ JAZ 10/1/2024			
REVISIONS NO. DATE DESCRIPTION					

Section 7, Item a.



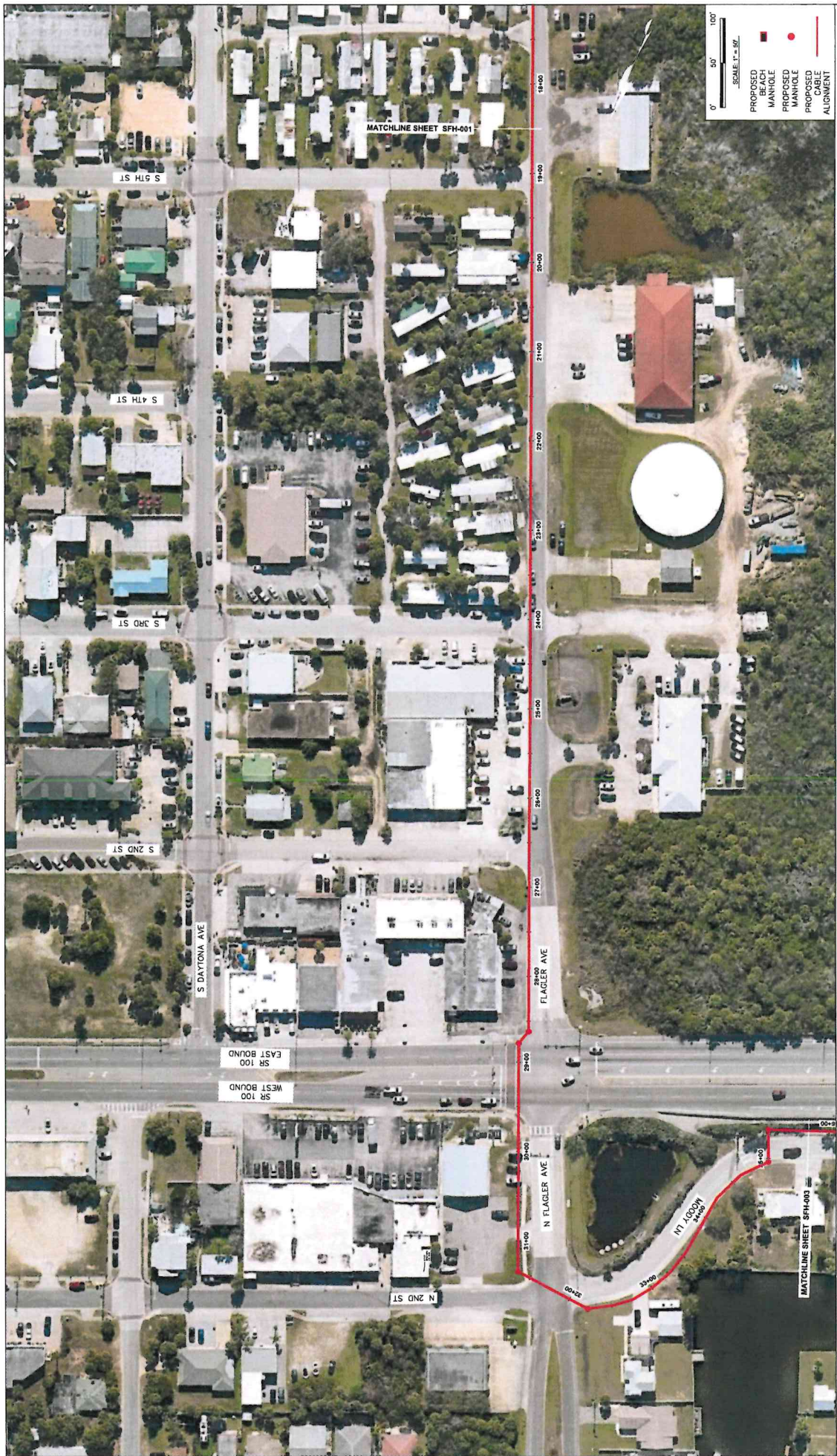
Section 7, Item a.

