

**AGREEMENT TO PURCHASE AND SELL REAL ESTATE
BETWEEN INDIAN RIVER COUNTY AND WABASSO HILLSIDE LLC**

THIS AGREEMENT TO PURCHASE AND SELL REAL ESTATE ("Agreement") is made and entered into as of the ____ day of July, 2017, by and between Indian River County, a political subdivision of the State of Florida, 1801 27th Street, Vero Beach, FL 32960 ("the County"), and Wabasso Hillside, LLC, whose address is 5070 Highway A-1-A, #205, Vero Beach, FL 32963 ("Hillside"), who agree as follows:

WHEREAS, Wabasso Hillside LLC owns property located at 8495 58th Avenue, Vero Beach, Florida, a sketch and legal description of the property is attached to this agreement as Exhibit "A" and incorporated by reference herein; and

WHEREAS, the County, is scheduled to improve the County Road 510/58th Avenue intersection and the road expansion will impact and affect Hillside's property; and

WHEREAS, in order for the County to proceed with its road expansion plans, the County needs to purchase property to be used as right-of-way from landowners adjacent to 58th Avenue; and

WHEREAS, the County has contacted Hillside and has offered to purchase an approximately 0.14 acre parcel of property from Hillside to be used as right-of-way as depicted on Exhibit "A" (collectively, the Property); and

WHEREAS, the County is prepared to take the Property by using its power of eminent domain; and

WHEREAS, Hillside and the County wish to avoid the risk, time and expense of litigation by entering into this agreement for sale and purchase of the Property;

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants and premises hereinafter, the COUNTY and HILLSIDE agree as follows:

1. Recitals. The above recitals are affirmed as being true and correct and are incorporated herein

2. Agreement to Purchase and Sell. Hillside hereby agrees to sell to the County, and the County hereby agrees to purchase from Hillside, upon the terms and conditions set forth in this Agreement, that certain parcel of real property located at 8495 58th Avenue, Vero Beach, Florida and more specifically described in the sketch and legal description attached as Exhibit "A", containing approximately 0.14 acres, and all improvements thereon, together with all easements, rights and uses now or hereafter belonging thereto.

2.1 Consideration, Effective Date. The Consideration for the Property shall be the

construction of a south bound left turn lane and a north bound right turn lane ("Improvements") at the entrance to Red Stick Golf Club, 8350 58th Avenue, Vero Beach, FL. The County shall construct the Improvements if and when the County widens 58th Avenue to a four lane divided highway section. The Improvements shall be designed, permitted and constructed by the County at the County's sole cost and expense. The Parties agree that construction of the Improvements shall take place after the closing of this transaction and that the widening of 58th Avenue is currently not part of the County's 5-year Capital Improvement element. The Effective Date of this Agreement shall be the date upon which the County shall have approved the execution of this Agreement by the Indian River County Board of County Commissioners at a formal meeting of such Board. This Paragraph 2.1 and the County's obligations herein shall survive closing, and in the event of non-compliance by the County, either Hillside or Red Stick Golf Club, Inc., as the intended third party beneficiary of this contract, or both, shall be entitled to injunctive relief to enforce compliance.

3. Title. Hillside shall convey marketable title to the Property by Warranty deed free of claims, liens, easements and encumbrances of record or known to Hillside; but subject to property taxes for the year of Closing and covenants, restrictions and public utility easements of record provided (a) there exists at Closing no violation of any of the foregoing; and (b) none of the foregoing prevents County's intended use and development of the Property ("Permitted Exceptions").

4. Representations of Hillside.

4.1 Hillside is indefeasibly seized of marketable, fee simple title to the Property, and is the sole owner of and has good right, title, and authority to convey and transfer the Property which is the subject matter of this Agreement, free and clear of all liens and encumbrances. Hillside shall not be required to incur any cost or expenses to clear title, remove clouds on title or to delete any exceptions from title insurance coverage.

4.2 From and after the Effective Date of this Agreement, Hillside shall take no action which would impair or otherwise affect title to any portion of the Property, and shall record no documents in the Public Records which would affect title to the Property, without the prior written consent of the County.

