

**LIBERTY PARK, PHASE 1A AND 1B
DEVELOPER'S AGREEMENT
BETWEEN
INDIAN RIVER COUNTY AND
RYALL DEVELOPMENT GROUP, LLC.**

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2021, by and between Ryall Development Group, LLC., a Florida limited liability company, whose address is PO Box 1779, Vero Beach, FL 32961-1779 ("Developer") and Indian River County, a political subdivision of the State of Florida ("County") whose address is 1801 27th Street, Vero Beach, FL 32960, ("County"),

WITNESSETH

WHEREAS, in 2008, Developer applied to, and received from, Indian River County, approval to develop approximately 587.57 acres as a Planned Development Traditional Neighborhood Design ("PDTND") for a project known as Liberty Park; and

WHEREAS, County and Developer share mutual goals and have determined that they are able to assist each other with respect to certain items related to the development of Liberty Park, including roadway and drainage improvements, right-of-way acquisition, and other improvements some of which were included as conditions of approval for the Liberty Park PDTND; and

WHEREAS, County and Developer desire to enter into this Agreement with respect to development of Phase 1A and Phase 1B of the Liberty Park PDTND to set forth the terms and conditions to which they have agreed with respect to the matters contained herein;

NOW, THEREFORE, for and in consideration of the premises described herein and the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, the County and the Developer do hereby covenant, stipulate, and agree as follows:

1. **Recitals Incorporated:** The foregoing recitals are incorporated as if fully restated herein.

2. **Developer representations:**

A. Developer represents that Phase 1A of the Liberty Park PDTND will consist of up to 128 homes to be located south of Sebastian River Improvement District R-13E drainage ditch, east of 70th Avenue, and north of 81st Street, together with additional non-residential lands as shown and described on Exhibit "A" attached hereto and made apart hereof.

B. At the time Developer elects to develop Phase 1B of Liberty Park PDTND, it will consist of up to 31 residential units and it will be located north of the Sebastian River Improvement District R-13E drainage ditch, and at that

time Developer shall, in conjunction with said development, design, permit, and construct 70th Avenue as a two lane roadway for a distance of 1320 +/- feet from Sebastian River Improvement District R13-E to CR 510 , in compliance with design plans and standards which have been approved by Indian River County.

3. **81st Street Construction:** In conjunction with the development of Phase 1A of Liberty Park PDTND, the Developer will design, permit, and construct 81st Street from its current terminus at Liberty Park School to 70th Avenue. All road construction shall be in compliance with design plans and standards which have been approved by Indian River County through the County's right-of-way permitting process in accordance with Chapter 312 of the Indian River County Code of Ordinances. Upon completion of construction, this section of 81st Street shall be dedicated to the County for use as a public street. The County shall not be responsible for the maintenance of any landscaping or irrigation installed by the Developer in the County right-of-way. If the Developer installs landscaping and/or irrigation in the County right-of-way, a Memo of Understanding (MOU) will be required before permitting of said improvements.

4. **70th Avenue Construction:** In conjunction with the Development of Phase 1-B and 1A of Liberty Park PDTND, Developer will design, permit, and construct 70th Avenue from 81st Street to the Sebastian River Improvement District R13E drainage ditch. All road construction shall be in compliance with design plans and standards which have been approved by Indian River County through the County's right-of-way permitting process in accordance Chapter 312 of the Indian River County Code of Ordinances. Upon completion of construction, this section of 70th Avenue shall be dedicated to the County for use as a public street. In conjunction with Development of Phase 1B of Liberty Park PDTND, the Developer will design, permit and construct 70th Avenue from the Sebastian River Improvement District R13E drainage ditch to County Road (CR) 510. If CR 510 remains unimproved (not widened to 4-lane divided section) at the time the Developer proposes to construct 70th Avenue between SRID R13E drainage ditch and CR 510, the Developer will be responsible for the cost to design and construct a temporary span wire traffic signal, if warranted by a Traffic Impact Study. Should CR 510 be improved consistent with the FDOT planned PD&E improvements (4-lane divided section) prior to the Developer moving forward with the 70th Avenue improvements between SRID R13E and CR 510, it is anticipated that a traffic signal will have been constructed at CR 510 and Power Line Road (70th Avenue) intersection in conjunction with the FDOT proposed the widening that could be utilized. The County shall not be responsible for the maintenance of any landscaping or irrigation installed by the Developer in the County right-of-way. If the Developer installs landscaping and/or irrigation in the County right-of-way, a Memo of Understanding (MOU) will be required before permitting of said improvements. Should the Developer propose an alternative development plan, the Developer may submit a Traffic Impact Study supporting the plan evaluating alternative transportation routes/improvements

that may demonstrate other off-site improvements in lieu of a temporary traffic signal at the 70th Avenue/CR 510 intersection.