SHEET NO. SFH-	DC BLOX PROJECT ORCHID SOUTH FRONTHAUL ALIGNMENT INDEX OF PLAN SHEETS		SCALE AS SHOWN	DATE AUGUST 2024
	DC BLOX INC. 6 W. DRUID HILLS DR. ATLANTA, GA 30329		MICHAEL BAKER INTERNATIONAL INC. CONSULTING ENGINEERS MOON TOWNSHIP, PENNSYLVANIA	
DESIGNED ANZ	DRAWN NMM	CHECKED KLR	REVIEWED ANZ	S.O. 10/18/08
REVISIONS DESCRIPTION DATE	FLAGLER BEACH CITY LIMITS			

Section 7, Item a.

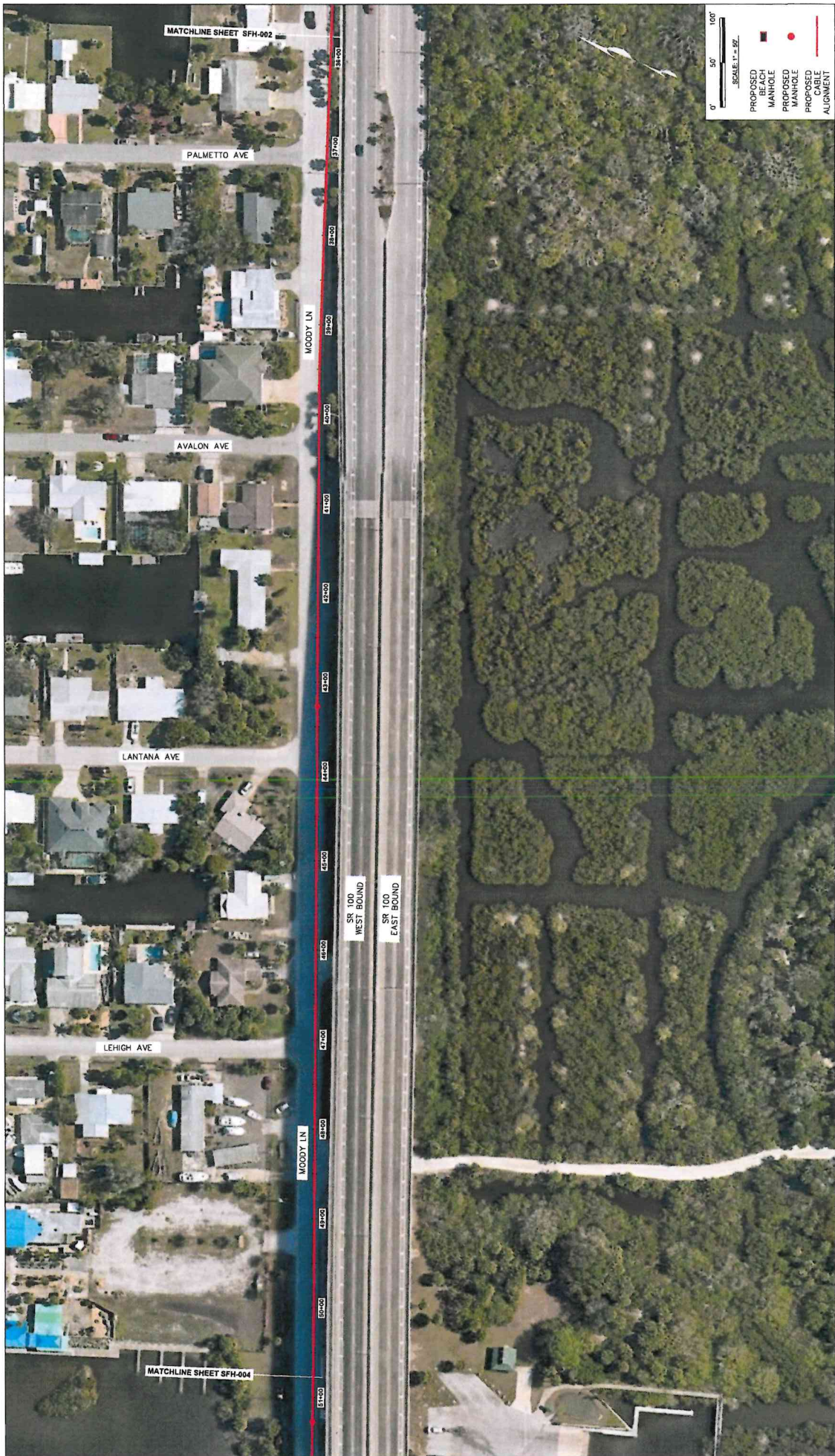


<p>REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION										<p>DESIGNED: JIZ DRAWN: HAM CHECKED: MJK REVIEWED: JIZ S.O.: 165168</p>	<p>DC BLOX INTERNATIONAL</p>	<p>DC BLOX INC. 6 W. DRUID HILLS DR. ATLANTA, GA 30329</p> <p>MICHAEL BAKER INTERNATIONAL INC. 1000 MARKET STREET MOON TOWNSHIP, PENNSYLVANIA</p>	<p>DC BLOX PROJECT ORCHID SOUTH FRONTHAUL ALIGNMENT PLAN SHEETS</p> <p>FLAGLER BEACH, FLAGLER COUNTY, FLORIDA</p> <p>SCALE: AS SHOWN DATE: AUGUST, 2024</p>	<p>SHEET NO. SFH-</p>
NO.	DATE	DESCRIPTION															



SHEET NO. SFH-	
DC BLOX PROJECT ORCHID SOUTH FRONTHAUL ALIGNMENT PLAN SHEETS FLAGLER BEACH, FLAGLER COUNTY, FLORIDA	
SCALE AS SHOWN	DATE AUGUST, 2024
