

LICENSE AGREEMENT

This License Agreement (Agreement) is made and entered into this ____ day of _____, 2018, ("Effective Date"), by and between **Indian River County**, a political subdivision of the State of Florida, whose mailing address is 1801 27th Street, Vero Beach, Florida 32960, hereinafter referred to as "**County**" and Lutgert Vero, LLC, a Florida limited liability company, whose mailing address is 4200 Gulf Shore Boulevard North, Naples, FL 34103, hereinafter referred to as "**Licensee**".

WITNESSETH:

For and in consideration of the following covenants and agreements, the parties hereto state as follows:

WHEREAS, Indian River County is the owner of the following described property, commonly referred to as Tracking Station Park, located in Indian River County, Florida (the County Parcel): See Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, **Licensee** is the owner of two parcels of real property that are adjacent to the County Parcel within the Town of Indian River Shores in Indian River County, described on Exhibit "B" attached hereto and made a part hereof (Development Property); and

WHEREAS, **Licensee** intends to develop the Development Property as a residential community; and

WHEREAS, the County Parcel is situated between the Development Property and the shoreline of the Atlantic Ocean; and

WHEREAS, Licensee has sought permission to enter upon the County Parcel to construct and maintain a path and dune-crossover which would serve as an amenity for the residents and guests of the Development Property and also be accessible by the public;

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the parties agree as follows:

1. The foregoing **WHEREAS** clauses are true and correct and incorporated herein as part of this Agreement.

2. The **County** hereby grants to **Licensee** a license to design, engineer, permit, construct and maintain a dune-crossover on the County Parcel at a location to be approved by the **County** in writing. Following construction, **Licensee** shall deliver to **County** "as-built" drawings of the dune cross-over, which shall include a location sketch.

3. The dune-crossover shall be open to the public for use during daylight hours.

4. The **Licensee** shall be responsible for performing limited, periodic maintenance on the County parcel only directly adjacent to and abutting the crossover and the path, consisting of removal of dead, fallen branches obstructing the pathway or the crossover, selective pruning of live branches interfering with the ingress/egress of the pathway or the crossover. **Licensee** shall not perform any other trimming, removal of vegetation or landscape maintenance on the County Parcel.

5. Under the direct supervision of a County environmental manager, **Licensee** may remove selected exotic plant species and replace the exotics with

native plant species so long as the removal is preapproved by the County in writing and confirmed in a field meeting conducted prior to any removal.

6. **County** agrees to allow **Licensee** to enter the County Parcel for the purposes described herein, provided:

A. **Licensee** shall provide **County** with plans and specifications for a dune-crossover and public access path prior to commencement of construction. The crossover and access path shall be substantially similar to those found in other County beach parks.

B. **County** shall have approved such plans and specifications, which approval shall not be unreasonably delayed or denied.

C. **Licensee** shall be responsible to obtain all necessary governmental approvals and permits including a building permit.

D. **INDEMNITY**. To the extent allowed by law, **Licensee** agrees to indemnify, defend and hold harmless the **County**, its officers, directors and employees (collectively, "Indemnified Persons"), from and against all claims and liabilities (including reasonable attorneys' fees and court costs) caused by or arising out of (i) **Licensee's** breach of any of its obligations, covenants, or warranties contained herein, or (ii) **Licensee's** acts or omissions with regard to the License. However, in the event of an Indemnified Person's contributory negligence or other fault, the Indemnified Person shall not be indemnified hereunder to the extent that the Indemnified Person's negligence or other fault caused such claim or liability.

E. **INSURANCE.** **Licensee** shall insure against property damage and bodily injury arising by reason of occurrences on or about the County Parcel in the amount of not less than \$1,000,000.00. The insurance coverage provided for herein may be maintained pursuant to master policies of insurance covering **Licensee's** other properties. All insurance policies required to be maintained by **Licensee** hereunder shall be with responsible insurance companies, authorized to do business in Florida, and shall provide for cancellation only upon 30 days' prior written notice to **County**. **Licensee** shall evidence such insurance coverage by delivering to **County**, a copy of a certificate of insurance listing the **County** as an additional insured.