5. **Changed Condition:** The parties acknowledge that Condition 7.b. of the October 28, 2008 Liberty Park approval letter required the Developer to complete a sidewalk on the south side of County Road 510 between 64th Avenue and 66th Avenue. The parties further acknowledge that due to plans by the Florida Department of Transportation (“FDOT”) to widen County Road 510 to a four-lane road any sidewalk construction by the Developer in compliance with this condition prior to the construction of Phase 1A would be destroyed by the FDOT County Road 510 construction project. Therefore, the parties agree that this condition is waived.

6. **Ryall Stormwater Park:** The Ryall Stormwater Park Tract is depicted on Exhibit “A” hereto as Parcels D1 and D2. At the time the Developer elects to construct a lake or stormwater management on the Ryall Stormwater Park Tract, Developer agrees to incorporate sufficient capacity to provide stormwater treatment for the impervious area for the right-of-way of 66th Avenue from 81st Street to 85th Street in its four lane improved condition and 81st Street located east of 66th Avenue in its three lane improved condition, and Developer shall dedicate a non-exclusive easement to the County for access and maintenance purposes. If the County elects to proceed with widening or other improvements of 66th Avenue before Developer elects to construct a lake or stormwater management pond on the Ryall Stormwater Park Tract, then the County shall be responsible for all costs associated with the design, permitting, and construction of drainage improvements for 66th Avenue between 81st Street and 85th Street, and Developer agrees to provide a suitable location within Parcels D1 and D2 to permit the County to construct a temporary stormwater facility, provided, however, the Developer shall have the right to review and approve the plans for any such Facilities construction. If constructed by the County, the Developer shall have the right to modify the Stormwaters Facilities so long as the 66th Avenue stormwater volumes are not compromised. Within 60-days from the date of this Agreement, the Developer agrees to grant a temporary non-exclusive easement for access, construction, maintenance and use of the temporary stormwater facility located on Parcels D1 and D2. In any case, whether constructed by the County or by the Developer, all fill dug or removed from the Ryall Stormwater Park Tract shall remain the property of the Developer for use by the Developer in conjunction with development of Liberty Park PDTND. The County shall be allowed the use 10,000 cubic yards of material for the construction of 66th Avenue at no cost to the County. The Developer shall store this material at a location of Developer’s choosing near the east side of 66th Avenue near 81st Street. The Developer shall provide a 50-foot temporary non-exclusive easement for access, construction, and maintenance on both sides of the Sebastian River Improvement District R13E drainage ditch west from 66th Avenue to the existing SRID drainage ditch for construction of the portion of the drainage ditch that currently does not exist in

the SRID right-of-way, but is necessary for discharge of the stormwater facility to be constructed on Parcel D1 and D2.

7. **Parcel B:** Developer proposes to develop Parcel B, as depicted on Exhibit A hereto, in a subsequent phase of development of Liberty Park PDTND. Parcel B shall have its own drainage system; provided however, County agrees that the drainage system for Parcel B shall be permitted to outfall to the 66th Avenue stormwater management conveyance system, which will then drain into the Ryall Stormwater Park Tract
8. **Phase 1A Plat Dedications:** By final plat of Phase 1A of the Liberty Park PDTND, Developer shall dedicate to the County, without cost to the County the following:
 - i. 81st Street, adjacent to the project.
 - ii. 70th Avenue from 81st Street to Sebastian River Improvement District R-13E drainage ditch.
9. **Right-of-Way Dedications for 66th Avenue:** Within 60-days from the date of this Agreement, the Developer agrees, at no cost to the County, to dedicate all right-of-way for 66th Avenue between 81st Street and County Road 510, and all right-of-way on 81st Street east of 66th Avenue as depicted in Exhibit “B”.
10. Developer will design, permit, and excavate an extension of the Sebastian River Drainage District D13E drainage ditch from 69th Avenue eastward for a distance of 1,300 feet, more or less (“SR DD Ditch D13E Work”). If the Developer has not begun the SRDD Ditch D13E work at the time the County 66th Avenue roadway widening project between 69th and 85th Street begins construction, the Developer authorizes the County to design, permit, and/or excavate the necessary improvement. Developer and county shall each be responsible for ½ of all costs associated with SR DD Ditch D13E Work.
11. **Miscellaneous Provisions:**
 - A. 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.
 - B. 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.
 - C. The obligations of the Developer to this Agreement are expressly conditioned upon the Developer’s decision, at the Developer’s sole discretion, to proceed with development of the Liberty Park PTDND.

E. 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.

F. 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.

G. The parties 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.

H. 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.

I. 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.

J. 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.

This Agreement may be executed in any number of duplicate originals and any such duplicate original shall be deemed to constitute one and the same instrument.

