

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

**CITY OF MYRTLE BEACH  
COUNTY OF Horry  
STATE OF SOUTH CAROLINA**

**A MOTION TO APPROVE A  
MAINTENANCE AGREEMENT BETWEEN  
THE CITY OF MYRTLE BEACH AND  
GRANDE DUNES MASTER ASSOCIATION  
FOR MAINTENANCE OF CERTAIN  
PORTIONS OF MARINA PARKWAY, 61<sup>ST</sup>,  
71<sup>ST</sup> AND 79<sup>TH</sup> AVENUES NORTH.**

\_\_\_\_\_  
BRENDA BETHUNE, MAYOR

ATTEST:

\_\_\_\_\_  
JENNIFER STANFORD, CITY CLERK

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**STATE OF SOUTH CAROLINA**  
**COUNTY OF HORRY**  
**CITY OF MYRTLE BEACH**

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

**GROUNDS MAINTENANCE AGREEMENT**

Entered into this 23rd day of October, 2018, this Grounds Maintenance Agreement (the "Agreement") is between the CITY OF MYRTLE BEACH (the "City") and GRANDE DUNES MASTER ASSOCIATION (the "Association") (collectively, the "Parties").

WHEREAS, the Parties wish to execute this Agreement with regard to the Rights-of-Way and future encroachments described herein.

THEREFORE, THE CITY AND THE ASSOCIATION DO AGREE IN THE FOLLOWING PARTICULARS:

1. The Association shall contract with a third party or parties ("Contractor") to be selected in the Association's sole discretion. The Contractor shall maintain landscaping for the Rights-of-Way (herein defined) in accordance with the specification of *Exhibit "A"*, attached and incorporated herein as if set forth verbatim in this Paragraph. The Association shall cause Contractor to provide General Liability Insurance in an amount equal to at least \$500,000.00 combined single limit (occurrence based) and shall indemnify the City against all claims or actions of any nature arising from the actions or omissions of the Association or Contractor in regards to the landscaping maintenance for the Rights-of-Way. The City shall be provided a Certificate of Insurance evidencing the required coverage, specifically naming the City as an additional insured and guaranteeing thirty (30) days notification of policy termination, cancellation, or modification. The Association and Contractor shall be responsible for compliance with all applicable laws, rules and regulations for the work performed in the Rights-of-Way. The Association acknowledges that this Agreement does not create any right superior to the public in regards to the Rights-of-Way, except as specifically required to perform the terms of the Agreement.

2. On the twentieth day of each month, the City shall pay one-twelfth (1/12) of the total annual amount for their share of the landscaping costs associated with the Rights-of-Way as generally shown and identified on the Grande Dunes Roads Aerial Map in *Exhibit "B"* attached, and incorporated herein as if set forth verbatim in this Paragraph, and as more particular described below as Areas 1 through 4 ("Rights-of-Way" or "ROW"). Said landscaping costs shall be based on a rate of \$2.25 linear foot of ROW, the ROW areas described below contain a total of 12,540 linear feet, and therefore the City's share of landscaping costs covered by this Agreement comes to \$2,351.25 monthly (\$28,215.00 annual total).

Area 1: Being the right-of-way for Marina Parkway beginning at a point just south of the roundabout in front of the Grande Dunes Marina and extending south to Robert Grissom Parkway for a total distance of 10,950 linear feet.

Area 2: Being the right-of-way for 62nd Avenue North beginning at Marina Parkway and extending east to Claire Chapin Epps Drive, for a total distance of 890 linear feet.

Area 3: Being the right-of-way for 71st Avenue North beginning at Marina Parkway and extending east to Highway 17, for a total distance of 360 linear feet.

Area 4: Being the right-of-way for 79th Avenue North beginning at Marina Parkway and extending east to Highway 17, for a total distance of 340 linear feet.