4.3 There are no existing or pending special assessments affecting the Property, which are or may be assessed by any governmental authority, water or sewer authority, school district, drainage district or any other special taxing district.

5. Default.

5.1 In the event the County shall fail to perform any of its obligations hereunder, either Hillside or Red Stick Golf Club, Inc., as the intended beneficiary of this contract, or both, shall have the right to seek specific performance. In such event, the prevailing party shall be entitled to attorney's fees and costs, including on appeal. This paragraph shall survive

closing.

5.2 In the event Hillside shall fail to perform any of its obligations hereunder, the County shall, at its sole option, be entitled to: (i) terminate this Agreement by written notice delivered to Hillside at or prior to the Closing Date and thereupon neither the County nor any other person or party shall have any claim for specific performance, damages or otherwise against Hillside; or (ii) obtain specific performance of the terms and conditions hereof; or (iii) waive Hillside's default and proceed to Closing:

6. Closing.

6.1 The closing of the transaction contemplated herein ("Closing" and "Closing Date") shall take place within 30 days following the execution of the contract by the Chairman of the Board of County Commissioners. With the written consent of Hillside, the County or its agent shall be responsible for obtaining any partial releases or satisfactions of encumbrances on the Property. The closing date shall automatically be extended by a period of 30 days if the delay in closing is attributable to obtaining partial satisfaction and release of mortgage(s) encumbering the Property so long as the County is acting in good faith with the holder of the encumbrance to partially release or satisfy the encumbrance. The parties agree that the Closing shall be as follows:

(a) Hillside shall execute and deliver to the County a Warranty deed conveying marketable title to the Property, free and clear of all liens and encumbrances and in the condition required by paragraph 3.

(b) Hillside shall have removed all of its personal property and equipment from the Property and Hillside shall deliver possession of the Property to County vacant and in the same or better condition that existed at the Effective Date hereof.

(c) If Hillside is a non-resident alien or foreign entity, it shall deliver to the County an affidavit, in a form acceptable to the County, certifying that Hillside and any interest holders are not subject to tax under the Foreign Investment and Real Property Tax Act of 1980.

(d) Hillside and the County shall each deliver to the other such other documents or instruments as may reasonably be required to close this transaction.

6.2 Taxes. All taxes and special assessments which are a lien upon the property on or prior to the Closing Date (except current taxes which are not yet due and payable) shall be paid by Hillside.

7. Closing Costs; Expenses. County or its agent shall be responsible for preparation of all Closing documents.

7.1 County shall pay the following expenses at Closing:

7.1.1 The cost of recording the Warranty deed and any release, partial release or satisfaction obtained by Hillside pursuant to this Agreement.

7.1.2 Documentary Stamps required to be affixed to the Personal Representatives deed, if any.

7.1.3 All costs and premiums for the owner's marketability title insurance commitment and policy, if any.

8. Miscellaneous.

8.1 Controlling Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Venue shall be in Indian River County for all state court matters, and in the Southern District of Florida for all federal court matters.

8.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to this transaction and supersedes all prior agreements, written or oral, between Hillside and the County relating to the subject matter hereof. Any modification or amendment to this Agreement shall be effective only if in writing and executed by each of the parties.

8.3 Assignment and Binding Effect. Neither County nor Hillside may assign its rights and obligations under this Agreement without the prior written consent of the other party. The terms hereof shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

8.4 Notices. Any notice shall be deemed duly served if personally served or if mailed by certified mail, return receipt requested, or if sent via "overnight" courier service or facsimile transmission, as follows:

If to Hillside:
Warren L. Schwerin
Wabasso Hillside LLC
5070 Highway A-1-A, #205
Vero Beach, FL 32963

If to County:
Indian River County
1801 27th Street
Vero Beach, FL. 32960
Attn: Public Works Director

Either party may change the information above by giving written notice of such change as provided in this paragraph.

8.5 Survival and Benefit. Except as otherwise expressly provided herein, each agreement, representation or warranty made in this Agreement by or on behalf of either party, or in any instruments delivered pursuant hereto or in connection herewith, shall survive the Closing Date and the consummation of the transaction provided for herein. The covenants, agreements and undertakings of each of the parties hereto are made solely for the benefit of, and may be relied on only by the other party hereto, its successors and assigns, and are not made for the benefit of, nor may they be relied upon, by any other

person whatsoever.

