

**AGREEMENT
BETWEEN
INDIAN RIVER COUNTY, FLORIDA AND
REDEVGROU, INC.**

THIS AGREEMENT is made and entered into this 12th day of June, 2018, by and between Indian River County, Florida, a political subdivision of the State of Florida, 1801 27th Street, Vero Beach, FL 32960, ("County"), and REDEVGROU, INC., a Florida Profit Corporation, 1826 US Highway 1, Vero Beach, FL 32960 ("Developer").

WITNESSETH

WHEREAS, on July 19, 1994 Indian River County issued Resolution 94-93 ("Development Order"), approving the Indian River Mall as a Development of Regional Impact ("DRI"); and

WHEREAS, one condition of the Development Order required that the developer of the DRI dedicate a Conservation Easement over approximately 4.7 acres of cabbage palm hammock within the DRI property ("Lot 5"), for protection of wildlife; protection of upland habitat; protection of hand fern; and to assist the County in its efforts to maintain State Road 60 as an attractive gateway corridor; and

WHEREAS, the Conservation Easement was recorded in O.R. Book 1072, Page 2581, Public Records of Indian River County, Florida ("Conservation Easement").

WHEREAS, the factors supporting the conservation easement over Lot 5 have diminished by the passage of time as the parcel experienced a significant decrease in wildlife and upland habitat preservation, most specifically due to the disappearance of hand fern from the site. Also of significance is that Lot 5 is not accessible to the public and is currently unmaintained and unmanaged; and

WHEREAS, the dedication of the conservation easement over Lot 5 specifically contemplated a future swap or trade if conditions changed by the passage of time; and

WHEREAS, there are alternative sites in the County which would provide greater ecological value and greater public benefit than that which is provided by Lot 5; and

WHEREAS, County has determined that the public interest could be best served by releasing Lot 5 from the Conservation Easement and from the Development Order to permit responsible commercial development of the site, in accordance with approved development standards, in exchange for title to one of the alternative sites which would provide greater ecological value and greater public benefit to the County; and

WHEREAS, County and Developer have determined that they are able to assist each other to accomplish their mutual goals, provided Developer is able to deliver to County title to one of the alternative sites, and further provided County releases Lot 5 from the Conservation Easement and from the Development Order.

NOW, THEREFORE, for in consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, County and Developer hereby agree as follows:

1. The foregoing recitals are incorporated as if fully restated herein.
2. On or before December 20, 2018, Developer shall cause to be conveyed to the County title to one of the following described properties; free and clear of all liens, save property taxes and assessments which are not due:

Property 1: "The Alice Siew Property", See Exhibit "A", attached hereto and made a part hereof

Property 2: "The Kinner Property", See Exhibit "B", attached and made a part hereof, together with \$291,819.00.

Developer shall pay documentary stamps on the conveyance, and property taxes shall be pro-rated to the date of closing. County may elect to purchase title insurance at its own cost and expense.

3. Simultaneously with delivery of title of one of the above-described properties by Developer, County shall release Lot 5 from the Development Order and from the Conservation Easement, by execution of a document which shall be recorded in the Public Records of Indian River County, Florida.
4. Also simultaneously, Developer shall record a Declaration of Restrictive Covenants which will restrict the development of Lot 5 with the following standards:
 - a. The combined pervious and storm water areas are not to be less than 44% of the total property area. No building or pavement shall be constructed within the southern most 75' of property (this area shall be used for landscaping, water retention and signage).
 - b. A minimum of six (6) specimen trees shall be preserved.
 - c. No single building footprint shall exceed 7,200 square feet, and onsite buildings shall be separated by a minimum of 50 feet.
 - d. State Road 60 criteria, parking, setbacks and buffers shall apply per code.
5. Attached hereto as Exhibit "C" is an example of a site plan which complies with the covenants described above.

6. Developer acknowledges that in addition to the restrictions described above, all other provisions of the Indian River County Land Development Regulations applicable to site plan approval for Lot 5 shall apply.
7. This Agreement is contingent upon Developer's ability to deliver to County good and marketable title to either Property A or Property B (together with \$291,819.00) on or before the date specified, failure of which shall operate as a termination of this Agreement (unless modified in writing by the parties), releasing each party from all obligations hereunder.
8. In the event of any litigation arising out of this Agreement, the prevailing party shall recover attorney's fees and costs from the non-prevailing party.
9. This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Florida. Venue hereunder shall lie in Indian River County, Florida. Time shall be of the essence.
10. This Agreement shall be deemed prepared jointly by each of the parties hereto and shall be construed on parity as between the parties. There shall be no canon of construction for or against any party by reason of the physical preparation of this Agreement.
11. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural; and the masculine, feminine, and neuter genders shall each include the others.
12. The County and the Developer shall grant such further assurances and provide such additional documents as may be reasonably required by one another from time to time, and cooperate fully with one another in order to carry out the terms and conditions hereof and comply with the express intention of this Agreement.
13. Failure to insist upon strict compliance with any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.
14. All words, terms, and conditions contained herein are to be read in concert each and with the other, and a provision contained under one paragraph may be considered to be equally applicable under another in the interpretation of this Agreement.
15. In the event any term, condition, or clause of this Agreement is declared to be illegal or unenforceable by a court of competent jurisdiction, such declaration

of illegality or unenforceability shall not affect or alter the legality or enforceability of any remaining term, condition, or clause hereof, provided same does not frustrate the intention of the parties, as set forth in this Agreement.

