

## AGREEMENT FOR LIFT STATION GENERATOR INSTALLATION

This Agreement for Lift Station Generator Installation (hereinafter "Agreement") is made and entered into on the 3<sup>rd</sup> day of August, 2018 by and between: CERTUS VRO OWNER LLC, a limited liability company with an address of 1400 Poinsettia Avenue, Orlando, Florida 32804 ("Property Owner"); and Indian River County, Florida, a political subdivision of the State of Florida, located at 1802 27<sup>th</sup> Street, Vero Beach, FL, 32960 ("County").

### Recitals

**WHEREAS**, the Property Owner is developing an Adult Congregate Living Facility with 64 beds ("ACLF") on the property located at 5380 US Highway 1, Vero Beach, FL 32967 (the "Property"), which is described in Exhibit "A"; and

**WHEREAS**, in order for the Property to be developed as the ACLF, a diesel engine, 125 KW generator, or equivalent as determined by the County ("Generator"), will need to be installed at the County lift station located at 5354 Reserve Drive, on the north side of 53rd Street east of U.S. Highway 1 (the "Lift Station"); and

**WHEREAS**, the County will also utilize the Generator at the Lift Station to serve other County customers who are served by the Lift Station; and

**WHEREAS**, therefore the County and the Property Owner are willing to split the costs of the installation of the Generator for the Lift Station,

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the Property Owner and County hereby agree as follows:

1. The foregoing recitals are true and incorporated as if fully restated herein.
2. Installation of Lift Station Generator. The County Department of Utility Services shall install a Generator for the Lift Station.
3. Installation Cost. With respect to the Generator for the Lift Station, the Property Owner shall pay the County for fifty percent of the entire cost to permit and install the Generator for the Lift Station. The estimated cost to permit and install the Generator for the Lift Station is \$87,574.00. Property Owner shall pay the County \$43,787.00 (the "Deposit") within 30 calendar days of the Effective Date of this Agreement, as defined in Paragraph 12. The County will not begin permitting or installing the Generator for the Lift Station until the County receives the entire amount of the Deposit.

Upon completion of the permitting and installation of the Generator for the Lift Station, the County shall provide the Property Owner with the final (actual) cost for the permitting and installation of the Generator for the Lift Station and the Property Owner shall pay to County fifty percent of the additional costs over the amount of the estimated cost set forth above, or \$5,000.00, whichever is less, within 15 calendar days after request by the County.

If the cost for the permitting and installation of the Generator is less than the estimated cost, the County shall reimburse the Property Owner fifty percent of the difference between the estimated cost and the final (actual) cost within 30 calendar days of the installation of the Generator for the Lift Station.

4. Unpaid Installation Costs to Constitute Lien. Pursuant to section 153.67, Florida Statutes, in the event that the Property Owner does not pay fifty percent of the entire cost of the permitting and installation of the Generator for the Lift Station, within 90 calendar days of the installation of the Generator for the Lift Station, any unpaid balance thereof and all interest accruing thereon shall be a lien on the Property. Per section 153.67, Florida Statutes, such lien shall be superior and paramount to the interest on such property of any owner, lessee, tenant, mortgagee or other person except the lien of County taxes and shall be on a parity with the lien of any such County taxes. County shall be entitled to seek any remedies set forth in section 153.67, Florida Statutes or otherwise set forth under Florida Statutes.
5. County Improvements. Unless determined otherwise by the County, any and all improvements constructed or installed by the County shall be the property of the County. Additionally, the County shall have the right to utilize the constructed improvements for any and all other purposes. The Property Owner shall not be responsible for operating and maintaining the Generator at the Lift Station.
6. Waiver of Any Right for Reimbursement. Property Owner waives any right it may have to any reimbursement or payment for costs incurred under this Agreement by any third parties.
7. Termination. The County may unilaterally terminate this Agreement upon 30 calendar days' written notice to the Property Owner. This Agreement shall otherwise terminate upon installation of the Generator for the Lift Station. The rights and obligations set forth in sections 3, 4, 6 and 10 shall survive termination of this Agreement. If any title company, third party purchaser, or prospective lender requires evidence of termination of this Agreement, Property Owner and County agree to cooperate and take such further action as is reasonably necessary to evidence such termination.
8. Property Transfer and Recordation. If the Property is transferred, the Property Owner acknowledges that this Agreement will be preserved and recited in any document transferring title to Property Owner's successors and/or assigns. This Agreement runs with the land and shall be enforceable against any grantees, heirs or assigns and may be recorded by the County. If any title company, third party purchaser, or prospective lender requires evidence of satisfaction or release of this Agreement, Property Owner and County agree to cooperate and take such further action as is reasonably necessary to evidence such satisfaction or release.
9. Applicable Law; Venue. The validity, interpretation, construction, and effect of this Agreement shall be in accordance with and governed by the laws of the State of Florida, only. The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Agreement, or any breach hereof, as well as any

litigation between the parties, shall be Indian River County, Florida for claims brought in state court, and the Southern District of Florida for those claims justiciable in federal court.