DC BLOX INC. 6 W. DRUID HILLS DR. ATLANTA, GA 30305	
MICHAEL BAKER INTERNATIONAL INC. CONSULTING ENGINEERS MOON TOWNSHIP, PENNSYLVANIA	
DESIGNED JTC DRAWN HMM CHECKED PJK REVIEWED JTC S.O. 105108	BY DATE _____ _____
REMARKS DESCRIPTION	

Section 7, Item a.



SHEET NO. SFH-	DC BLOX PROJECT ORCHID SOUTH FRONTHAUL ALIGNMENT PLAN SHEETS PALMER BEACH, PALMER COUNTY, FLORIDA	SCALE AS SHOWN	DATE AUGUST, 2024
		DC BLOX INC. 6 W. DRUID HILLS DR. ATLANTA, GA 30329	
		MICHAEL BAKER INTERNATIONAL INC. 1000 MARKET STREET MOON TOWNSHIP, PENNSYLVANIA	
DESIGNED DRAWN CHECKED REVIEWED S.O.	JTC HMM MJK JTC 103188		
REVISIONS NO. DESCRIPTION DATE			

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SHEET NO. SFH-004		DC BLOX PROJECT ORCHID SOUTH FRONTHAUL ALIGNMENT PLAN SHEETS PALM BEACH, FLAVER COUNTY, FLORIDA	
SCALE AS SHOWN	DATE AUGUST, 2024	DC BLOX INC. 6 W. DRUID HILLS DR. ATLANTA, GA 30329	
MICHAEL BAKER INTERNATIONAL INC. 1000 MARKET STREET MOON TOWNSHIP, PENNSYLVANIA		DESIGNED: JAZ DRAWN: HAH CHECKED: NJK REVIEWED: JAZ S.O.: 181588	
REVISIONS NO. DESCRIPTION DATE BY DATE		PROJECT NUMBER: 24080001	

Section 7, Item a.



