

RESOLUTION NO. 2017-\_\_

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AUTHORIZING THE COUNTY PUBLIC WORKS DIRECTOR, ON BEHALF OF THE INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS TO EXECUTE A MEMORANDUM OF UNDERSTANDING RELATING TO RIGHT-OF-WAY LANDSCAPING.

**WHEREAS**, there are instances in which a property owners' association or homeowners' association desires to install and maintain landscaping in the right-of-way adjacent to the subdivision for aesthetic purposes; and

**WHEREAS**, in such instances the County desires that such property owners' association or homeowners' association agree to install and maintain such landscaping in accordance with approved right-of-way plans and also provide proper insurance and indemnify and hold the County; and

**WHEREAS**, the Board desires that the Public Works Director enter into a memorandum of understanding with such property owners' associations or homeowners' associations consistent with the memorandum of understanding attached hereto as Exhibit "A".

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:**

1. The above-recitals are affirmed;
2. The Indian River County Board of County Commissioners (the "Board") hereby specifically delegates to the Public Works Director, the authority to execute a memorandum of understanding on behalf of the Board in substantially the form attached hereto, and provided that any such memorandum of understanding contain the signature of the County Attorney, or his designee, approving such documents as to form and legal sufficiency.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, and, upon being put to a vote, the vote was as follows:

Chairman Joseph E. Flescher	_____
Vice Chairman Peter D. O'Bryan	_____
Commissioner Susan Adams	_____
Commissioner Tim Zorc	_____
Commissioner Bob Solari	_____

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The Chairman thereupon declared the Resolution duly passed and adopted this \_\_ day of May, 2017.

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

INDIAN RIVER COUNTY, FLORIDA  
BOARD OF COUNTY COMMISSIONERS

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

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

Approved as to form and legal  
sufficiency:

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

# EXHIBIT "A"

## MEMORANDUM OF UNDERSTANDING

BETWEEN

\_\_\_\_\_ ASSOCIATION, INC.

AND

INDIAN RIVER COUNTY, FLORIDA

This Memorandum of Understanding (hereinafter "MOU") is made and entered into by and between \_\_\_\_\_ Association, Inc., a Florida not-for-profit corporation ("Association"), and Indian River County, Florida, a political subdivision of the State of Florida.

### Recitals

**WHEREAS**, the Association desires to maintain enhanced landscaping within the right-of-way along \_\_\_\_\_, for aesthetic purposes; and

**WHEREAS**, the County agrees to permit the Association to install and maintain the enhanced landscaping within the right-of-way along \_\_\_\_\_;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the Association and County hereby agree as follows:

1. The foregoing recitals are true and incorporated as if fully restated herein.
2. Association agrees to install and maintain all landscaping materials, fertilization, and irrigation along \_\_\_\_\_, in the County's right-of-way, at the Association's own cost and expense, in accordance with the approved right-of-way permit.
3. County agrees to permit the Association to perform the work described herein on an as-needed basis as determined by the Association, and except for the initial permit fees, the County waives any other annual permit or application fees which might otherwise be associated with work as described herein within the County right-of-way.
4. This MOU may only be modified in writing by mutual agreement of both parties.
5. The Association shall defend, hold harmless, and indemnify the County, including its County's commissioners, employees, and agents from and against any and all claims, causes of action, losses, damages, expenses (including reasonable attorneys fees) and other liabilities of any type whatsoever, arising out of or relating to the Association's negligence, intentional misconduct, or violation of this MOU or applicable law.

6. General Liability Insurance: The Association shall obtain and keep in force a general liability insurance policy, occurrence based, with a general aggregate limit of no less than \$300,000.00 and a single occurrence limit of \$200,000.00. The County shall be named as additional insured.

Workers Compensation and Employees Liability: The Association shall ensure that any contactor or subcontractor providing labor pursuant to this MOU shall maintain Workers Compensation in accordance with the laws of the State of Florida.

Automobile Insurance: If applicable, the Association shall ensure that any contractor or subcontractor providing labor pursuant to this MOU shall maintain Automobile Insurance in accordance with the laws of the State of Florida. Evidence of insurance required per this MOU must be submitted to the County annually by May 1<sup>st</sup> of every year.

7. If the Association does not comply with the terms of this MOU and the requirements of the right-of-way permit, County has the authority to remove the landscaping and irrigation in the County's right-of-way.
8. This MOU may only be terminated by either party by providing ninety (90) days written notice to the other party at the appropriate address below:

If to the Association:

\_\_\_\_\_

If to the County:

Indian River County  
Public Works Director  
1801 27<sup>th</sup> Street  
Vero Beach, Florida 32960

With a copy to:

Dylan Reingold  
County Attorney  
Indian River County  
1801 27<sup>th</sup> Street  
Vero Beach, Florida 32960

\_\_\_\_\_**Association, Inc.**

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

Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_

**INDIAN RIVER COUNTY, FLORIDA  
PUBLIC WORKS DEPARTMENT**

\_\_\_\_\_, Director

Date: \_\_\_\_\_

Approved as to form and legal sufficiency:

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