

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT for a portion of the South Prong Preserve Conservation Area “Ryall House” located at 7780 85<sup>th</sup> Street, Vero Beach, FL 32967 (“License Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 by and between INDIAN RIVER COUNTY, a political subdivision of the State of Florida (“County”) and Friends of St. Sebastian River, Inc., a Florida not-for-profit corporation (“FSSR”).

### **Witnesseth That:**

WHEREAS, Friends of St. Sebastian River, Inc. (FSSR) is a 501(c)3 non-profit organization dedicated to maintaining and improving the health and beauty of the St. Sebastian River and its watershed; and

WHEREAS, the County purchased the South Prong Slough containing the Ryall and Slough parcels in 2006 and 2007, respectively, with environmental bond funds with cost-share assistance from the Florida Communities Trust; and

WHEREAS, the County and FSSR would like to work cooperatively to provide site management and educational programming,

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, and intending to be legally bound, the County and FSSR agree as follows:

1. **RECITALS.** The above recitals are true and correct and incorporated herein by reference.
2. **TERM OF LICENSE.** The initial term of this License Agreement shall be 3 years commencing on this \_\_\_\_ day of \_\_\_\_\_ 2022, and terminating on \_\_\_\_\_, 2025 (the Initial Term”). This License Agreement will be may be renewed for 3-year periods, unless terminated.
3. **DESCRIPTION OF PREMISES.** The County hereby grants a license to the FSSR, the two-bedroom “Ryall” home located at 7780 85<sup>th</sup> Street, Vero Beach, FL 32967 as depicted in Exhibit “A” (“Premises”).
4. **USE.** FSSR shall occupy and use the Premises only for its operations related to the FSSR and for cooperative educational programming and volunteer efforts related to the Sebastian River and its watershed, and for no other purpose whatsoever without County’s prior written consent, which consent shall not be unreasonably withheld.

5. **UTILITIES.** The FSSR shall pay for and provide utility services including any necessary internet, phone, security, and electric service at the Premises. FSSR shall be responsible for all hardware, software, equipment, material, labor and installation costs associated with the data connection.
6. **FSSR MONTHLY SCHEDULE.** By the 15<sup>th</sup> day of every month, FSSR shall provide County with a monthly schedule of office hours, meetings and educational programs for the upcoming month. FSSR shall provide County with 1 days' notice of any cancellations or changes to the schedule.
7. **FSSR EDUCATIONAL PROGRAM REQUIREMENT.** FSSR shall provide at least 12 educational programs per year on the Premises. Such programs may include volunteer work days. Such programs and volunteer days shall be reported to the County on a monthly basis with the number of attendees, hours volunteered, and program/event attended.
8. **MAINTENANCE AND REPAIRS.** County shall maintain in good repair the appliances, roof, structural components and exterior walls, roof and porches of the Ryall House, as well as the HVAC, electrical and plumbing systems (including maintenance and repair of the septic system). FSSR shall maintain the Premises in a safe, clean and attractive condition, and shall make all necessary minor repairs so that the Premises is maintained during the term of the License Agreement in substantially the same condition as it was given at the beginning of the license. FSSR shall surrender the Premises at termination or expiration of the License Agreement, in substantially the same condition as they were at the beginning of the License Agreement, reasonable wear and tear excepted. FSSR will notify the County immediately upon any major repairs needed and will keep a log of all minor repairs made by the FSSR and/or volunteers.
9. **FURNITURE.** FSSR shall be responsible for supplying any furniture for the Ryall House.
10. **MOWING.** County shall mow the grounds of the Premises on a bi-weekly basis, weather permitting.
11. **IMPROVEMENTS.** FSSR shall not make or allow to be made any alterations, additions or improvements in or to the Premises, without obtaining the prior written approval of the County, which consent shall not be unreasonably withheld, delayed or conditioned. FSSR shall deliver to the County a copy of the construction plans and specifications for all alterations, additions or improvements which FSSR proposes to make in or to the Premises. Except as specifically provided herein, FSSR agrees that all approved work shall be done in a good and workmanlike manner, at FSSR's sole cost and expense, and that the structural strength and integrity of any structure on the Premises shall not be impaired in any way. FSSR shall obtain, at FSSR's expense, all necessary permits and approvals from governmental authorities for the commencement and completion of any such alterations, additions and improvements and shall furnish