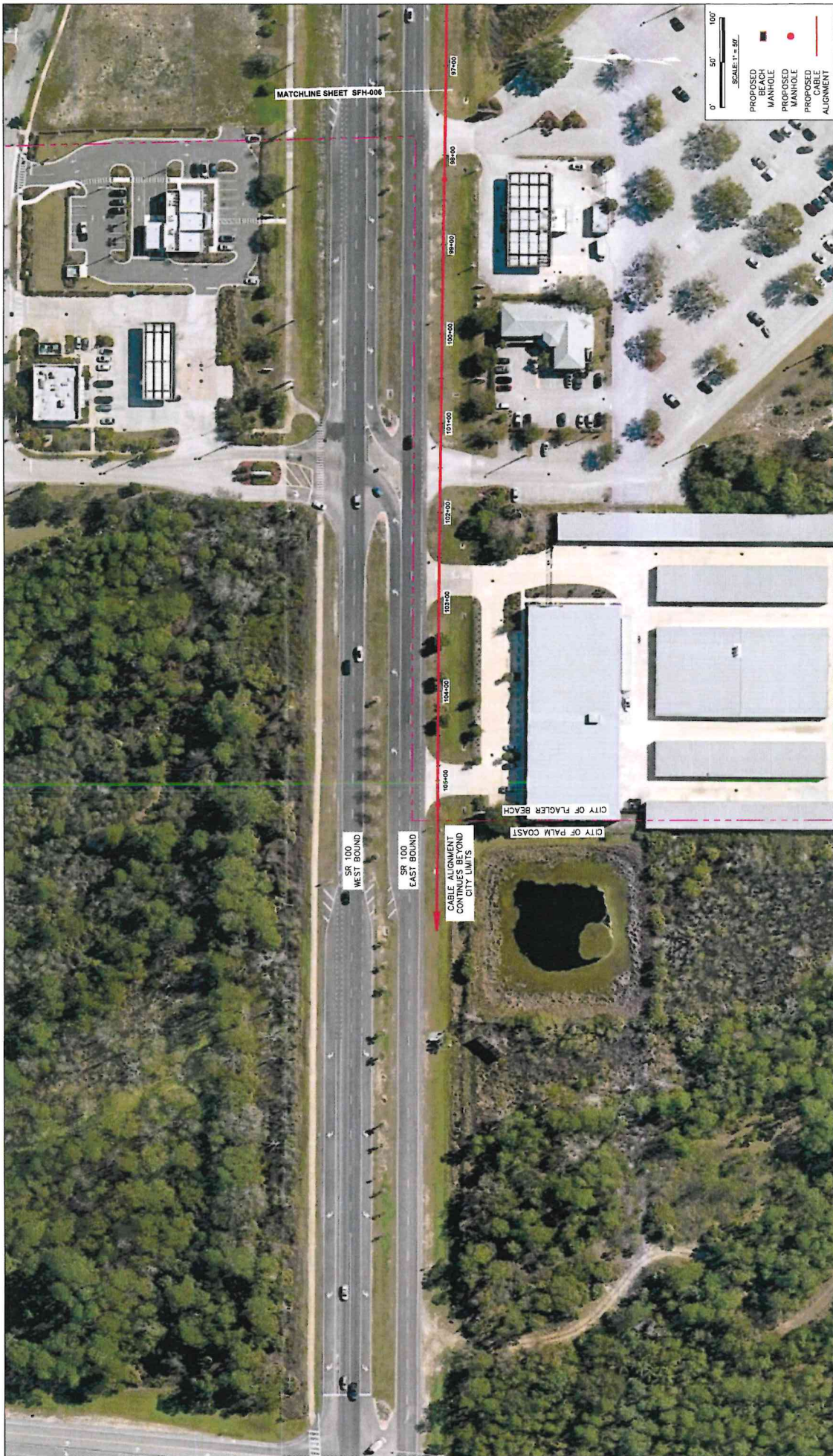
SHEET NO. SFH-	DC BLOX PROJECT ORCHID SOUTH FRONTAUL ALIGNMENT PLAN SHEETS	SCALE AS SHOWN	DATE AUGUST, 2004
DC BLOX INC. 9 W. DRUID AVENUE ALANTA, GA 30329		FLORIDA BEACH, LAGLER COUNTY, FLORIDA	
DC BLOX		MICHAEL BAKER INTERNATIONAL INC. REGISTERED PROFESSIONAL ENGINEERS MOON TOWNSHIP, PENNSYLVANIA	
Michael Baker International			
DESIGNED DRAWN CHECKED REVIEWED S.D.	JTC HMM MJK JTC 10/18/03		
REVISIONS NO. DATE DESCRIPTION			



SCALE 1"=50'
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 PROPOSED BEACH MANHOLE
 PROPOSED MANHOLE
 PROPOSED ALIGNMENT

