

1972326 RECORDED IN THE RECORDS OF JEFFREY K BARTON, CLERK CIRCUIT COURT INDIAN RIVER CO FL, BK: 2317 PG: 2223, 02/02/2009 11:29 AM

EXHIBIT "B"

61.00
Prepared by and return to:
Name: Bruce D. Barkett, Esq.
Address: Collins, Brown, Caldwell,
Barkett & Garavaglia, Chartered
756 Beachland Blvd.
Vero Beach, FL 32963
772/231-4343

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS is made by Windsor Properties, a Florida General Partnership, ("Owner"), in favor of Indian River County, Florida, a political subdivision of the State of Florida, ("County").

WITNESSETH:

WHEREAS, Owner holds fee simple title to certain property in the County consisting of 8.93 acres, more or less, which property is referred to as the Property and is legally described in Exhibit "A" attached hereto and made a part hereof ("Windsor Property"); and

WHEREAS, the Property is designated L-1 on the County's Land Use Plan, and is designated RS-6 on the County's Zoning Map, which designations permit development of up to six (6) residential units per acre; and

WHEREAS, the Property is located adjacent to the Golden Sands Park (a County-managed park), and within a high density sea turtle nesting area; and

WHEREAS, the Owner is desirous of making a binding commitment to assure that the Property shall be developed in accordance with the provisions of this Declaration;

NOW, THEREFORE, in consideration of the foregoing, the Owner hereby agrees and declares as follows:

1. Recitals. That the above recitals are true and are incorporated herein by reference.
2. Density Restriction. The Owner hereby declares and voluntarily covenants and agrees that the following development restriction shall apply within the Windsor Property: Residential density shall be limited to one (1) dwelling unit per acre.
3. Use Restrictions.
 - (a) Access to Beach. One elevated wooden walkway (a maximum of six feet wide clear) may be constructed for each dwelling unit fronting on the Atlantic Ocean beach for access to the beach. Except for construction and dune and beach repair and maintenance, no person is permitted on the dunes, except to access the beach via a walkway.
 - (b) Construction Seaward of CCCL during Turtle Nesting Season. There shall be no construction activities on the Atlantic Ocean beach seaward of the current Coastal Construction Control Line from May 1 through October 31, except as permitted by the State of Florida for activities to protect the dunes and upland structure on the Property, and on properties to the north and south.
 - (c) Lighting. Installation of exterior lighting is strongly discouraged. The following requirements shall be complied with on the Property, in addition to the Indian River County Sea Turtle Protection Ordinance:

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(1) No light source or any reflective surface of the light fixture shall be visible from any point on the beach. Illumination of the beach, either through direct illumination, reflective illumination or cumulative illumination is prohibited.

(2) No lights are permitted seaward of the Coastal Construction Control Line. No lights are permitted seaward of residences, except as necessary for safety purposes.

(3) All exterior lights on ocean front lots shall be of a type utilizing completely shielded downlights, without reflective surfaces. All exterior lights will be installed as low as possible for the intended purpose.

(4) High density lighting may be utilized for Highway A1A roadway lighting only, and all such lighting shall utilize shielded low pressure sodium lamps or other lighting with similar characteristics, which shall be positioned, mounted and shielded in a manner such that neither the light source nor reflective surface of the fixture is visible from any point on the beach. The number of such fixtures shall be kept to the minimum necessary.

(5) Only low density lighting shall be utilized in interior roadways and parking areas. This lighting shall be set in a base installed as low as possible for the intended purpose, and shall be positioned, mounted and shielded in a manner such that neither the light sources nor reflective surface of the fixture is visible from any point on the beach.

(6) Parking lots, roadways and driveways shall be designed and positioned such that vehicular headlights do not cast light toward or onto the beach, to the extent possible. Landscaping will be utilized to further this objective.

(7) All temporary lighting, including but not limited to construction lighting, will meet all requirements of this Declaration from May 1 through October 31.

(d.) Beach Accessories on Beach during Turtle Nesting Season. No beach accessories or recreation equipment, including but not limited to beach chairs, umbrellas, canopies, surfboards, sailboats, etc. may remain on the beach overnight from May 1 through October 31.

