

## TRANSIT STATION LICENSE AGREEMENT

**THIS TRANSIT STATION LICENSE AGREEMENT** (this “Agreement”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between DIVOSTA HOMES, L.P., a Delaware limited partnership, whose address is 1400 Indian Creek Parkway, Jupiter, Florida 33458 (“**Licensor**” or “**DiVosta**”), and INDIAN RIVER COUNTY, a political subdivision of the State of Florida, whose address is 1801 27th Street, Vero Beach, Florida 32960 (“**Licensee**”).

### WITNESSETH

**WHEREAS**, Licensee operates a public transit system that transports the public throughout the Indian River County area; and

**WHEREAS**, it is critical to the success of the public transit system that passengers have safe and convenient locations to wait for and to board vehicles; and

**WHEREAS**, it is beneficial to Licensor and their officials, employees, agents and guests that vehicles operated by Licensee pick-up and drop-off passengers at the transit site located along 49th Street at Lakes at Waterway Village in Indian River County; and

**WHEREAS**, the parties agree that it is in their mutual best interests that the transit site is an integral part of the community and functions as a community activity station; and

**WHEREAS**, the parties agree that it is in their mutual best interests to place a transportation facility at the specified site for use as an established transit station, which will provide facilities for the embarking and disembarking of passengers that are safe, convenient, accessible and more comfortable for passengers to wait for transit vehicles.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements of the parties, Licensor and Licensee hereby agree as follows:

**Section 1 - Transit Site Agreement.** Licensor hereby grants Licensee a license (the “**License**”) to enter upon that certain parcel of real property located along 49th Street at the Lakes at Waterway Village in Indian River County, more particularly described and depicted on **Exhibit A** and made a part hereof (the “**Transit Site**”), for the sole and limited purposes of installing and using a transit stop, subject to all of the terms and conditions provided for herein. Licensor agrees Licensee may install and use a facility for passengers which consists of a trash receptacle(s), a bench(es), a sign(s), a passenger waiting shelter(s), and such other items as may be mutually agreed upon by the parties and referred to as (the “**Transit Station**”) on the Transit Site.

**Section 2 - Installation of Transit Station.** Licensee shall provide all the materials and labor for the construction of the Transit Station to be located on the Transit Site. Licensee shall retain ownership of such Transit Station. The Transit Station shall be comparable to other transit stations currently used by Licensee. If as a result of Licensee’s construction of a Transit Station, Licensor is required by federal, state, or local law, ordinance, order etc, to make any improvements, changes or alterations (“**Improvements**”) to the property on which Transit Site is located, in order to comply with such laws, such collateral Improvements shall be the

responsibility of Licensee. All costs associated with such collateral Improvements shall be borne by Licensee.

**Section 3 - Term.** This Agreement shall commence on the date included in the introductory paragraph of this Agreement (the “**Date of Commencement**”) and, unless extended by the undersigned, shall terminate on the earlier of: (i) three (3) years from the Date of Commencement; or (ii) thirty (30) days after notice is given by either party of its desire to terminate this Agreement. At the time this Agreement is terminated, Licensee shall remove the Transit Station and all of the Licensee equipment at the Transit Site and upon removal of the Transit Station, Licensee shall return the Transit Site to substantially the condition existing prior to the installation of the Transit Station.

**Section 4 - Effective Date.** This Agreement shall become effective upon being executed by the parties hereto and shall remain in full force and effect until such time as either party terminates this Agreement as provided in Section 3 hereof.

**Section 5 - Damage to the Transit Station.** Licensee shall be responsible for day-to-day normal and customary maintenance of the Transit Site and the Transit Station, and every part thereof, including, but not limited to, washing the Transit Station from time to time and picking up trash on the Transit Station on a regular basis. Licensee shall be responsible for heavy maintenance, including, but not limited to, painting, removal of graffiti, and concrete repair, as well as the repair of any damage to the Transit Station caused by Licensee and its agents. Such repair will be commenced within ten (10) days after Licensee is notified by Licensor, in writing, of such damage. If Licensee shall fail to maintain the Transit Station in a clean manner, Licensor shall have the right to clean the Transit Station after ten (10) days written notice to Licensee. Licensor shall then be permitted to invoice Licensee for all costs incurred and to add a 15% administrative fee to such costs.