SHEET NO. SFH-	
DC BLOX PROJECT ORCHARD SOUTH FRONTHAUL ALIGNMENT PLAN SHEETS FLAGLER BEACH, FLAGLER COUNTY, FLORIDA	
SCALE AS SHOWN	DATE AUGUST, 2021
DC BLOX INC. 10000 BLOX DRIVE ATLANTA, GA 30328	
MICHAEL BAKER INTERNATIONAL INC. CONSULTING ENGINEERS MOON TOWNSHIP, PENNSYLVANIA	
DESIGNED: JTC DRAWN: TMM CHECKED: MJA REVIEWED: JTC S.O.: 183188	REVISIONS NO. DATE DESCRIPTION

Section 7, Item a.



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NO.	DATE	BY	DATE													

Law Office of Michael S. Tammaro

113 Pegasus Drive
Jupiter FL 33477

Tel: 561-310-3648
Email: m.tammaro@mst-law.com

August 8, 2024

Mayor and Council
City of Flagler Beach
105 S. 2nd Street
Flagler Beach, FL 32136

Re: DC Blox/Request to Purchase Easements

Mayor and Council,

I appreciate the opportunity to assist the City of Flagler Beach in this matter. I have reached an impasse with the requesting party, DC Blox. This is the status of negotiations as of 8/8/2024:

DC Blox offer:

DC Blox is now seeking an easement over city property at only the 6th street location. The company proposes to install six conduits from a drill site within 6th street ROW. Two manholes 6'Hx5'Wx7'L will be installed in 6th street. A temporary construction area is also required. Staff will provide you with the detailed requirement/plans and drawings.

Compensation: DC Blox proposes to pay:

“Upfront” payment: \$600k ninety days after the issuance of the FDEP permit to land/install the first cable; \$200k for each cable after the third (cables 4.5& 6) are landed, when permits are issued to install each of the last three cables.

Comments:

The offer potentially results in a low total compensation of \$ 600,000 for the requested approvals. Additional payments totaling \$600,00 are entirely contingent, being tied to successful marketing of conduits 3-6. *This event may never occur.*

Assuming all 6 conduits are ultimately occupied, the total compensation proposed of \$ 1.2mm is consistent with my estimated value of the site, and within the range that I could recommend be accepted, based upon past and current transactions in Florida. However, I cannot recommend a contingent compensation proposal. The site has a value that is not dependent on success in attracting clients.

My opinion of valuation of the requested easements:

Based on an evaluation of the present value of past transactions and the current transactions of which I am aware, my opinion of the approximate *low end* of value of the 6th street site is \$1.2 Million (includes the park OGB sites)

Past transactions considered:

Hollywood Florida, 2000. Compensation @ \$600,000 in combined cash and physical improvements within the city (sidewalks, a dedicated fiber optic conduit/cable for city use). The current value is @\$1.1 million.

Boca Raton Florida, 2000. Compensation \$500,000 plus \$165,000 annually. The current value of initial and first annual payment only is @\$1.3 million.

Sunny Isles Florida. 2007. Compensation \$950,000. The current value is @\$1.4 million.

Current negotiations considered:

Boca Raton 2024. The Telxious communication system is negotiating with the city for a landing site in Spanish River Park. The compensation is not yet public but based on the year 2000 transaction and discussions with staff, I expect the decision in approximately 90 days and for compensation to settle around \$800,000 cash at closing, plus likely annual payments.

Southwest Florida 2024. Contracts are being drafted for a landing site to install underground conduits, one beach manhole, two ground beds and a temporary construction easement. Non-disclosure agreements in the contract prevent disclosure of the purchase price, but the price is significantly higher than \$1.2mm.

DC Blox arguments against my analysis of value:

DC Blox argues:

1. that its target purchasers, “hyperscalers” such as Google, Amazon, Facebook, are different than traditional communication carriers and might balk at the expense associated with paying the price that traditional carriers have paid. My response: it would not be appropriate to reduce my opinion of value based on competitive considerations. DC Blox can make these arguments to Council.
2. That historic transactions were inflated because of the “rush” of installations in the time period. My response: there is no evidence of that, and current transactions are consistent with past transactions updated by CPI.
3. That other states (South Carolina and Virginia) have offered sites for as low as \$100k to encourage development of the industry. My response: True. The Governor of both states offered use of state parks and state property for submarine communication cable landings. That was the adopted policy of those state governments, not relevant here.