10. Indemnification. Property Owner shall indemnify and hold harmless the County, its commissioners, officers, agents, officials, employees, and subcontractors from and against any and all claims, liabilities, losses, damage, or causes of action which may arise from any gross negligence or intentional misconduct of either the Property Owner or any of its respective agents, officers, or employees in connection with the performance of this Agreement.

11. No Third Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement is solely for the benefit of the named parties, and no enforceable right or cause of action shall accrue hereunder to or for the benefit of any entity or individual not a named party hereto.

12. Effective Date. This Agreement shall become effective upon execution by the Indian River County Board of County Commissioners.

CERTUS VRO OWNER LLC, a Florida limited liability company

Signed in the presence of the following witnesses:

By CERTUS RAC TESSIE I LLC, a Florida limited liability company, its Manager

sign: Rachael Yengue  
print name: Rachael Yengue

By CERTUS SL INVESTORS LLC, a Florida limited liability company, its Manager

sign: Metta Erler  
print name: Metta Erler

By CERTUS GP LLC, a Florida limited liability company, its Manager

By: Troy M. Cox  
Troy M. Cox, Manager  
"Property Owner"

ATTEST: Jeffrey R. Smith, Clerk of Court and Comptroller

INDIAN RIVER COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Peter D. O'Bryan, Chairman  
Board of County Commissioners

"County"

BCC approved: \_\_\_\_\_

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY Dylan Reingold  
DYLAN REINGOLD  
COUNTY ATTORNEY

STATE OF FLORIDA  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August, 2018, by Troy M. Cox, Manager of CERTUS GP LLC, a Florida limited liability company, which is the Manager of CERTUS SL INVESTORS LLC, a Florida limited liability company, which is the Manager of CERTUS RAC TESSIE I LLC, a Florida limited liability company, which is the Manager of CERTUS VRO OWNER LLC, a Florida limited liability company, who executed on behalf of and with full authority to do so. He is either personally known to me or has produced \_\_\_\_\_ (driver's license or passport) as identification.



NOTARY PUBLIC

sign: MG

printed name: Metta Grier

Commission No.: GG 232060

Commission Expiration: June 28 2018

SEAL:

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this \_\_\_\_ day of August, 2018, by Peter D. O'Bryan, Chairman of the Board of County Commissioners of Indian River County, Florida, a political subdivision of the State of Florida, who is personally known to me.

NOTARY PUBLIC

sign: \_\_\_\_\_

printed name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

Commission Expiration: \_\_\_\_\_

SEAL:



# Exhibit "A" LOCATION MAP



Exhibit "A"

# EXHIBIT 'A'

## DESCRIPTION OF PARCEL A1:

A PORTION OF PARCEL "A" OF "THE LANDINGS, A COMMERCIAL SUBDIVISION" AS RECORDED IN PLAT BOOK 24, PAGE 40, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL "A" OF THE LANDINGS, A COMMERCIAL SUBDIVISION AS RECORDED IN PLAT BOOK 24, PAGE 40, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA, RUN NORTH 62°34'20" EAST ALONG THE NORTHERLY BOUNDARY LINE OF SAID PARCEL "A", A DISTANCE OF 594.12 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL "A"; THENCE RUN SOUTH 14°54'38" EAST ALONG THE EASTERLY BOUNDARY LINE OF SAID PARCEL "A", A DISTANCE OF 511.48 FEET; THENCE LEAVING SAID EASTERLY BOUNDARY LINE, RUN SOUTH 75°05'22" WEST A DISTANCE OF 240.66 FEET; THENCE RUN SOUTH 14°54'38" EAST A DISTANCE OF 5.00 FEET; THENCE RUN THE FOLLOWING FOUR COURSES AND DISTANCES ALONG THE COMMON BOUNDARY LINE BETWEEN THE AFOREMENTIONED PARCEL "A" AND THE NORTH LINE OF TRACT 1 AS INDICATED ON THE ABOVE REFERENCED PLAT: SOUTH 75°05'22" WEST, A DISTANCE OF 207.09 FEET; SOUTH 81°17'25" WEST, A DISTANCE OF 64.81 FEET; SOUTH 75°05'22" WEST, A DISTANCE OF 37.81 FEET; NORTH 71°13'14" WEST, A DISTANCE OF 36.06 FEET TO THE WESTERLY BOUNDARY LINE OF AFOREMENTIONED PARCEL "A"; THENCE RUN NORTH 14°54'38" WEST ALONG SAID WESTERLY BOUNDARY LINE A DISTANCE OF 360.72 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA, AND CONTAINING 260,014.74 SQUARE FEET OR 5.969 ACRES, MORE OR LESS.