**Section 6 - Advertising.** Licensee may place or permit placement of any advertising materials or public notices similar to those customarily placed on or in transit stations within the Licensee system on the exterior or interior of the Transit Station or on the Transit Site. Licensee shall have the right to retain all amounts generated by such advertising. Licensee shall not place or allow advertising of any nature, including signage, in or around the Station which would either (i) promote or encourage the use of products legally prohibited to minors, such as tobacco products, alcohol or adult entertainment of any type, or (ii) promote or encourage major competitors to Licensor. Licensor retains the right to demand that Licensee promptly remove any advertisement which violates the foregoing, without liability for contractual obligations of the Licensee that are related to the advertisement.

**Section 7 - Security.** Licensor shall not be responsible for providing security for the Transit Site or for any persons using the Transit Station.

**Section 8 - No Partnership.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood that nothing contained herein, or any acts of the parties hereto other than the relationship of licensor and licensee.



**Section 9 - Notices.** Any notice, request, demand, approval, consent or other communication which Licensor or Licensee may be required or permitted to give to the other party shall be in writing and shall be mailed or hand delivered to the other party at the addresses set forth below:

If to Licensor: DiVosta Homes, L.P.  
1400 Indian Creek Parkway  
Jupiter, FL 33458  
Attn: Brent Baker

If to Licensee: Executive Director  
Go Line Transit System  
c/o Senior Resource Association, Inc.  
694 14th Street  
Vero Beach, FL 32960

or to such other address as either party shall have designated by notice to the other pursuant to this paragraph. The time of the rendition of such notice shall be one of the following: (1) two (2) days after same is deposited in an official United States Post Office with postage prepaid, and with certified or registered mail, return receipt requested; (2) the date of when same is hand delivered; or (3) the date delivered by overnight courier with confirmation of delivery required.

**Section 10 - Authorization.** Licensor and Licensee hereby represent and warrant to the other that as of the date of this Agreement, the undersigned are duly authorized to execute this Agreement on behalf of Licensor and Licensee, respectively.

**Section 11 - Choice of Law; Venue.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted in accordance with the laws of the State of Florida. Venue for any dispute arising as a result of this Agreement shall be Indian River County.

**Section 12 - Compliance.** Licensee agrees to comply with all applicable laws, rules, codes, and/or other regulation governing such operation; obtain any and all necessary consents or approvals, and to display same as required by any law, rule, code, or regulation.

**Section 13 - Attorneys' Fees.** In connection with any legal proceedings arising out of this Agreement, the prevailing party shall be entitled to recover its costs, expenses, attorney and paralegal fees, including without limitation, those incurred whether or not litigation is commenced, and also those incurred at trial and in any administrative, arbitration, mediation, bankruptcy or appellate proceedings.

**Section 14 - Time of the Essence.** Time is of the essence of the Agreement.

**Section 15 - Severability.** If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion hereto.

**Section 16 - Assignability.** DiVosta shall be permitted to assign its rights and obligations under this Agreement to Waterway Village Homeowners Association, Inc., whereupon DiVosta shall be released of all obligations hereunder arising after the effective date of such assignment.

**Section 17 - License to Use Copyrighted Materials and Trademark Rights.** Licensor acknowledges that Licensee owns and holds all right, including patents, trademarks, copyrights and trade secrets in and to all elements of the Transit Station and related structures, designs and drawings, including without limitation, the passenger waiting shelter. Licensee hereby grants Licensor a revocable license to use such rights in the Transit Station and related structure, designs and drawings during the term of this Agreement for the purposes addressed in this Agreement. Licensor shall acquire no right or interest in any of these elements by virtue of the Agreement and all uses of these elements and related rights shall inure to the benefit of Licensee. Licensor agrees not to challenge or otherwise interfere with the validity of Licensee's rights in these elements or Licensee's ownership of these elements and related rights.

**Section 18 - Indemnification.** To the extent permitted by Florida law and subject to the limitations provided by Florida law, Licensee shall indemnify Licensor against, and hold Licensor harmless from all losses, damages, costs, claims, suits, liabilities, and expenses (including reasonable attorneys' fees including those for services rendered at the appellate court level) resulting from any of Licensee's use, construction, removal, maintenance or compliance requirements under this Agreement.

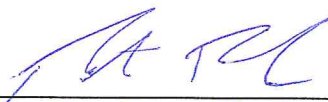
**AGREED TO** by the parties hereto as of the date first above written.