REDEVGROUP, INC.,
a Florida Profit Corporation

By: 

Print Name: Joseph Cataldo

Its: President

WITNESS: 

WITNESS: 

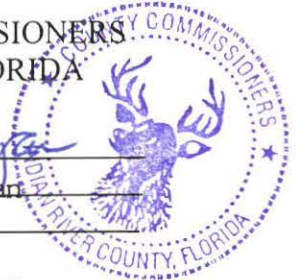
(Corporate seal is acceptable in place
of witnesses)

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

By: 


Print Name: Peter D. O'Bryan

Its: Chairman



BCC Approved: June 12, 2018

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

By: 
Deputy Clerk

Name: 

(Approved as to Form and Legal Sufficiency)

Exhibit "A"

Parcel 1:

Government Lot 4, Section 27, Township 33 South, Range 40 East, less the North 1,100 feet, less road right of way, and less and except that portion for Genesee Subdivision, recorded in Plat Book 11, Page 7, and less that portion for Oyster Bay Subdivision, recorded in Plat Book 12, page 96, both of the Public Records of Indian River County, Florida.

Parcel 2:

Government Lot 4, Section 28, Township 33 South, Range 40 East, less and except the North 1,100 feet thereof, lying and being in Indian River County, Florida.

Parcel 3:

The South 220 feet of the North 1,100 feet of Government Lot 4, Section 28, Township 33 South, Range 40 East, lying and being in Indian River County, Florida.

Parcel 4:

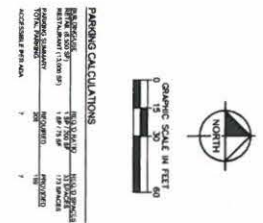
The South 110 feet of the North 880 feet of Government Lot 4, Section 28, Township 33 South, Range 40 East, lying and being in Indian River County, Florida.


TOGETHER WITH an easement of ingress and egress for access over, across and through all of the streets, roadways and river crossovers forming part of the common areas of Oyster Bay Subdivision, as referenced in the Declaration of Restrictions for Oyster Bay Subdivision, recorded in Official Records Book 828, page 1165, of the Public Records of Indian River County, Florida.

Exhibit "B"

From the Southwest corner of Government Lot 3, Section 11, Township 32 South, Range 39 East, Indian River County, Florida, run Northerly along the West boundary line of said Government Lot 3, a distance of 150.27 feet to a concrete monument, which said monument is the point of beginning; thence run Easterly and parallel to the South boundary line of Government Lot 3, a distance of 1,170.04 feet, more or less, to the Indian River; thence meandering northwesterly along the Indian River, a distance of 490 feet, more or less, to a point, which said point is at the end of a line parallel to the South boundary line and 582.27 feet north of the South boundary line of Government Lot 3; thence run Westerly and parallel to the South boundary line of Government Lot 3, a distance of 908.61 feet, more or less, to a cast iron pipe located on the West boundary line of Government Lot 3; thence run South and along the West boundary line of Government Lot 3, a distance of 432 feet to a concrete monument which is the point of beginning, containing 10.30 acres, more or less, together with riparian rights thereunto appertaining, or littoral rights thereto.

Posted By Daugherty, Alex. Sheet Set:Kha Layout:SP 1 December 12, 2017 05:49:11pm K:\VRR_Endorsements\147022001 Lot 5 IR Mail\CAO\Consigns\SP2 - LOT 5.dwg



SHEET NUMBER SP-1	LOT 5	SITE PLAN	KHA PROJECT IRM--LOT 5 DATE 12/12/2017 SCALE AS SHOWN DESIGNED BY SDS DRAWN BY SDS CHECKED BY PUR	LICENSED PROFESSIONAL PETER J. VAN RENB, P.E. FLORIDA LICENSE NUMBER 55553 DATE:	 © 2017 KIMLEY-HORN AND ASSOCIATES, INC. 3660 MAGNOLIA BOULEVARD, SUITE 200, ORLANDO, FL 32833 PHONE: 407-858-1511 FAX: 407-854-4791 WWW.KIMLEY-HORN.COM CA 00000694						
						INDIAN RIVER COUNTY	FL	No.	REVISIONS	DATE	BY