- 4. That a site in Jacksonville, Florida paid little or no compensation. My Response: True. The landing site was a local road right of way that extended to mean high water. Florida statutes address use of road ROW by communication carriers. All work was done in dedicated public road ROW. No city or county property was required to be purchased. It was also a direct bury (cables trenched up the beach to the manhole in street row). No conduits were installed.

Recommendation

I recommend that the city accept a non-contingent offer at or above the indicated total value of \$1.2mm. A reasonable split of payment might be \$800,000 ninety days after issuance of the FDEP Environmental Resources Permit (ERP) with the second payment of \$400k when the first cable is pulled or five years after the ERP is issued. Regardless of the ultimate agreement on price, compensation should be fixed and not contingent on future utilization of the property, and if future payments are considerably delayed, the sale price should be adjusted to reflect the time value of money.

Sincerely,

Michael S. Tamaro

MEMO

TO: Dale Martin, City Manager
Drew Smith, City Attorney

CC: Mike Tammaro, Consultant

SUBJECT : Updated Proposal for Subsea Cable Landing Location

DC BLOX received a summary of recommendations and the opinion of value provided to the City by Mike Tammaro. Based on our review of his opinion and communication with Mr. Tammaro, we hold material concerns about the approach he used to guide the council on the issue of value and payment terms. The summary below sets forth our concerns as well as the latest financial payment we are prepared to offer to the City to continue our efforts to build a world-class cable landing Station in Flagler County that could represent up to \$100mm in direct investment by DC BLOX, drive fiber deployment in the area, provide digital infrastructure to attract other technology and communication companies, and generate meaningful tax revenue for your county and schools.

The use of price comparisons between different landing sites to suggest a ‘market price’ for easements and right of way warrant a closer look. First and foremost, the cost of a landing location, whether upfront or recurring cost, is carefully scrutinized by our potential customers, and our landing in Flagler Beach will be in competition with available inventory in South Florida, Jacksonville, Myrtle Beach, and Virginia Beach. DC BLOX is making a large up-front investment to build the CLS and landing facilities, and our cost for the landing facilities must give us confidence we’ll be competitive in the market vs. other options for new cable systems landing on the East Coast in the Southeastern US.

The location of the landing, fronthaul and most OGB locations that DC BLOX is now seeking, at the City’s direction, are located in public Right of Way. Under [FL Stat § 337.401 \(2023\)](#) DC BLOX is entitled to use such right of way, and a city “*may not require a provider of communications services to apply for or enter into an individual license, franchise, or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way*” Further, “*All fees authorized under this law must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way*”.

As a land use attorney, Mr. Tammaro is surely aware of this fact, which could be why he tied his opinion of value to the real interest of easements that we have requested to locate our OGBs underground in Wickline Park and our need to pass underground through the small parcel on the east side of A1A. He wrote in emails to us on 8/4, “the requested interest in real property has a value that is not dependent on future marketing success,” and in our discussion about the value of the Jacksonville Beach landing verses our request he wrote, “no easements were purchased in Jacksonville. There was no real estate transaction.”

Mr. Tamaro is correct that [FL Stat § 337.401 \(2023\)](#) does not prohibit the City from requesting fair market value for an easement on public land that is not part of the right away. At the same time, there is considerable case law in the State of Florida regarding the concept of fair market value. Without diving into this topic too deeply, we believe the concept of fair market value is determined by standard valuation techniques, and explicitly not determined by what one company might pay in order to execute their specific business plan. For example, common methods to determine fair market value are typically competitive bids, or in the case of easements, appraisals by a licensed appraiser, based on comparable sales, an income approach, or a diminished value standard to derive easement cost.

According to the communication we received from Mr. Tamaro, his opinion of the value of each of the two landing sites is as follows.