8.6 Attorney's Fees and Costs. In any claim or controversy arising out of or relating to this Agreement, each party shall bear its own attorney's fees, costs, and expenses.

8.7. Counterparts. This Agreement may be executed in two or more counterparts, each one of which shall constitute an original.

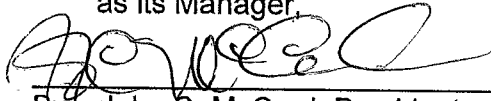
8.8. County Approval Required: This Agreement is subject to approval by the Indian River County as set forth in paragraph 2.1

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth above.

INDIAN RIVER COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

WABASSO HILLSIDE, LLC
A Florida limited liability company
BY: RED STICK GOLF CLUB, INC.
A Florida non-profit corporation,
as its Manager,

Joseph E. Flescher, Chairman



By: John C. McCord, President
Date: 5/24, 2017

Approved by BCC _____

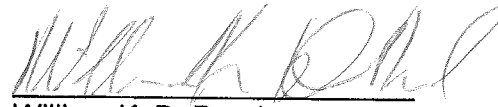
ATTEST:
Jeffrey R. Smith, Comptroller and
Clerk of Circuit Court

Deputy Clerk

Approved:

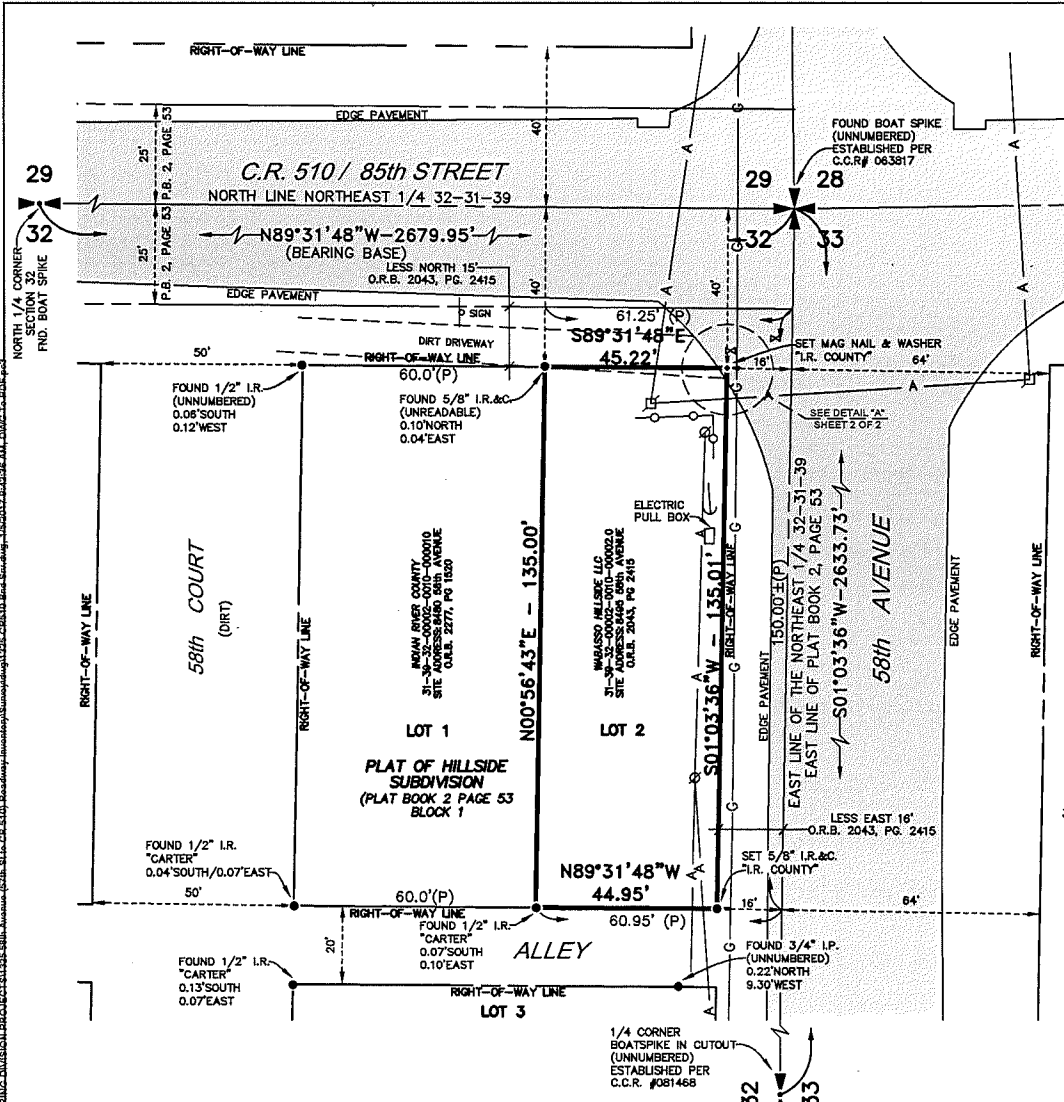
Approved as to Form and Legal
Sufficiency:

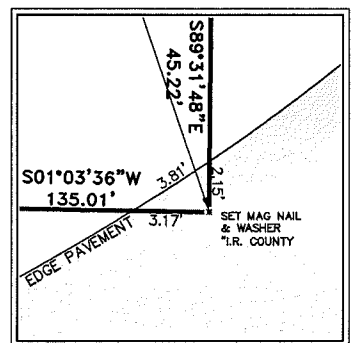
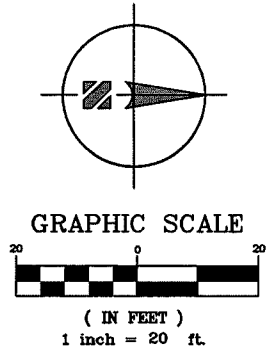
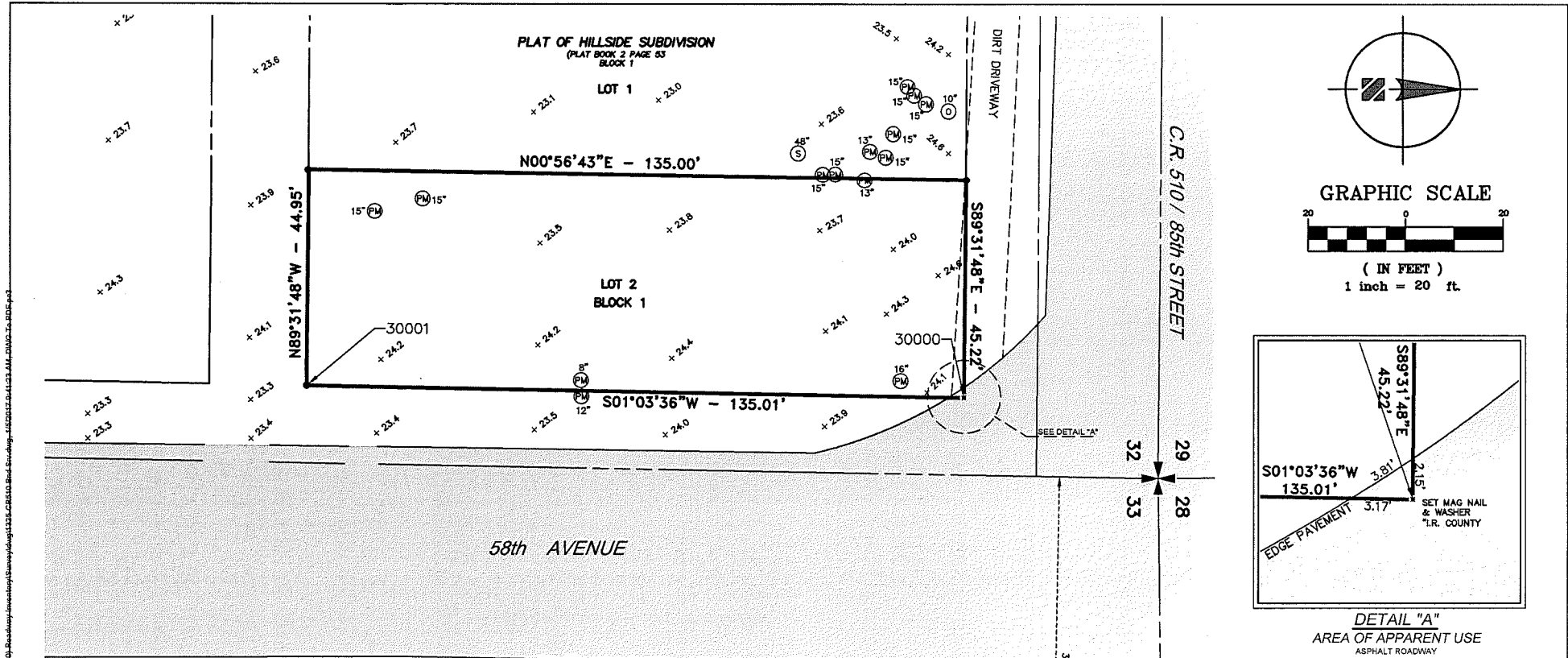
Jason E. Brown, County Administrator