4. Beach Cleaning. Owner will not utilize nor contract for mechanical cleaning of the beach from May 1 through October 31. Any cleaning by or behalf of Owner during that period will utilize methods which do not disturb sea turtle nesting or hatching or existing nests.

5. Sea Turtle Monitoring. Persons permitted by the Florida Fish and Wildlife Conservation Commission to monitor, research, recover and educate as to the sea turtle shall be allowed access along the beach for permitted activities. Owner will cooperate with such persons in their permitted activities to the extent possible.

6. Education. Owner will annually and throughout the year provide educational materials supplied by the County, the U.S. Fish and Wildlife Service (FWS), the Florida Fish and Wildlife Conservation Commission (FWC) or other appropriate source, to employees, contractors, individual landowners and invitees regarding the importance of sea turtle nesting, nesting dates, prohibited practices necessary to protect the sea turtle, and other relevant educational information. Owner will cooperate with FWS and FWC in sea turtle conservation, protection, research, monitoring and recovery activities.

7. Amendment and Modification. This instrument may be modified, amended or released as to any portion of the Property only by a written instrument executed by the owner of the fee simple title to the Property to be affected by such modification, amendment or release, providing that the same has been approved by the Indian River County Commission.

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8. **Term of Covenant.** This voluntary covenant on the part of Owner shall run with the land and remain in full force and effect and shall be binding upon Owner, its successors and assigns, for an initial period of thirty (30) years from the date this instrument is recorded in the Public Records and shall be automatically extended for successive periods of ten (10) years thereafter, unless modified, amended or released prior to the expiration thereof.

9. **Inspection and Enforcement.** It is understood and agreed that any officer or inspector of the County shall have the right at any time during normal business hours to determine whether the Owner is in compliance with the conditions of the Declaration. The prevailing party in any action or suit to enforce this Declaration shall be entitled to recover costs and reasonable attorney's fees. This enforcement provision shall be in addition to any remedies available under law.

10. **Severability.** Invalidation of any one of these covenants by judgment of a court of competent jurisdiction shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

11. **Recording.** This Declaration shall be filed of record among the Public Records of Indian River County, Florida at the cost of the Owner and a recorded copy given to the County within thirty (30) days of its recording.

12. **Effective Date.** If the county approves the application of the Owner for the rezoning of the Property, as set forth above, and after said approval has become final and nonappealable, this instrument shall constitute a covenant running with the title to the Property and be binding upon the Owner, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on this 23 day of December, 2008.

Douglas Robertson
Name Printed: Douglas Robertson

Lorraine M. Riccio
Name Printed: Lorraine H. Riccio
Witnesses

WINDSOR PROPERTIES

A Florida General Partnership

BY: Mark Justice, General Partner

A Florida Corporation

BY: Mark Justice, President

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 23 day of December, 2008, by Mark Justice as President of Torwest, Inc., a Florida corporation, on its behalf, General Partner of Windsor Properties, a Florida general partnership, who is either:


☒ personally known to me or () produced a Florida driver's license as identification.



Michele Ann Carroccio
Name Printed: Michele Ann Carroccio
Notary Public, State of Florida at Large
My Commission Expires: Mar. 14, 2010
My Commission No.: DD528332

BK: 2317 PG: 2226

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 BASKERVILLE- DONOVAN, INC. INNOVATIVE INFRASTRUCTURE SOLUTIONS 7175 MURRELL ROAD MELBOURNE, FL 32940 (321)264-3883 ENGINEERING BUSINESS: 32-0000340	LEGAL DESCRIPTION EXHIBIT A Windsor "A"	PROJECT: 86901.01 FIELD SURVEY DATE: NOT A SURVEY SECTION: 14 TOWNSHIP: 31 RANGE: SOUTH 39 EAST
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A parcel of land lying and being in Section 14, Township 31 South, Range 39 East, Tallahassee base meridian, Indian River County, Florida, being more particularly described as follows:

Commencing at the southwest corner of Government Lot 2, Section 14, Township 31 South, Range 39 East, Indian River County Florida;

Thence, bearing North 89°45'10" East, along the south line of said Government lot 2, a distance of 865.92 feet to a point on the easterly Right of Way line of State Road A-1-A, as shown on Florida Department of Transportation Right of way Map Section No. 88070-2102, dated 10/21/57;

Thence, bearing North 24°24'50" West, along said Right of Way line, a distance of 1027.82 feet to the Point of Beginning of the herein described parcel of land;

Thence, bearing North 24°24'50" West, along said Right of Way line, a distance of 109.62 feet to a point;

Thence, leaving said Right of Way line of State Road A-1-A, bearing North 89°45'09" East a distance of 573.51 Feet to a point at the Mean High Water Line of the Atlantic Ocean;

Thence, bearing South 26°18'47" East, along said Mean High Water Line, a distance of 111.32 feet to a point;

Thence, leaving said Mean High Water Line, bearing South 89°45'09" West, a distance of 577.55 feet to a point on the aforesaid easterly Right of Way line of State Road A-1-A, and the point being the Point of Beginning.

The above described parcel of land contains an area of 57,553 square feet or 1.321 acres, more or less. Subject to any and all easements and conditions as contained within the chain of title.

GENERAL NOTES:

1. NO UNDERGROUND INSTALLATION OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT THOSE SHOWN HEREON.
2. BASKERVILLE-DONOVAN, INC. CERTIFICATE OF AUTHORIZATION NUMBER TO PROVIDE SURVEYING SERVICES IS L90340
3. THIS DRAWING NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL SEAL OF A FLORIDA REGISTERED SURVEYOR & MAPPER.
4. THE INFORMATION USED FOR THE CREATION OF THIS SKETCH WAS OBTAINED FROM A BOUNDARY SURVEY BY BASKERVILLE DONOVAN PROJECT NO 86901.01 AND A BOUNDARY SURVEY BY KIMLEY-HORN AND ASSOCIATES, PROJECT NO 047013008 DATED 07-14-04
5. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY AND/OR OWNERSHIP WERE FURNISHED TO THE SURVEYOR EXCEPT AS SHOWN HEREON.
6. THE HORIZONTAL COORDINATE SYSTEM AND BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983, 1980 ADJUSTMENT. THE CONTROL MONUMENTS UTILIZED TO ESTABLISH THIS SURVEY WERE FLORIDA DEPARTMENT OF TRANSPORTATION REFERENCE MONUMENT 88-78-A10 HAVING A COORDINATE VALUE OF NORTHING: 1,255,223.229 AND AN EASTING OF 847,008.528 AND MONUMENT 88-78-A11 HAVING A COORDINATE VALUE OF NORTHING: 1,251,561.215 AND EASTING: 848,568.737 NAD 83/90. SAID VALUES WERE CONVERTED FROM NAD 27 COORDINATE DATUM AS LISTED ON THE PLAT OF INDIAN RIVER COUNTY COASTAL CONSTRUCTION CONTROL LINE, PLAT BOOK 22, PAGE 32, PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.
7. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983-1980 ADJUSTMENT, AS SHOWN ON THE AFORESAID EAST RIGHT OF WAY LINE FOR STATE ROAD A-1-A BEARING NORTH-24°24'50" WEST.

LEGEND

POC=POINT OF COMMENCEMENT
 POB=POINT OF BEGINNING
 R/W=RIGHT OF WAY
 PB=PLAT BOOK
 PG= PAGE
 NGVD29= NATIONAL GEODETIC VERTICAL DATUM OF 1929

