

LICENSE AGREEMENT

This license agreement ("License Agreement") entered into on this 5th day of January, 2021 by the **BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA**, a political subdivision of the State of Florida, 1801 27th Street, Vero Beach, Florida 32960, hereinafter referred to as "IRC", and **The Florida Institute of Technology, a private Not for Profit University**, 1500 W. University Boulevard, Melbourne, FL 32901, hereinafter referred to as "Florida Tech", in consideration of the mutual promises and agreements set forth below, hereby agree as follows:

WITNESSETH:

1. **PREMISES AND TERM.** IRC hereby issues a license to Florida Tech for use of approximately 900 feet x 30 feet (along the dune line) (the "Premises"), located at Treasure Shores Park 11300 Highway A1A, Vero Beach, FL 32963, in the County of Indian River, Florida, more particularly described as follows:

For the installation of a High Frequency Radar (HFR), which will be part of the national program of the Integrated Ocean Observing System (IOOS) of the National Oceanic and Atmospheric Administration (NOAA).

HFR antennas will consist of no more than 16 monopoles using 110 VAC power, radiating no more than 40 W at 13.5 MHz. The monopoles, a maximum of 6 feet height, will consist of no more than 4 transmit antennae placed near the vertices of a 30 ft² area, no more than 12 monopoles in a straight line, 30 ft apart, parallel to ocean, with 500 ft separation between transmit and receive arrays, connecting/buried coaxial cables in conduit between the monopoles and terminated in a receiver (See Exhibit A).

The HFR electronics (receiver) will be housed in the beachside unused lifeguard station. FLORIDA TECH will be responsible for both maintenance and upgrades (if needed) to the structure. This includes electricity, air conditioning, shelving, annual painting, weather stripping, etc.

The term of the License shall begin the day approved by IRC and shall end three years after such date.

1.1 **Extension of License.** The Parties may mutually agree to extend the license for two, one-year renewal periods. Such extension must be in writing, signed 30 days before expiration of this License.

1.2 **Termination of License.** FLORIDA TECH may opt out of this license anytime during the license period by providing written notice to IRC. This license shall terminate if the FLORIDA TECH no longer occupies or uses the Premises. IRC may decide to terminate this license if FLORIDA TECH commits a breach of this agreement and, in the

case of a breach capable of remedy, fails to remedy the breach within 14 days of being required to do so in writing.

1.3 **License Fee.** Provided FLORIDA TECH maintains the HFR as part of the national program of the IOOS of NOAA in the manner as described in section 1 above, FLORIDA TECH shall not be required to pay a fee for use of Premises.

2. **USE OF PREMISES.** During the term of this License, the FLORIDA TECH shall use the Premises for FLORIDA TECH HFR related activities (maintenance and operation) only and for no other purposes. FLORIDA TECH shall not use the Premises, or any part thereof, or permit the same to be used for any illegal, immoral, or improper purposes; not to make, or permit to be made, any disturbance, noise, or annoyance whatsoever detrimental to the Premises or the comfort and peace of the inhabitants of the vicinity of the Premises. Members and guests of FLORIDA TECH shall not use tobacco or have alcohol on the Premises. IRC will permit access to the facility to FLORIDA TECH.

2.1 **Access** FLORIDA TECH will limit site access to project personnel only. FLORIDA TECH will request permission for any other guests (e.g., SECOORA personnel, media). FLORIDA TECH shall notify the Director of IRC Parks and Recreation twenty-four (24) hours in advance of all scheduled visits. When advance notice is not feasible, such as to perform unscheduled required maintenance or system shutdown in the event of a landfalling hurricane etc., FLORIDA TECH will inform the park Director of IRC Parks and Recreation via email stating the purpose of the visit and which FLORIDA TECH members entered the Premises.

2.2 **Antennae** The 16 antennae shall be solely used by FLORIDA TECH. Antenna use for other transmissions is not permitted without prior IRC written approval.

3. **PREMISES LICENSED "AS IS"**. FLORIDA TECH agrees that the Premises is being licensed "as is" and that IRC makes no warranty or guarantee of the condition of the Premises. FLORIDA TECH has examined the Premises and has determined that the Premises are suitable for FLORIDA TECH's purposes.

4. **COMPLIANCE OF LAW.** FLORIDA TECH shall comply with all of the laws, rules, ordinances, and regulations of the County, State and Federal Governments, and agencies regarding the use of the premises. Violation of any law, rule, ordinance or regulation may result in immediate termination of this license agreement.