7. The Term of this License shall commence on the Effective Date and shall continue until terminated as follows:

A. Upon disincorporation of the **Licensee**, at which time any improvements under this license shall become the property of **County**, unless a successor corporation or other entity approved in advance by the **County** enters into a substantially similar license agreement for the usage of the path and dune-crossover within ninety (90) days of disincorporation of **Licensee**.

B. This license may also be terminated by **County** if **Licensee**, its members, or guests violate this Agreement and fails to correct the violation within a reasonable time after written notice from the **County** specifically describing the violation. **Licensee** may terminate this agreement upon sixty (60) days' written notice to Indian River County.

Any event of termination shall cause any and all improvements to become the property of Indian River County;

8. **Licensee** agrees to pay **County** \$250.00 plus applicable sales tax on the Effective Date of this Agreement for the right of **Licensee** and its members and guests to utilize the dune-crossover, without excluding the general public from same, and to periodically carry out the Dune Vegetation Maintenance Plan.

9. **Licensee** shall have the right to assign all of its rights and obligations under this license agreement to a Chapter 720 homeowners' association created for Licensee's Development Property ("Permitted Assignee").

10. **Licensee** agrees that the County may make periodic inspections of the path and dune-crossover. **Licensee** further agrees to correct any maintenance deficiencies which could have an adverse impact on health or safety within thirty (30) days of notification of any such deficiencies identified by a periodic inspection;

11. **Licensee** agrees that the path and crossover are created for the benefit and use of the public and that no signage discouraging their use shall be posted. Discouraging public use of the path or crossover shall be deemed a violation of this Agreement.

12. Residents or guests of the Development Property shall not store or keep anything on the County's property, including, but not limited to: beach chairs, fishing equipment or watercraft.

13. This license agreement shall be recorded in the Public Records of Indian River County, Florida.

IN WITNESS WHEREOF, County and Licensee have caused this agreement to be signed in their respective names.

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

BY: _____
Chairman

BCC Approved: _____

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

By: _____
Deputy Clerk

Approved as to form and legal sufficiency



William K. DeBraal
Deputy County Attorney

Approved:

Jason E. Brown
County Administrator

Witnesses:

LUTGERT VERO, LLC

Signature: Kara DeBorja Schen
Printed name: Kara DeBorja Schen

By: Michael T. Hoyt Manager
MICHAEL T. HOYT
Manager

Signature: Laura Fennel
Printed name: Laura Fennel

STATE OF FLORIDA
COUNTY OF Polk

The foregoing instrument was acknowledged before me this 5th day of November, 2018 by Michael T. Hoyt, Manager, Lutgert Vero, LLC, with full authority to do so and who is personally known to me or produced as identification.

NOTARY PUBLIC:

Signature: Nancy Westby
Printed name: Nancy Westby
Commission No.: FF-913122
Commission Expiration: 10-22-19



NANCY L. WESTBY
Notary Public, State of Florida
My Comm. Expires Oct. 22, 2019
Commission No. FF 913122

EXHIBIT "A"

SHEET 1 OF 2

LEGAL DESCRIPTION:

THAT CERTAIN TRACT OR PARCEL OF LAND LOCATED IN GOVERNMENT LOT 1, SECTION 20,
TOWNSHIP 32 SOUTH, RANGE 40 EAST IN INDIAN RIVER COUNTY, FLORIDA, AND MORE PARTICULARLY
DESCRIBED AS FOLLOWS. TO-WIT:

AS A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 20: RUN THENCE S89°45'25"E ALONG THE SOUTH LINE OF SAID SECTION 20, A DISTANCE OF 349.14 FEET TO A CONCRETE MONUMENT; THENCE N00°13'15"E, 1000 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREBY CONVEYED; FROM SAID POINT OF BEGINNING, CONTINUE N00°13'15"E, 350 FEET TO A POINT; THENCE S89°45'25"E, 90 FEET, MORE OR LESS, TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN: THENCE MEANDER IN A SOUTHEASTERLY DIRECTION 375 FEET , MORE OR LESS, TO A LINE THAT IS PARALLEL AND 1000 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 20: THENCE N89°45'25" W, 208 FEET, MORE OR LESS, TO A LINE THAT IS PARALLEL AND 349.14 FEET EAST OF THE WEST LINE OF SAID SECTION 20 AND THE POINT OF BEGINNING, CONTAINING 1.21 ACRES, MORE OR LESS.

SURVEYORS NOTES:

- 1.) BEARINGS BASED ON THE ASSUMPTION THAT THE SOUTH LINE OF SECTION 20 BEARS S89°45'25"E PER THE DESCRIPTION AS RECORDED IN OFFICIAL RECORDS BOOK 363, PAGE 33 OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.

PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE
STEVE CARTECHINE FLORIDA CERTIFICATE NO. 4895
CERTIFICATE OF AUTHORIZATION #LB 7545

DATE OF SIGNATURE _____

NOT VALID UNLESS SIGNED AND SEALED

DRAWING NO.: 17-255
PREPARED BY:
INDIAN RIVER SURVEY, INC.
PROFESSIONAL SURVEYING AND MAPPING
1835 20TH STREET, VERO BEACH, FLORIDA 32960
(772) 569-7880

J:\DRAWINGS\SURVEYS\PROJECTS\000-RS-17\RS-17-255-prev\RS-17-12B-prev\RS-16-20B\RS-17-255add3 sketch QRB 363-33.dwg Nov. 02, 2018 -- 5:06pm View: Sht 1 Desc