REVISIONS			
NO.	BY	DESCRIPTION	DATE
1.	KS	REVISED TYPO	1/15/09

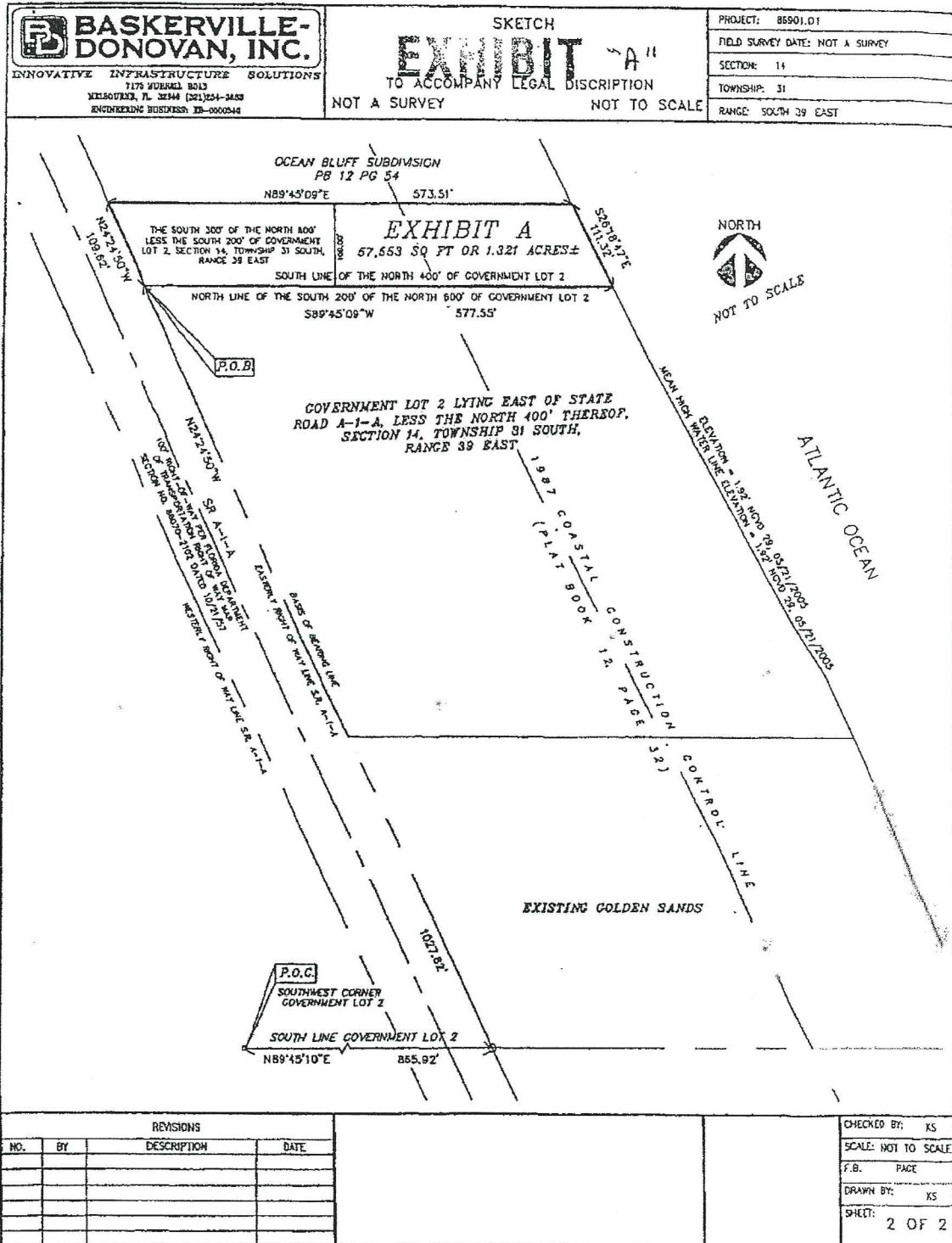
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 BASKERVILLE-DONOVAN, INC. INNOVATIVE INFRASTRUCTURE SOLUTIONS 1176 WYCKEL ROAD MELBOURNE, FL 32940 (321) 264-3883 ENGINEERING ADDRESS: 11-0000340	LEGAL DESCRIPTION EXHIBIT "A" (Windsor "B")	PROJECT: 86901.01 DRAWING DATE: 4/20/07 SECTION: 11 TOWNSHIP: 31 RANGE: SOUTH 39 EAST
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A parcel of land lying and being in Section 14, Township 31 South, Range 39 East, Tallahassee base meridian, Indian River County, Florida, being more particularly described as follows:

Commencing at the southwest corner of Government Lot 2, Section 14, Township 31 South, Range 39 East, Indian River County Florida;

Thence, bearing North 89°45'10" East, along the south line of said Government lot 2, a distance of 865.92 feet to a point on the easterly Right of Way line of State Road A-1-A, as shown on Florida Department of Transportation Right of way Map Section No. 88070-2102, dated 10/21/57;

Thence, bearing North 24°24'50" West, along said Right of Way line, a distance of 419.51 feet to the Point of Beginning of the herein described parcel of land;

Thence, bearing North 24°24'50" West, along said Right of Way line, a distance of 608.31 feet to a point;

Thence, leaving said Right of Way line of State Road A-1-A, bearing North 89°45'09" East a distance of 577.55 Feet to a point on the Mean High Water Line of the Atlantic Ocean;

Thence, bearing South 26°18'47" East, along said Mean High Water Line, a distance of 98.03 feet to a point;

Thence, bearing South 28°25'11" East, along said Mean High Water line, a distance of 441.87 feet to a point;

Thence, bearing South 22°31'33" East, along said Mean High Water line, a distance of 83.66 feet to a point;

Thence, leaving said Mean High Water Line, bearing South 89°45'09" West, a distance of 611.92 feet to a point on the aforesaid easterly Right of Way line of State Road A-1-A, and the point being the Point of Beginning.

The above described parcel of land contains an area of 331,451 square feet or 7.609 acres, more or less. Subject to any and all easements and conditions as contained within the chain of title.

GENERAL NOTES:

1. NO UNDERGROUND INSTALLATION OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT THOSE SHOWN HEREON.
2. BASKERVILLE-DONOVAN, INC. CERTIFICATE OF AUTHORIZATION NUMBER TO PROVIDE SURVEYING SERVICES IS LB0340
3. THIS DRAWING NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL SEAL OF A FLORIDA REGISTERED SURVEYOR & MAPPER.
4. THE INFORMATION USED FOR THE CREATION OF THIS SKETCH WAS OBTAINED FROM A BOUNDARY SURVEY BY BASKERVILLE DONOVAN PROJECT NO 86901.01 AND A BOUNDARY SURVEY BY KIMLEY-HORN AND ASSOCIATES, PROJECT NO 047013001 DATED 07-14-04
5. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY AND/OR OWNERSHIP WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN HEREON.
6. THE HORIZONTAL COORDINATE SYSTEM AND BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT. THE CONTROL MONUMENTS UTILIZED TO ESTABLISH THIS SURVEY WERE FLORIDA DEPARTMENT OF TRANSPORTATION REFERENCE MONUMENT 88-78-A10 HAVING A COORDINATE VALUE OF NORTHING: 1,255,223.229 AND AN EASTING OF 847,008.325 AND MONUMENT 88-78-A11 HAVING A COORDINATE VALUE OF NORTHING: 1,251,561.215 AND EASTING: 848,668.737 HAD 83/90, SAID VALUES WERE CONVERTED FROM NAD 27 COORDINATE DATUM AS LISTED ON THE PLAT OF INDIAN RIVER COUNTY COASTAL CONSTRUCTION CONTROL LINE, PLAT BOOK 12, PAGE 22, PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.
7. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT, AS REFERENCED ABOVE IN THE PLAT OF RIGHT OF WAY LINE FOR A-1-A BEARS NORTH 24°24'50" WEST.

LEGEND

POC=POINT OF COMMENCEMENT
 POB=POINT OF BEGINNING
 R/W=RIGHT OF WAY
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REVISIONS			
NO.	BY	DESCRIPTION	DATE

The legal description herein was prepared in compliance with the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers, Chapter 61C01, Florida Administrative Code, pursuant to Section 61C01.02, Florida Statutes, and based on my knowledge and belief.

12-17-08

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR

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SCALE: N/A
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