evidence of such approval to the County prior to the commencement of construction or installation of any such alterations, additions and improvements. All alterations, additions or improvements shall be constructed in accordance with all applicable building codes, laws and regulations. All of FSSR's alterations, additions and improvements shall be deemed to be a part of the Premises, and FSSR shall be obligated to maintain and repair the same. All alterations, additions and improvements in or to the Premises shall, when made, become the property of the County and shall be surrendered to the County upon the termination of this License Agreement, whether by lapse of time or otherwise. FSSR shall indemnify, hold harmless and defend the County from and against any and all claims, losses, liabilities, costs, damages and expenses (including court costs and attorneys' fees at or before the trial level and in any appellate proceedings) arising out of or relating to any alterations, additions or improvements made by FSSR in or to the Premises (notwithstanding County's prior written consent thereto. As used in this section, an alteration, addition and improvement shall mean a structural change or fixture attached to any building such that it becomes a part of the building.

**12. CONSTRUCTION LIENS.** FSSR agrees that it will make full and prompt payment of all sums necessary to pay for the costs of all repairs and permitted alterations, additions, improvements, changes and other work done by FSSR in or to the Premises and further agrees to indemnify, save harmless and defend the County from and against any and all costs and liabilities, including reasonable attorney's fees incurred by the County and against any and all construction, materialmen's, laborers' and other statutory or common law liens which may be asserted, claimed or charged against all or any part of the Premises arising out of or from such work. Notwithstanding anything to the contrary set forth in this License Agreement, in no event shall the interest of the County in all or any part of the Premises be subject to any construction, materialman's, laborers' or other statutory or common law lien for improvements or work made or done by or at the instance of FSSR, whether or not the same shall be made or done with the consent of the County or by agreement between Lessee and the County. All persons dealing with or contracting with FSSR or any contractor of FSSR are hereby put on notice of the foregoing provision. In the event any notice, claim or lien shall be asserted or recorded against the interest of the County in the Premises on the account of or extending from any improvement or work made or done by or at the instance of FSSR, or any person claiming by, through or under FSSR, or from any improvement or work the cost of which is the responsibility of FSSR, then FSSR agrees to have such notice, claim or lien canceled, discharged, released or transferred to other security in accordance with applicable Florida Statutes within thirty (30) days after notice to FSSR by the County, and in the event FSSR fails to do so, FSSR shall be considered in default under this License Agreement. FSSR agrees to join the County, at County's request, in the execution of a short form of license, pursuant to section 713.10, Florida Statutes, to be recorded in the Public Records of Indian River County, Florida for the purpose of giving constructive notice of the provisions of this subparagraph.