- 1 3. During the term of this Agreement, the above stated payment amounts may be adjusted to  
2 reflect changes in the amounts paid to the Contractors. The amount of increase or  
3 decrease shall be in proportion to the sums paid by City and the Association at the outset  
4 of this Agreement and shall not exceed the percentage increase for the previous calendar  
5 year (Dec.-Dec.) of the CPW-ALL Urban Consumers, South Urban, Other Services as  
6 published by the U .S. Department of Labor Bureau of Labor Statistics. Notice of any  
7 change shall be made in writing to the City Manager.
- 8 4. The maintenance responsibilities of the Association over the Rights-of-Way are set forth in  
9 the specifications contained in Exhibit "A". Any ROW obligations or actions outside the  
10 scope of those listed in Exhibit "A" are not covered by this Agreement and remain the  
11 obligation of the applicable responsible party in the normal course of business and  
12 practice in the area. Such matters outside the scope of this Agreement would include,  
13 without limitations, ROW repairs and/or replacement of road infrastructure and  
14 landscaping in the event of damage, loss, or casualty.
- 15 5. This Agreement shall be for a term of five (5) years to the date first noted above. The  
16 Agreement may not be modified or amended except by a document of equal dignity signed  
17 by the Parties hereto. In the event of breach of this Agreement's provisions, either Party  
18 may send written notice, return receipt requested, to the other specifying the nature of the  
19 breach and the expected cure. In the event of such notice, the breaching Party shall cure  
20 the breach within thirty days of receipt of the notice. If the breach is timely cured, the  
21 Agreement shall continue. If this breach is not cured within thirty (30) days of receipt of  
22 the notice, then this Agreement is deemed terminated. Claims and suits concerning this  
23 Agreement shall be governed by the laws of South Carolina. This Agreement may be  
24 executed in one or more counterparts. Each of which will be deemed and original, but all  
25 of which together will constitute one in the same instrument.
- 26 6. Additionally, the City will entertain subsequent encroachments relating to various  
27 improvements and increased landscaping plans or the like consistent with this  
28 Agreement in Areas 1, 2, 3 and 4 upon the Association or its designee's submission and  
29 approval by the City of such specific improvement plans and/or landscaping plans or  
30 the like in the areas referenced in Section 2 herein.

31  
32  
33  
34

*[SIGNATURE PAGE FOLLOWS]*

1  
2  
3  
4  
5  
  
  
  
  
  
  
  
  
  
  
6  
7  
8  
9  
10  
11

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement under seal as of the year and date first above written.

WITNESSES:

ASSOCIATION:

Grande Dunes Master Association

\_\_\_\_\_  
Witness 1

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

Name: \_\_\_\_\_

\_\_\_\_\_  
Witness 2

Title: \_\_\_\_\_

WITNESSES

CITY:

City of Myrtle Beach

\_\_\_\_\_  
Witness 1

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

Name: \_\_\_\_\_

\_\_\_\_\_  
Witness 2

Title: \_\_\_\_\_

:

*Exhibit "A"*  
**SPECIFICATIONS**

In general, Landscape Maintenance will be in keeping with standards established by the Horticultural Industry for the Southern Region of the United States, and shall consist of weed control programs, fertilization, winter over seeding, and disease and insect pest control for both lawn and shrub areas. Good horticultural practices will be considered in determining the mowing heights and schedules for the lawn, the edging of all walkways and curbing, and the pruning of shrubs. All programs, applications and actions are designed to insure normal, vigorous and healthy growth of lawn and shrub areas.

These specifications are intended to serve as a guide of what is expected, but additional efforts may be required, depending on the season and growing conditions. These variables may require appropriate application and scheduling adjustments in order to properly maintain the property in accordance with the desired first class quality standards.

These specifications are based on the services to be provided by the Association's selected contractor. (herein referred to as "contractor") for the existing landscape improvements in place at the execution of this Agreement, herein above date.

**I. LAWN AREAS:**

- A. Soil and Pathogen Analysis - Reports will be provided to owner twice yearly, in February and August. All testing will be provided by a private firm and/or Clemson University.
- B. Fertilization - All Lawn areas shall be fertilized three (3) times during the growing season for warm season's grasses such as Bermuda or Centipede, in accordance with soil analysis reports.
  - 1. The first application will be in March using 16-4-8 fertilizer, with minor elements, analysis at a rate of 10 pounds per 1000 square feet or as recommended by soil analysis.
  - 2. The second application will be in May using 16-4-8 fertilizer, with minor elements, analysis at a rate of 10 pounds per 1000 square feet or as recommended by soil analysis.
  - 3. The third application will be in August using 16-4-8 fertilizer, with minor

elements, analysis at a rate of 10 pounds per 100 square feet or as recommended by soil analysis.