William K. DeBraal
Deputy County Attorney

EXHIBIT "A"





DETAIL "A"
 AREA OF APPARENT USE
 ASPHALT ROADWAY
 3.5 SQ. FT.±
 SCALE 1"=5'

TOPOGRAPHIC SURVEY AND TREE LOCATION



BENCHMARK (TBM 3)
 FOUND 5/8" IRON ROD & CAP
 "SSMC TRAVERSE POINT"
 ELEVATION=24.45

BENCHMARK
 FOUND 3-1/4" BRASS DISK DEPARTMENT OF
 ENVIRONMENTAL PROTECTION SURVEY MARKER
 "6645 2005" IN POURED IN PLACE CONCRETE MONUMENT,
 346.6 EAST OF EAST LINE OF SECTION 32,
 10' SOUTH OF EDGE PAVEMENT CR. 510
 ELEVATION=24.45

SYMBOLS AND ABBREVIATIONS:

- C.M. = CONCRETE MONUMENT
- CONC = CONCRETE
- C.C.R. = CERTIFIED CORNER RECORD
- FND = FOUND
- I.P. = IRON PIPE
- I.R. = IRON ROD
- I.R.&C. = IRON ROD AND CAP
- Δ = DELTA ANGLE
- = AERIAL UTILITY LINES
- = GAS LINE
- = CHAIN LINK FENCE
- = WOOD UTILITY POLE
- = CONCRETE UTILITY POLE
- = WATER VALVE
- = ELEVATION
- = POLE ANCHOR
- LLC = LIMITED LIABILITY COMPANY
- (M) = FIELD MEASURED
- O.R.B. = OFFICIAL RECORDS BOOK
- (P) = PLATTED COURSE
- P.B. = PLAT BOOK
- P.K.&W. = PARKER
- P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER
- P.U. = PUBLIC UTILITY
- TBM = TEMPORARY BENCHMARK
- ▭ = ASPHALT SURFACE
- ⊙ = OAK TREE WITH SIZE
- ⊕ = PALM TREE WITH SIZE
- ⊙ = SEAGRAPE WITH SIZE

THIS SURVEY IS NOT COMPLETE WITHOUT SHEETS 1 AND 2 AS CREATED

No.	Revision	Date	By	INDIAN RIVER COUNTY 1801 27th STREET VERO BEACH, FL 32960 (772) 567-8000	Department of Public Works Engineering Division	FIELD BOOK NO. PAGES BLANCHARD 142 38	SECTION TOWNSHIP RANGE	DATE: 1-6-2017	COUNTY PROJECT NO. 1325	BOUNDARY AND TOPOGRAPHIC SURVEY ADDRESS: 8495 58th AVENUE (HILLSIDE SUBDIVISION, LOT 2, BLOCK 1)	SHEET 2 of 2
						DRAWN BY: R. MCLETT	APPROVED BY: D. SILON				