13. **ACCESS TO RYALL HOUSE.** FSSR shall allow County access to the Ryall House at any time. However, FSSR will have one locked room in the Ryall House for office equipment and any other valuables, which County can access upon prior notice to FSSR, unless access is necessary due to an emergency.
14. **PARKING.** FSSR parking on the Premises shall be limited to the front yard and side yard of the Ryall House. No parking shall be permitted in the drain field.
15. **OVERNIGHT USAGE.** FSSR and the County agree that some overnight stays by volunteers or contractors hired by either party may be mutually beneficial. Such overnight stays shall be limited to a duration of no longer than 14 nights, and shall require written approval by both parties. The volunteer(s) and/or contractor(s) must be performing a function for either the County and/or FSSR, i.e. volunteer work related to a County conservation area, cleanup effort; contractor who is provided a service for IRC/FSSR whereby the overnight stay reduces the cost of services provided; organized educational volunteer groups like Alternative Breaks, DEP Volunteer Corps. A donation to the FSSR shall be made per person, per night to cover the cost of additional electric and minor wear and tear as a result of the stay. Overnight guests shall have the responsibility to leave the premises clean and in the same or better condition as when they arrived.
16. **USE OF HERBICIDES.** FSSR acknowledges that County uses herbicides on the Premises and agrees that FSSR and its members will not disparage County for such herbicide use.
17. **ASSIGNMENT OR TRANSFER.** FSSR shall not assign or transfer any part of this License Agreement or the Premises, without the prior written consent of the County.
18. **TERMINATION OF LICENSE.** This License Agreement may be terminated for convenience by either party with sixty (60) days' written notice. Either Party may terminate this License Agreement for cause when there is an event of default by the other Party. An event of default shall occur if either party fails to perform a material obligation under this License Agreement and such failure is not cured within thirty (30) days after written notice of the default is provided by the non-defaulting Party to the defaulting Party.
19. **ANNUAL APPROPRIATION.** This License Agreement is subject to annual budget and/or appropriation by the Board of County Commissioners and staffing allocation by the County Administrator.
20. **NOTICE.** Any notice required by this License Agreement, 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 County at:

Lessor: Friends of St. Sebastian River, Inc.  
PO Box 284  
Roseland, FL 32957

County: Indian River County Board of County Commissioners  
**Parks & Recreation**  
**Conservation Lands Program**  
5500 77<sup>th</sup> Street  
Vero Beach, Florida 32967

The above addresses may be changed by either party by written notice to the other party.

21. **TIME OF THE ESSENCE.** Time shall be of the essence with respect to each and every matter set forth herein.
22. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISK TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY HEALTH UNIT.
23. **VENUE AND GOVERNING LAW.** Any and all suits for breach of this License Agreement shall be instituted and maintained in a state or federal court of competent jurisdiction having jurisdiction over Indian River County, Florida. This License Agreement and any questions concerning its validity, construction and performance shall be governed by the laws of the State of Florida.
24. **SEVERABILITY.** In the event that any provision of this License Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the Parties shall negotiate in good faith and agree to such amendments, modifications or supplements of, or to, this License Agreement or such other appropriate changes as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this License Agreement shall, as so amended, modified, supplemented, or otherwise effected by such action remain in full force and effect.
25. **INSURANCE.** FSSR shall obtain and maintain the minimum following insurance types, coverages and amounts as stated below:
  - a) Commercial General Liability – No more restrictive than ISO Form CG0001 (including property damage, personal injury, products / comp. ops. agg., premises, operations, and blanket contractual liability)

\$500,000 Each Occurrence  
\$500,000 Products & Completed Ops Aggregate  
\$500,000 Personal Injury and Advertising  
\$500,000 General Aggregate  
\$50,000 sublimit Fire legal liability

The County and County's members, officials, officers, employees and agents, shall be named as additional insureds under all of the above Commercial General Liability coverage.

- b) Automobile Liability (all automobiles-owned, hired or non-owned) - \$500,000 Combined Single Limit
- c) In the event the FSSR hires employees or is otherwise required to carry workers' compensation insurance, the FSSR will provide evidence of workers' compensation insurance or exemption as required by Florida Workers Compensation Law as defined in Chapter 440, Florida Statutes. The FSSR will assume responsibility for FSSR's discretion in confirming that all of FSSR's contractors or subcontractors engaged in work have the appropriate workers' compensation coverage. Such evidence will include evidence of workers' compensation benefits and employer's liability insurance for the following minimum limits of coverage:

Workers Compensation - Florida Statutory Coverage

Including coverage for any appropriate Federal Acts (e.g. Longshore and Harbor Workers Compensation Act, 33 USC §§ 901-952, and the Jones Act, 46 USC §§ 688 et seq.) where activities include liability exposures for events or occurrences covered by Federal statutes.

Employer's Liability \$100,000 Each Accident  
\$500,000 Disease Policy Limit  
\$100,000 Each Employee/Disease

- d) In the event that any services or activities of a professional nature are provided,  
  
Professional Liability (Errors and Omissions) - \$1,000,000 Each Occurrence/Claim
- (e) Primary and Non-Contributory – FSSR's insurance will apply on a primary basis and will not require contribution from any insurance or self-insurance maintained by the County.

