

## SEAGRAPE TRAIL BEACH PARK LICENSE AGREEMENT

Indian River County (“County”) hereby authorizes Baytree Condominium Association, Inc. and its affiliates, agents, representatives and contractors (collectively “Licensee”) to use the established beach access point at Seagrape Trail Park (“Park”) for the limited purpose of delivering beach material and accessing the beach with certain heavy equipment to perform dune stabilization projects for Licensee’s property. Use of the Park for this purpose is limited to five (5) days between March 15, 2021 and March 19, 2021 between the hours of 7:30 AM – 5:30 PM (the “License Period”), and is subject to the following terms and conditions:

- 1) Licensee shall operate all equipment, or cause all equipment to be operated, in a safe and prudent manner, and in accordance with any measures deemed necessary for public safety by County staff.
- 2) Licensee shall (a) keep the gates to the Park securely locked at all times except when opened for the passage of Licensee’s equipment, (b) manage in a timely and efficient manner any traffic issues that arise as a result of Licensee’s use of the Park, and (c) prohibit any public vehicular or pedestrian use of the Park during Licensee’s dune stabilization activities. Licensee shall post “Beach Closed” signs at the Park entrance during Licensee’s activities.
- 3) Any sand needed to establish a “sand ramp” for equipment to access the beach, or to perform the dune stabilization projects for the nearby residential developments, shall be provided by Licensee. No use of existing sand from the Park or beach shall be allowed. Any damage by Licensee to the Park shall be repaired to the satisfaction of the County and at no cost to the County. The agreed upon access route shall be inspected/videoed by County staff with the Licensee present, prior to equipment mobilization to the identified Beach Park. Upon completion of the project and prior to de-mobilizing the licensee shall configure the “sand ramp” to the meet the profile of the County’s prescribed dune profile for Seagrape Trail.
- 4) Licensee shall plant County approved dune material once the dune is reconfigured to meet the County’s prescribed dune profile. The materials and the method of planting such materials shall be reviewed and approved by the County prior to installation.
- 5) Licensee shall maintain 100% survival for an establishment period of fourteen (14) days after planting during the maintenance period. Licensee shall be responsible for all costs associated with dune plant replacement for a warranty period of 90 days. During this warranty period, the planting areas must maintain a minimum survival rate of 90% of all planting units installed. Failure to ensure the survivability of planting during the 90-day warranty period will be a consideration for approval of any future request for access to perform maintenance projects.

- 6) The County assumes no liability for loss of or damage to Licensee's equipment or personal property staged or stored at the Park. Any such equipment or property shall be staged or stored at the sole risk of Licensee.
- 7) The Park is located between two residential communities. As such, Licensee shall minimize construction impacts to the residential communities (i.e. work hours 7:30 AM – 5:30 PM, construction noise, equipment vibration, etc.) to the greatest extent practical. Licensee shall provide 48-hour notice to the affected adjacent residents and the County prior to commencing access activity through County property. Licensee shall provide variable message signs north and south of the Park entrance, beginning a minimum of seven days prior to Park closure and continuing through the end of the License Period, which indicates the dates of the Park closure.
- 8) Licensee shall indemnify the County for any damage to Park structures, roads, vegetation or other Park features or County property resulting from Licensee's performance of the dune stabilization projects, or this License Agreement. Any such damage shall be repaired to the satisfaction of the County, or Licensee shall pay to the County the reasonable cost to repair any such damage as determined by the County. Licensee shall also indemnify and hold harmless the County, commissioners, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Licensee and persons employed or utilized by the Licensee in the performance of the dune stabilization projects, or this License Agreement.
- 9) Licensee shall maintain, or cause to be maintained, during the License Period, the insurance policies and coverage limits set forth:

***Insurance:***

- ***County's and Subcontractor's Insurance:*** The Licensee shall not commence work until they have obtained all the insurance required under this section, and until such insurance has been approved by the County, nor shall the Licensee allow any subcontractor to commence work until the subcontractor has obtained the insurance required for a contractor herein and such insurance has been approved unless the subcontractor's work is covered by the protections afforded by the Licensee's insurance.
- ***Worker's Compensation Insurance:*** The Licensee shall procure and maintain worker's compensation insurance to the extent required by law for all their employees to be engaged in work under this contract. In case any employees are to be engaged in hazardous work under this contract and are not protected under the worker's compensation statute, the Licensee shall provide adequate coverage for the protection of such employees.
- ***Public Liability Insurance:*** The Licensee shall procure and maintain broad form commercial general liability insurance (including contractual coverage) and commercial automobile liability insurance in amounts not less than shown below. The County shall be an additional named insured on this insurance with respect to all claims arising out of the operations or work to be performed.

<p>Commercial General (Public) Liability, other than Automobile</p> <p>\$1,000,000.00 Combined single limit for Bodily Injury and Property Damage</p>	<p><b>Commercial General</b></p> <p>A. <b>Premises / Operations</b></p> <p>B. <b>Independent Contractors</b></p> <p>C. <b>Products / Completed Operations</b></p> <p>D. <b>Personal Injury</b></p> <p>E. <b>Contractual Liability</b></p> <p>F. <b>Explosion, Collapse, and Underground Property Damage</b></p>
---	---

<p>Automobile</p> <p>\$1,000,000.00 Combined single limit Bodily Injury and Damage Liability</p>	<p>A. <b>County Leased Automobiles</b></p> <p>B. <b>Non-Owned Automobiles</b></p> <p>C. <b>Hired Automobiles</b></p> <p>D. <b>Owned Automobiles</b></p>
--	---

- **Proof of Insurance:** The Licensee shall furnish the County a certificate of insurance in a form acceptable to the County for the insurance required. Such certificate or an endorsement provided by the contractor must state that the County will be given thirty (30) days written notice prior to cancellation or material change in coverage. Copies of an endorsement-naming County as Additional Name Insured must accompany the Certificate of Insurance.

- 10) Insurance certificates attached hereto as Composite Exhibit A.
- 11) At the completion of Licensee’s project or expiration of the license, whichever occurs first, Licensee shall return the Park to substantially the same condition as it was at the beginning of the lease, to the County’s sole satisfaction.
- 12) Licensee shall perform its work in strict compliance with any permit issued for the project. If at any time Licensee does not adhere to the permit conditions or above conditions, the County may order the work to immediately cease until Licensee brings the project into compliance. Violation of permit conditions and/or the terms of this License Agreement may result in termination of the License Agreement by the County forthwith and at no cost to the County.

LICENSEE

BAYTREE CONDOMINIUM ASSOCIATION, INC.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

COUNTY

INDIAN RIVER COUNTY

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_