5. **MAINTENANCE AND REPAIRS.** FLORIDA TECH agrees to limit disturbance (dune vegetation) of the Premises and shall abide by all County, State, and Federal Laws during the term of this License Agreement. FLORIDA TECH shall make any necessary changes or adjustments to the Premises for any damages caused by FLORIDA TECH or its members or guests within a reasonable time frame upon request by IRC. Upon the expiration of the License Agreement or subsequent renewals, FLORIDA TECH shall surrender the Premises quietly and peaceably in substantially the same condition as it was at the outset of this License, reasonable wear and tear and damage by the elements excepted.

6. **INSTALLATION AND REMOVAL OF EQUIPMENT AND FIXTURES.** With written permission of IRC, FLORIDA TECH shall have the right to install on the Premises such equipment, fixtures and other items necessary for the operation of the HFR as described in

section 1 above. All equipment and property purchased by FLORIDA TECH and placed in, on, or about the Premises, including equipment not affixed to the realty, shall remain the property of FLORIDA TECH. FLORIDA TECH may remove same on or before the termination of the License Agreement. In addition, any and all personal property shall remain FLORIDA TECH's property and may be removed on or prior to termination of this License Agreement.

6.1 **Permitting** Any portion of the HFR project that requires a permit from Indian River County, the State of Florida or the United States, shall be the responsibility of FLORIDA TECH.

7. **UTILITIES.** The electric bill at Treasure Shores Park will be paid by Florida Tech.

8. **HOLD HARMLESS.** FLORIDA TECH agrees to hold harmless and indemnify IRC from any liability which may arise from the FLORIDA TECH's use of the Premises.

9. **INSURANCE.** The FLORIDA TECH shall carry the following insurance coverage and shall furnish IRC a certificate of said coverage.

9.1 **Special Requirements.** Prior to the commencement of the use of the premises, a certificate of insurance shall be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

A. Indian River County shall be named as an "Additional Insured" on the general liability policy.

B. Indian River County will be given thirty (30) days' notice prior to cancellation or modification of any stipulated insurance. Such notice shall be in writing by certified mail, return receipt requested, and addressed to the Risk Manager.

C. The commercial general liability policy shall have a combined single limit of no less than \$300,000 per occurrence.

9.2 **Lapse in Coverage.** If the FLORIDA TECH allows insurance coverage required under this License Agreement to lapse, expire or be canceled it shall be an immediate breach of the License Agreement and grounds for eviction.

10. **RIGHT TO INSPECT.** IRC may enter and inspect the Premises to ensure that it is being properly maintained.

10.1 **Meetings** IRC will schedule and conduct quarterly virtual meetings with FLORIDA TECH and the Director of IRC Parks and Recreation.

11. **ASSIGNMENT.** FLORIDA TECH shall not assign or transfer any part of this License Agreement without prior written consent of IRC which may be withheld for any reason. This License Agreement is entered into with the knowledge that only the FLORIDA TECH will occupy the Premises. No additional entities, whether permanent or temporary shall be permitted to occupy the Premises during the term of the License Agreement without IRC's written consent. FLORIDA TECH shall not mortgage the Premises.

12. **DATA ACCESS.** FLORIDA TECH will provide near real-time access to the wave and current data via a web interface. FLORIDA TECH shall not be liable nor indemnify a user for any losses and/or harm related to this data.

13. **NOTICE.** Any notices which are required, or which either party may desire to serve upon the other, shall be in writing and shall be deemed served when hand delivered, or when actually received via U.S. Mail, postage prepaid, return receipt requested, addressed to FLORIDA TECH at:

Florida Institute of Technology
1500 W. University Boulevard
Melbourne, Florida 32901

Such notices to IRC shall be addressed as follows:

Indian River County
Parks and Recreation
Attention: Director
5500 77th Street
Vero Beach, Florida 32967

These addresses may be changed by either party through written notification to the other.

IN WITNESS WHEREOF, we, IRC and FLORIDA TECH, hereunto affixed our hands and seals at Vero Beach, Indian River County, Florida, the day and year first above written.

FLORIDA TECH

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY, FLORIDA

By: 

By: _____

Its: Executive Vice President and Provost Joseph E. Flescher, Chairman

Approved by BCC: _____, 2021

Witnessed by:

ATTEST:

signature: 

printed name: Lynn Donath

By: _____
Jeffrey R. Smith, Clerk of Court
and Comptroller

signature: 

printed name: Rebekah Ann Lee Poe

Approved:

Jason E. Brown, County Administrator

Approved as to form and legal Sufficiency

Dylan Reingold, County Attorney