**LICENSOR:**

**DIVOSTA HOMES, L.P.**

a Delaware limited partnership

By: **DiVosta Homes Holdings, LLC,**  
its general partner

By:   
Name: TRENT BAKER  
Title: DIVISION PRESIDENT

**LICENSEE:**

**BOARD OF COUNTY COMMISSIONERS  
INDIAN RIVER COUNTY, FLORIDA**

By: \_\_\_\_\_  
Joseph E. Flescher, Chairman

BCC Approved: \_\_\_\_\_

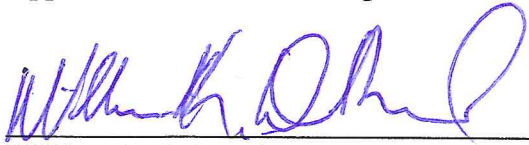
Approved:

By: \_\_\_\_\_  
Jason E. Brown, County Administrator

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

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

Approved as to form and legal sufficiency



William K. DeBaal  
Deputy County Attorney



# EXHIBIT "A"

## LEGAL DESCRIPTION: MASS TRANSIT EASEMENT

BEING A PORTION OF TRACT 6, SECTION 21, TOWNSHIP 32 SOUTH, RANGE 39 EAST, INDIAN RIVER FARMS CO. PLAT OF LANDS AND PLAN FOR LAND DRAINAGE AND ROAD RESERVATIONS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 25, PUBLIC RECORDS, ST. LUCIE COUNTY, FLORIDA, NOW BEING IN INDIAN RIVER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF 51ST COURT AS CONVEYED IN OFFICIAL RECORDS BOOK 2018, PAGE 2196 AND THE NORTH LINE OF LINDSEY ROAD (49TH STREET) AS CONVEYED IN OFFICIAL RECORDS BOOK 1951, PAGE 1891 ALL OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA; THENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID LINDSEY ROAD (49TH STREET), SOUTH 89°46'12" EAST, A DISTANCE OF 206.03 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED PARCEL OF LAND; THENCE NORTH 00°13'48" EAST, A DISTANCE OF 11.50 FEET TO A POINT ON A LINE 11.50 FEET NORTH OF AND PARALLEL WITH THE NORTH RIGHT-OF-WAY LINE OF SAID LINDSEY ROAD (49TH STREET); THENCE ALONG SAID PARALLEL LINE, SOUTH 89°46'12" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 00°13'48" WEST, A DISTANCE OF 11.50 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID LINDSEY ROAD (49TH STREET); THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE, NORTH 89°46'12" WEST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 287.5 SQUARE FEET, MORE OR LESS.

### CERTIFICATION:

THIS SKETCH AND DESCRIPTION ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



**WILBUR F. DIVINE**  
 PROFESSIONAL LAND SURVEYOR & MAPPER  
 LICENSE NO. 4190, STATE OF FLORIDA

DATE: 08-09-16

NOTE: THIS IS NOT A SKETCH OF SURVEY, BUT ONLY A GRAPHIC DEPICTION OF THE DESCRIPTION SHOWN HEREON. THERE HAS BEEN NO FIELD WORK, VIEWING OF THE SUBJECT PROPERTY, OR MONUMENTS SET IN CONNECTION WITH THE PREPARATION OF THE INFORMATION SHOWN HEREON.

NOTE: LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RESTRICTIONS, RIGHTS-OF-WAY OR EASEMENTS OF RECORD.

Date/Time : Mon, 24 Oct 2016 - 1:15pm Path\Name : C:\Projects\LNK\WF\WF077402\015\CAD\SURVEY\WF077402-SD02.dwg



ARCADIS U.S., Inc.  
 1500 Gateway Boulevard, Suite 200  
 Boynton Beach, Florida 33426

Tel: (561) 697-7000 Fax: (561) 369-4731  
 www.arcadis.com

LB 7062	PROJECT MANAGER WFD	DEPARTMENT MANAGER WFD	SCALE: N/A	CHECKED BY WFD
	SHEET TITLE SKETCH OF DESCRIPTION MASS TRANSIT EASEMENT		DATE: 08-09-16	DRAWN BY JAF
	SHEET 1 OF 2		PROJECT NUMBER WF077402	DRAWING NUMBER WF077402-SD02

# EXHIBIT "A"

SKETCH TO ACCOMPANY DESCRIPTION. THIS IS NOT A SURVEY!