(Signature pages to follow)

RYALL DEVELOPMENT GROUP, LLC,
a Florida limited liability company

By: _____

Print Name: _____

Its: _____

WITNESS: _____

WITNESS: _____

(Corporate seal is acceptable in place
of witnesses)

INDIAN RIVER COUNTY, FLORIDA

ATTEST:

**INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS**

Deputy Clerk

By: _____
Joseph E Flescher, Chairman

(SEAL)

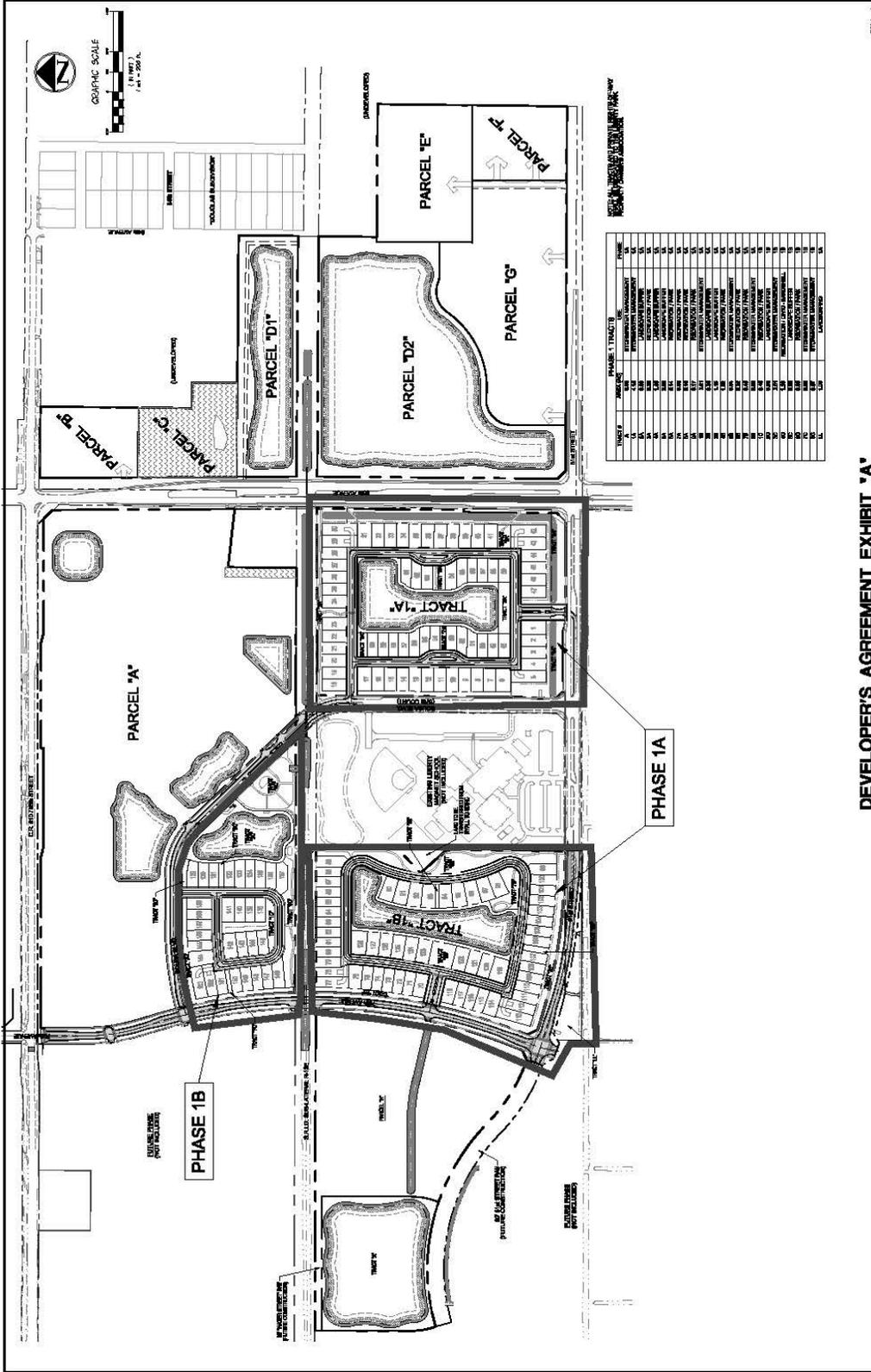
Date approved: _____

Approved as to form and legal sufficiency:

Approved

William K. DeBraal
Deputy County Attorney

Jason E. Brown
County Administrator



DEVELOPER'S AGREEMENT EXHIBIT 'A'

PRELIMINARY PLANNED DEVELOPMENT PLANS
LIBERTY PARK PTND - PHASE 1
RYALL ACQUISITION GROUP, LLC

JANUARY 2015

MASSELLER & MOLER, INC.
CONSULTING ENGINEERS
REGISTERED PROFESSIONAL ENGINEERS
1882 27th STREET, SUITE 2, VERO BEACH, FLORIDA 32980
(772) 887-3200 / FAX (772) 794-1108

STEPHEN E. MOLER, P.E. FL 683193

REVISIONS