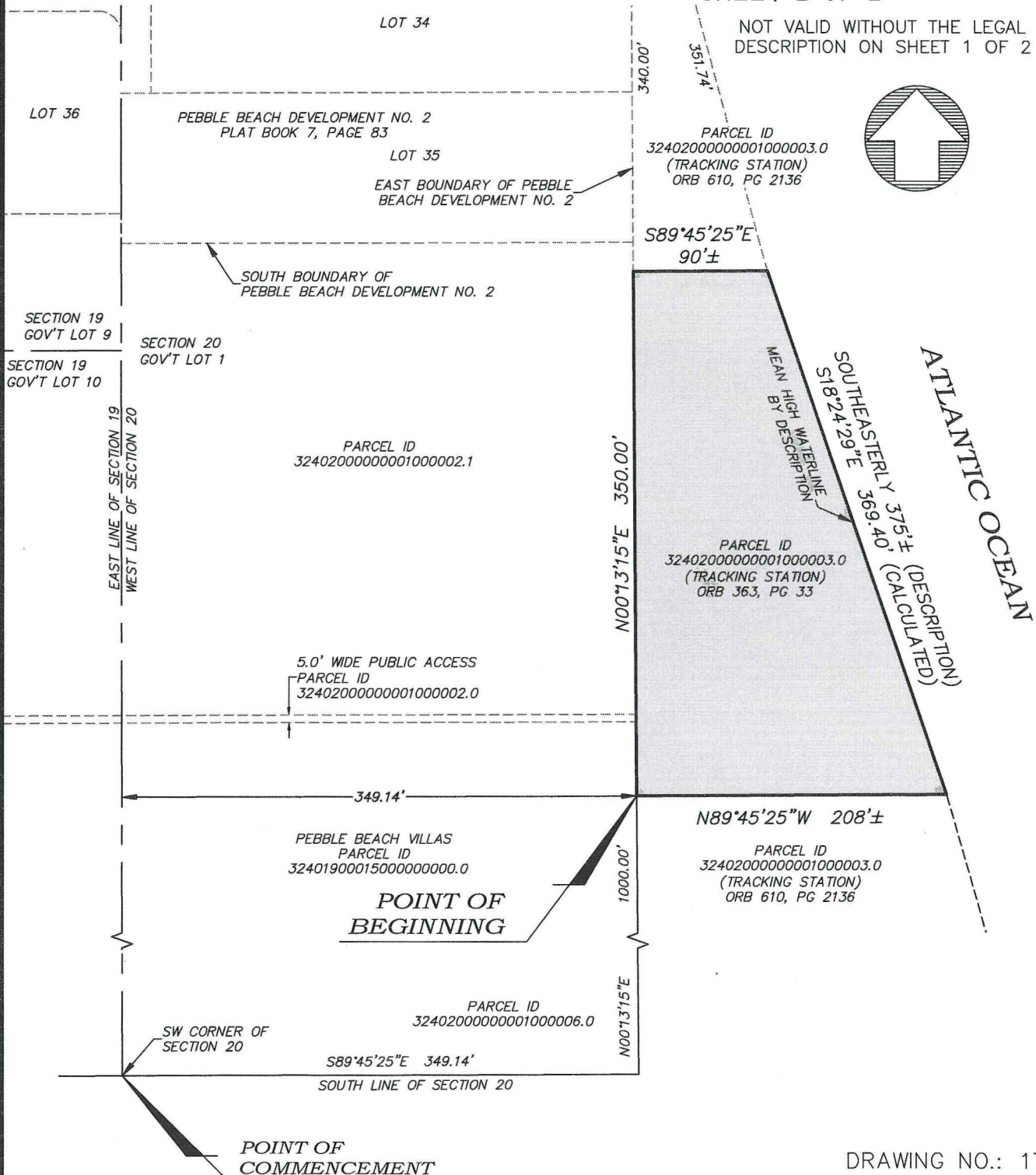
SKETCH & DESCRIPTION

SECTION 20, TOWNSHIP 32 SOUTH, RANGE 40 EAST

THIS IS NOT A SURVEY
(SCALE: 1" = 100')

SHEET 2 OF 2

NOT VALID WITHOUT THE LEGAL
DESCRIPTION ON SHEET 1 OF 2



DRAWING NO.: 17-255

PREPARED BY:

INDIAN RIVER SURVEY, INC.

PROFESSIONAL SURVEYING AND MAPPING

1835 20TH STREET, VERO BEACH, FLORIDA 32960

(772) 569-7880

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Exhibit "B"

The South one half of Government Lot 9, less the North 620 feet thereof, and Government Lot 10, less the South 1070.63 feet thereof all in Section 19, Township 32 South, Range 40 East, and lying East of State Road A-1-A; also the North 320 feet of the South 1390.63 feet of Government Lot 1, lying West of the East 10.69 Acres of said Government Lot 1, Section 20, Township 32 South, Range 40 East, Indian River County, Florida, being more particularly described as follows:

Beginning at the Southwesterly corner of Pebble Beach Development No. 2, according to the Plat filed in Plat Book 7, Page 83A, Public Records of said Indian River County and running thence North $89^{\circ}53'24''$ East, 421.88 feet along the South boundary of said Pebble Beach Development No. 2; thence run South $0^{\circ}06'36''$ East 20.00 feet along said South boundary; thence run North $89^{\circ}53'24''$ East, 344.28 feet to the Southeast corner of Pebble Beach Development No. 2; thence South $0^{\circ}22'34''$ West 320 feet along the West boundary of the East 10.69 acres of said Government Lot 1, Section 20, Township 32 South, Range 40 East; thence South $89^{\circ}53'24''$ West 654.33 feet, more or less, to the Easterly Right of Way of State Road A-1-A; thence North $17^{\circ}54'12''$ West, 357.06 feet more or less to the Point of Beginning.

LESS AND EXCEPT the Southerly most five (5) feet reserved for pedestrian walkway.

Lying and being in Indian River County, Florida.