- (f) Deductibles – The deductibles of the insurance policies applicable to the use of the Premises shall be deemed customary and the responsibility of FSSR and any named insureds.
- (g) Additional Insured – FSSR’s insurance, except workers’ compensation and any additional coverages where it is unavailable, will name the Board of County Commissioners of Indian River County and County’s members, officials, officers, employees and agents, as additional insureds under all insurance coverages required for the use of the Premises.
- (h) Reporting Provision – FSSR’s insurance shall be provided on an occurrence form. In the event that coverage is only available on a claims made form, the FSSR shall agree to maintain an extended reporting coverage for a minimum of two years past the expiration of the annual policy term.
- (i) Duration – Notwithstanding anything to the contrary, FSSR’s liabilities intended to be covered by the insurance coverage(s) required under this section shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of particular policies for insurance coverages.
- (j) Financial Responsibility – FSSR shall obtain insurance by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes, or a company that is declared as an approved Surplus Lines carrier under Chapter 626, Florida Statutes. Such insurance shall be written by an insurer with an A.M. Best Rating of A-VII or better.
- (k) Evidence of Financial Responsibility – FSSR must provide a certificate of insurance to the County’s Risk Manager, demonstrating the maintenance of the required insurance including the additional insured endorsement, no later than 10 days after this License Agreement is executed. Upon written request, FSSR shall make its insurance policies and endorsements available to the County’s Risk Manager. The County’s Risk Manager shall approve the FSSR’s insurance if it complies with this License Agreement’s requirements, including, if any, additional insurance coverages deemed necessary by the Risk Manager. No material alteration or cancellation, including expiration and non-renewal of FSSR’s insurance, shall be effective until 30 days after receipt of written notice by the County from FSSR or FSSR’s insurance company.
- (l) Discretionary Authority – Depending upon the nature of any aspect of the use of the Premises and its accompanying exposures and liabilities, the County may, at its sole option, require additional insurance coverages not listed above, in amounts responsive to those liabilities, which may or may not require that the County also be named as an additional insured.

**26. INDEMNIFICATION.** FSSR shall defend, protect, hold harmless and indemnify the County, its Commissioners, directors, officers, employees, and agents and contractors of any tier, or any of them (the "County Indemnified Persons") from and against any cost, expense, loss, claim or liability whatsoever, including the cost of attorneys' fees and appeals, for injury to any person or loss or damage to any property arising out of: (a) the negligence or wrongful misconduct of FSSR, its directors or partners (as applicable), officers, employees, other agents or contractors of any tier; (b) the failure of or by FSSR, its directors or partners (as applicable), officers, employees, other agents or contractors of any tier to comply with applicable law or regulations of federal, state or local governments; (c) the performance or failure to perform of the FSSR under this License Agreement; and (d) any breach by FSSR of any representation or warranty made in this License Agreement. FSSR is not required to hold harmless or indemnify any County Indemnified Person for any cost, expense, loss, claim or liability to the extent caused by any County Indemnified Person's negligence or reckless misconduct.

**27. ENTIRE AGREEMENT.** This written License Agreement shall constitute the entire agreement of the parties with respect to the Premises and the County's occupancy of the Premises. No other statement, representation or prior agreement shall have any force or effect, unless set forth herein.

**IN WITNESS WHEREOF**, the undersigned have affixed our hands and seals at Vero Beach, Indian River County, Florida, as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS  
OF INDIAN RIVER COUNTY, FLORIDA

By: \_\_\_\_\_  
Peter D. O'Bryan, Chairman

Approved by BCC: February 1, 2022.

ATTEST:

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

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Dylan Reingold, County Attorney

Friends of St. Sebastian River, Inc.

By: \_\_\_\_\_

Witnessed by:

signature: \_\_\_\_\_

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

signature: \_\_\_\_\_

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