- 6th Street site- @\$1.2 Million (includes park OGB sites)
- 11th Street site @\$1.0 Million

This valuation was described as a Net Present Value that was based on “an evaluation of the present value of past transactions (Tyco Communication/Boca Raton, AT&T/Hollywood, ARCOS/Sunny Isles and the current negotiations/transactions of which I am aware.” Below please find our thoughts on these comps:

The Tyco Communications/Boca Raton Landing

This agreement was reached at the height of the dot com bubble in an era over 20 years ago that saw huge investments in carrier fiber systems, most of which ended in bankruptcy proceedings after 2002. This was a deal done in a different era of subsea cables when carrier contracts dominated demand, and subsequent deals in the Southeastern US where cables have landed have been more affordable. This easement was \$500,000 for 6 cable systems or \$83,333 per system, and it covered a land area greater than 1.2 acres. In addition, a fee was charged for the fronthaul right of way at \$2.00 per conduit foot per year, with no CPI. We currently estimate that our conduit miles in the City of Flagler Beach will be around 5000’ per conduit, making the comparison to Boca \$10,000 per year per conduit. Based on these numbers, and 25-year term, and discount rate of 3%, the NPV of each landing adjusted for our fronthaul length is \$257,464. However, Mr. Tamaro has determined that the value of our request should be tied to our real interest in the easement, not the right of way. Fees for right of way such as the one charged in this example are no longer permitted under law. As stated above, the easement portion of this agreement was \$500,000 for six cables and covered an easement area much larger than contemplated in our request.

ATT/Hollywood

This agreement was reached in 1998, twenty-six years ago at the beginning of the Internet. According to Mr. Tamaro, compensation paid by AT&T to the City of Hollywood was provided in the form of public improvements, including building several miles of sidewalks and providing the city with its own dedicated terrestrial conduit @ ten miles in length. Estimated dollar value in 1998 was \$400,000 to \$600,000. Based on further comments from Mr. Tamaro, we also understand this was an 8-conduit project. Adjusted for inflation, this would be \$1.154mm or \$144.5K per conduit.

ARCOS/Sunny Isles

This agreement was reached 17 years ago. According to Mr. Tamaro, “compensation paid to a private party of \$950,000 by developers of the ARCOS telecommunications system for temporary construction and permanent easements for three conduits. No information about the nature of the site, size of the easement, duration, etc. was provided.

Current Negotiations for pending transactions.

Mr. Tamaro cites “current negotiations/transactions of which I am aware” as a further basis for his valuation. DC BLOX rejects the idea that transactions that have not happened, for potential projects that have not occurred, should be used to assign value. This would be equivalent of determining real estate values by the asking price verses closed transactions.

State easement fees. As Mr. Tamaro wrote in his initial report to the council, The State of Florida requires a one-time payment for easements of twenty-five years duration. At current rates, each conduit and associated cable would be assessed @ \$150,000.

Beyond our view of these order comps that Mr. Tamaro referenced, he also dismissed more relevant comps that we provided. Given the challenges of finding suitable locations in South Florida and the high cost of the area, most recent cables landing in the Southeastern US have terminated in Virginia Beach, Jacksonville, and Myrtle Beach. Each of these markets currently has available capacity, and additional landings are under development in Myrtle Beach and Virginia Beach. These are the primary landing sites that will compete with Flagler Beach for cables, so they are much more relevant comps compared to the outdated ones used by Mr. Tamaro.

Myrtle Beach, South Carolina

The easements for the landing site were granted by the State of SC for less than \$100,000 in one-time fees. There was no material cost for the right of way nor recurring annual fees. The City of Myrtle Beach also extended special property tax incentives bringing the effective rate to approximately 0.4% to align with Virginia Beach. Mr. Tamaro dismissed this comp saying, “I have no opinion about how other states are subsidizing these installations,” however, the valuation of our easement in South Carolina was based on statutory process that required a licensed appraiser to assess the value. The appraiser used the diminished value standard, which was further reviewed by a governing board. The valuation in SC was a true fair market value, and it was not based on a subsidy of any type. Mr. Tamaro also disputed this comp because it is not in Florida, but that disregards the fact that Myrtle Beach is a competitive landing site with Flagler Beach. The value of a landing site to customers is not primarily tied to whether they are in a particular State.