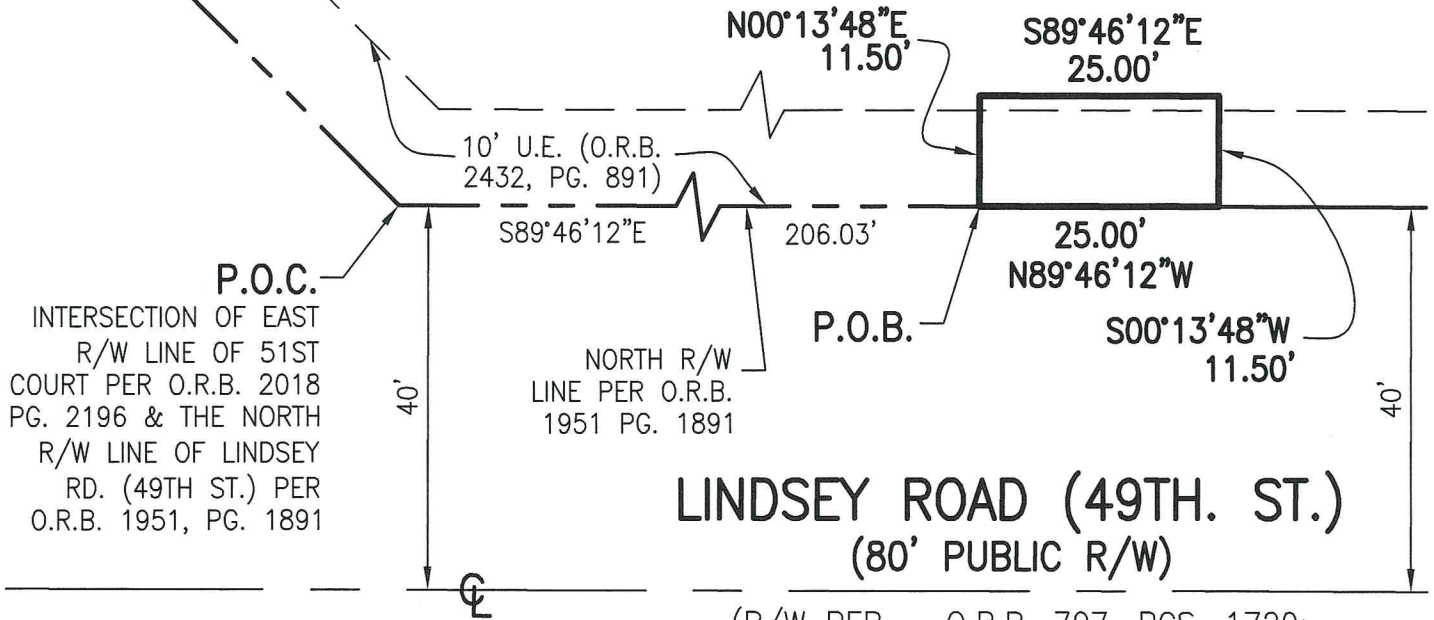


SCALE: 1"=20'

**51ST COURT**  
(60' PUBLIC R/W)  
(O.R.B. 2018, PGS. 2196)

10' U.E. (O.R.B. 2432, PG. 898)

**TRACT 6**  
SECTION 21, TWP. 32 S., RGE 39 E.  
INDIAN RIVER FARMS CO.  
PLAT OF LANDS AND PLAN FOR LAND DRAINAGE  
AND ROAD RESERVATIONS  
PLAT BOOK 2, PAGE 25



**LEGEND:**

- Ⓞ — CENTERLINE
- L.A.E. — LIMITED ACCESS EASEMENT
- O.R.B. — OFFICIAL RECORDS BOOK
- P.B. — PLAT BOOK
- PGS. — PAGES
- P.O.B. — POINT OF BEGINNING
- P.O.C. — POINT OF COMMENCEMENT
- R/W — RIGHT-OF-WAY
- U.E. — UTILITY EASEMENT

(R/W PER — O.R.B. 707, PGS. 1720;  
O.R.B. 1277, PG. 2379 & O.R.B. 1951, PG. 1891)

Date/Time : Mon, 19 Sep 2016 - 3:31pm Path/Name : G:\Projects\LINK\_WF\WF077402\0015\CAD\SURVEY\WF077402-SD02.dwg

**ARCADIS U.S., Inc.**  
1500 Gateway Boulevard, Suite 200  
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www.arcadis.com

PROJECT MANAGER WFD	DEPARTMENT MANAGER WFD	SCALE: 1" = 20'	CHECKED BY WFD
		DATE: 08-09-16	DRAWN BY JAF
SHEET TITLE SKETCH OF DESCRIPTION MASS TRANSIT EASEMENT		PROJECT NUMBER WF077402	DRAWING NUMBER WF077402-SD02
SHEET 2 OF 2			