## SURVEYOR'S NOTES:

1. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.
2. BEARING SHOWN HEREON ARE BASED UPON THE NORTH AMERICAN DATUM OF 1983, ADJUSTMENT OF 2011, AND ARE PROJECTED IN THE FLORIDA STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE (901) AND ARE REFERENCED TO THE ESTABLISHED AND MONUMENTED LINE SHOWN HEREON LABELED AS THE "BEARING BASIS".
3. UNLESS A DIFFERENCE IS SHOWN, OBSERVED AND RECORDED DIMENSIONS ARE THE SAME. ALL DIMENSIONS SHOWN HEREON ARE DISPLAYED IN U.S. SURVEY FEET AND DECIMAL PARTS THEREOF.
4. THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE BENEFIT AND USE OF THE PERSONS AND/OR ENTITIES NAMED HERON FOR THE PURPOSES IDENTIFIED HEREON ONLY. UNLESS OTHERWISE STATED, CERTIFICATION OF THIS SURVEY MAP APPLIES ONLY TO THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J17 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. THE CERTIFICATION IN NO WAY CONSTITUTES NEITHER GUARANTY NOR WARRANTY TO ANY OTHER INFORMATION NOT SHOWN HEREON. ADDITIONS, DELETIONS OR REVISIONS TO THIS DRAWING BY OTHERS ARE NOT PERMITTED AND THIS SURVEY MAY NOT BE TRANSFERRED WITHOUT THE EXPRESSED WRITTEN PERMISSION OF THE SIGNING SURVEYOR. THIS SURVEY IS NOT VALID FOR ANY OTHER PURPOSE OTHER THAN INTENDED BY THE SIGNING SURVEYOR.
5. THE LEGAL DESCRIPTION AND MATTERS OF PUBLIC RECORD WERE FURNISHED BY THE CLIENT. THIS PROPERTY(S) WAS NOT ABSTRACTED OR RESEARCHED BY THIS OFFICE FOR ENCUMBRANCES OF RECORD. THE HEREON DESCRIBED PROPERTY IS SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY. MATTERS OF RECORD NOT BROUGHT TO THE SURVEYOR'S ATTENTION BY THE CLIENT, THEIR AGENT OR AS DISCLOSED BY A FURNISHED TITLE INSURANCE POLICY WERE NOT INCLUDED. NO INVESTIGATION WAS MADE BY THIS OFFICE INTO THE VALIDITY OF ANY EASEMENTS CITED IN THE LEGAL DESCRIPTION OR FOR ANY ENCUMBRANCES NOT OF RECORD IN THE INFORMATION FURNISHED BY THE CLIENT. NO TITLE COMMITMENT OR ABSTRACT WAS FURNISHED FOR THE PREPARATION OF THIS SURVEY.
6. THIS SKETCH AND DESCRIPTION IS COMPRISED OF TWO PAGES, ONE IS NOT VALID WITHOUT THE OTHER.

## LEGEND

(P)	PLAT DATA
O.R.B.	OFFICIAL RECORD BOOK
S/D	SUBDIVISION
R.O.W.	RIGHT OF WAY
IRCO	INDIAN RIVER COUNTY
ID	IDENTIFICATION
FL.	FLORIDA
PG.	PAGE
AT&T	AMERICAN TELEPHONE & TELEGRAPH
S.R.	STATE ROAD