Jacksonville

The cable landings in Jacksonville are trenched on the beach, and the beach manholes and fronthaul are located in the utility right of way. Our understanding from customers in that market is there are little to no annual fees for their use of the right of way, which Mr. Tamaro has not disputed. He maintains that Jacksonville is not a suitable comparison because no easement are involved. This logic is fundamentally flawed because there is no way that a 30 foot easement under

a small strip of undevelopable land with a property value of \$7326, nor the additional easements in the low lying area of Wickline Park, can justify a fair market value increase of \$1.2mm. Further, Jacksonville is a relevant comp, if for no other reason, it is an alternative landing spot vs. Flagler Beach for a cable terminating on the Southeastern coast of the United States.

Virginia Beach, Virginia

There is one existing Telxius landing in Virginia Beach with 4 bore pipes and another permitted landing site issued to Globalinx. Both are \$200,000 per bore pipe paid at the time each cable is permitted. The landing area for Globalinx covered over 55,000 sq ft of a parking lot with no deed restrictions for commercial development, and the right of way is over 10km within the City with no annual fees. The City of Virginia Beach also instituted a special property tax assessment for data centers and cable landing stations at 0.4%. This is a very valuable landing location due to its proximity to that vast data center concentration in Northern VA, arguably one of the most premium landing locations on the East Coast. This easement fee was also charged for each cable at the time each new cable landed.

Based on the comps that DC BLOX would compete against to land new cable systems, we are comfortable supporting a net present value for a landing site not more than \$200K per cable/conduit. This number aligns exactly with Virginia Beach, is ten times more expensive than Myrtle Beach, much higher than Jacksonville, and even approaches the NPV of the Tyco/Boca Raton landing. If we focus on a single landing site with six conduits, it also aligns with Mr. Tammaro’s NPV assessment of \$1.2M for 6th St. South.

DC BLOX Proposal

What we receive as part of this proposal:

- Given Mr. Tammaro’s feedback on the permitting process in FL, and his opinion of value for each landing site, we would like to narrow our focus to a single landing site at 6th St. South. We will defer our efforts at 11th St. North.
- 35-year easement to pass under the City’s small parcels on the east side of A1A.
- Easements for up to 2 OGBs on City property in Wickline Park
- 35-year permits for 4 OGBS located in the utility right of way per our attached drawing.
- 35-year permits for our use of right of way in the City of Flagler Beach for our one landing site and fronthaul.
- A temporary access easement for up to 6 months to use a portion of the 6th St. Parking lot for construction operations. We expect operations to take 3-5 months.

Compensation:

DC BLOX would pay a one-time fee of \$200,000 per cable. An “up-front” payment of \$600,000, credited \$200,000 to the fee for each of the first three cables, would be paid within 90 days after the FDEP and USACE permit to construct the outfall is received. Since the easement will be needed to receive the permit, we will add a termination to the easement agreement should the FDEP permit not be attained by an outside date. The remaining fees will be paid within 90 days after receipt of

City of Flagler Beach permit to land (i.e. pull into the manhole) each cable. If a City permit is not required for this action, we are open to other language that aligns the timing of the payment to the cable landing when we start receiving revenue.

As it relates to the deferral of payments for cables 4-6, Mr. Tammaro has suggested “payments should be fixed and not contingent on future utilization of the property.” In justification of this position, he wrote, “The sites have a value that is not dependent on your success in attracting clients.” DC BLOX maintains that the value the City is requesting for these easement are almost exclusively based on our business plan for using them, and not their inherent fair market value of the easement itself. As we stated above, a “fair market value” of an easement to pass under a \$7326 piece of property doesn’t rise to \$1.2mm without assigning the specific value it potentially holds to the business requesting it. In order for DC BLOX to bring a subsea cable landing station to the Flagler Beach area, we are already required to take substantial financial risk to build the landing station, landing site, and conduit system that links them together. The City has very little risk or cost in granting this easement. Additionally, our proposal aligns with the payments per cable in the Virginia Beach easement, the most expensive from the set of recent completed comps. It also aligns with the very same approach used by the State of FL to charge a fee for each bore pipe easement across its public lands.

Thank you in advance for your consideration of our request. From the beginning of our engagement with the City of Flagler Beach in March of 2023, we have maintained a spirit of open communication with City officials, and we have always desired for Flagler Beach to participate in the financial and economic development benefits of our project. We are hopeful this proposal achieves that goal.