CERTIFIED TO:  
MICHAEL COLLARD PROPERTIES



DAVID E. LUETHJE, FL. PSM 5728  
C.A.I. LB. 205 SIGNATURE DATE: 7/2/18

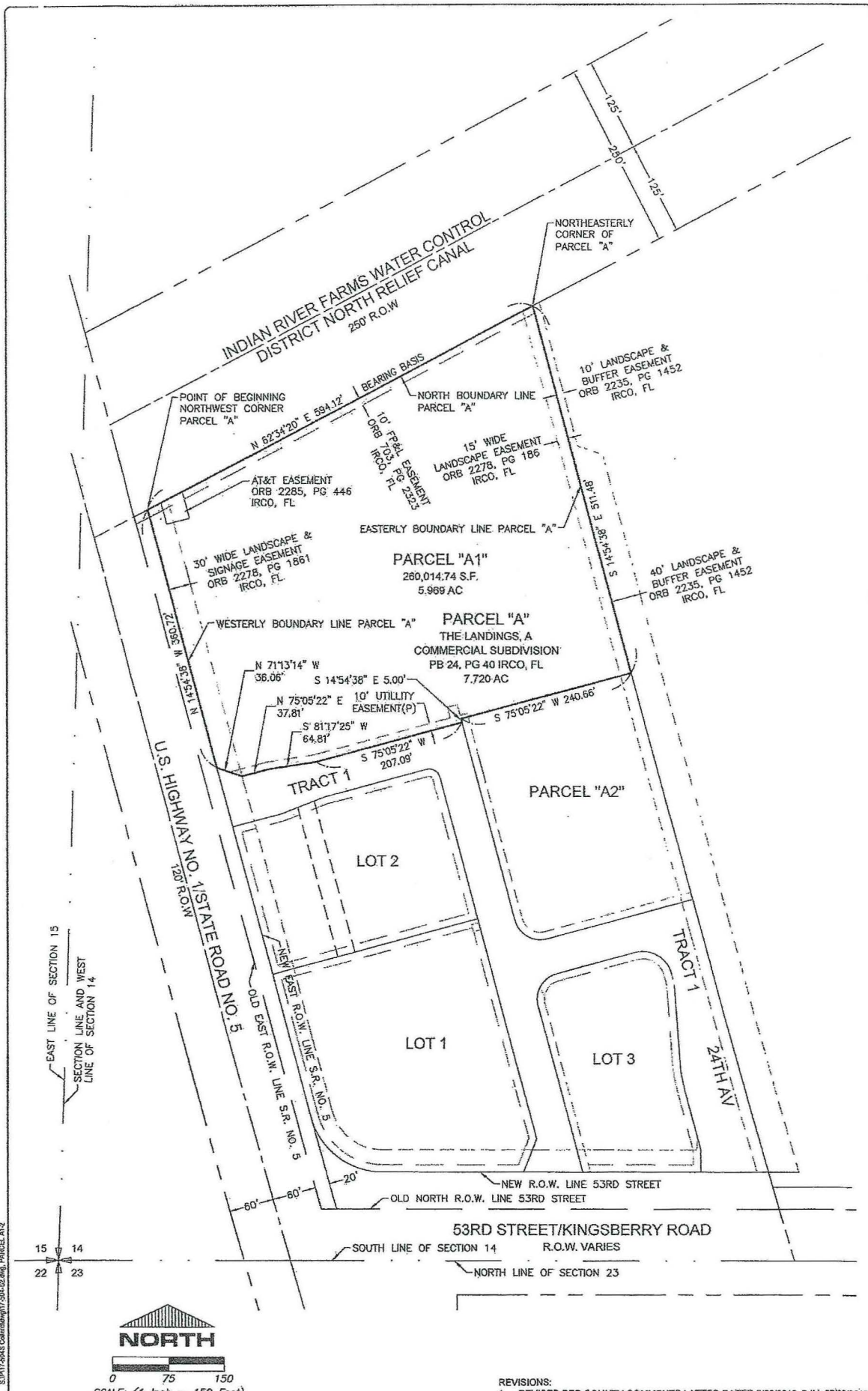
SOUTH SEAS CONSULTING/IT-2018-02-08, PARCEL A-1

REVISIONS:  
1. REVISED PER COUNTY COMMENTS LATTER DATED 6/29/2018; DJM; 07/02/2018

 <b>CARTER ASSOCIATES, INC.</b> CONSULTING ENGINEERS AND LAND SURVEYORS 1708 21st STREET, VERO BEACH, FL 32960 TEL: (772) 562-4191 FAX: (772) 562-7180	DATE : 05/14/2018 PROJ.# : 17-59452 DRAWN BY: DJM APPD. BY: DEL PLOT BY : Domenico Mito REF.# : F.S. & PG. :
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<b>SKETCH AND DESCRIPTION</b> PARCEL "A1" THE LANDINGS, A COMMERCIAL SUBDIVISION PART OF THE SW 1/4 OF SECTION 14, T. 32S, R. 39E INDIAN RIVER COUNTY, FLORIDA
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<b>SHEET</b> <span style="font-size: 2em;">1 of 2</span> Dwg. #: 20888-A
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<p><b>CAI</b> Serving Florida Since 1911  <b>CARTER ASSOCIATES, INC.</b>          CONSULTING ENGINEERS AND LAND SURVEYORS          1708 21st STREET, VERO BEACH, FL 32960          TEL: (772) 562-4191 FAX: (772) 562-7180</p>	<p>DATE : 06/14/2018          PROJ.# : 17-504 S2          DRAWN BY: DJM          APPD BY: DEL          PLOT BY : Domestic Male          REF.# :          F.B. &amp; PG. :</p>	<p><b>SKETCH AND DESCRIPTION</b>          PARCEL "A1"          THE LANDINGS, A COMMERCIAL SUBDIVISION          PART OF THE SW 1/4 OF SECTION 14, T. 32S, R. 39E          INDIAN RIVER COUNTY, FLORIDA</p>	<p><b>SHEET</b>  <b>2 of 2</b>          Dwg. #: 20988-A</p>
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