- C. Weed Control - Post-emergence herbicides for weed control will be applied, but will be kept to a minimum in the interest of safety to the environment. This application will be made with 2-4-D Amine, a broad spectrum control, applied at a rate of 2 pounds of active ingredients per square acre. This will provide a basic control to create the kind of environment in the lawn that will inhibit weed growth.
- D. Disease and Insect Pest Control - All turf areas will be inspected for pest and pathogens, and for physical conditions that may produce a pathogen at some later date, which might adversely affect the growth and development of lawn areas. All areas will be inspected for fire ants, the single biggest problem; steps will be taken to eradicate all problems as they exist through the use of recommended pesticides.  
**No pesticide and/or herbicide shall be applied needlessly. Those applied shall be used by or under the direct supervision of a South Carolina commercially licensed Pesticide Applicator and in accordance with the standards and regulations set forth by the South Carolina Pest Regulatory Service, the Environmental Protection Agency, OSHA, and all other federal, state, county, and local agencies.**
- E. Edging - The use of a vertical blade edger, and/or weed eater, in combination with manual tools, will be used to maintain a smooth flowing line of distinction between lawn and curbs. This operation will be done at a minimum of every four weeks with a vertical blade edger, and then continually during the growing season by the aid of weed eater and other manual tools.
- F. Mowing - All lawn areas shall be mowed one (1) time weekly during the primary growing season of April 15 - October 1 and as necessary during the remainder of the year. The mowing schedule will be adjusted when inclement weather prevails or when climatic factors are the determined basis. During the winter, all lawn areas will be mowed one (1) time per week as rye grass growth dictates.
- G. Debris and Trash - All lawn areas will be kept in a neat and groomed appearance by maintaining them free of leaves, limbs, litter, debris, etc. All normal accumulation of debris will be removed as often as necessary. In the event of an excess of debris as might occur during hurricanes or tornadoes, where additional cleanup is required, such clean-up work will be deemed extra and additional to this Agreement and shall be invoiced accordingly.

- H Over seeding - Over seeding will be required as determined by Owner on all sodded and seeded areas. In order for effective germination of rye seed, scalping and/or dethatching will be allowed.

## II. SHRUBS, SHRUB BEDS AND TREES:

- A Soil and Pathogen Analysis - Reports will be provided to owner twice yearly in February and August. All testing will be provided by a private firm and/or Clemson University.
- B. Fertilization - All installed shrubs and trees shall be fertilized twice during the year or as directed by Owner.
1. The first application will be made in April, using 16-4-8, with minor elements or as recommended by soil analysis reports.
  2. The second application will be made in June, using 16-4-8, with minor elements, or as recommended by soil analysis reports. Annual and/or perennials shall be fertilized with Osmocote (a brand name).
  3. Annuals and/or perennials shall be fertilized with Osmocote (a brand name).
- C. Weed Control - All shrub beds will be maintained in a weed -free manner. Systematic herbicide spraying programs will be conducted on a 2-3 week basis until weed control is established. Once control is accomplished, any additional spraying will be provided as needed to sustain control. All spraying of herbicides for weed control will be applied by a South Carolina licensed applicator or directly under his supervision. Roundup (a brand name) will be the herbicides used most extensively, as it has a broad- spectrum killing agent for weed growth in the local area. The application will be made with manual sprayers, using a mixture of water at a rate of 2-3 ounces herbicides per gallon when the weed growth requires a stronger mixture.
- D. Pruning and Shearing - All pruning will be done to preserve the natural growth of the shrubs and trees in accordance with the normal characteristics for each species. Shrubs such as pampas grass and border grass will be back in late winter, accompanied by the removal of decayed matter simultaneously. Non-flowering evergreens will require two (2) pruning's a year. The first to begin in mid-March and the second to be performed in July. Shrubs such as pyracantha

and oleander will be pruned only for containment purposes. Dead or broken limbs will be removed from shrubs and trees as discovered.

**Dead plants and trees, either new or exiting, will be removed by contractor at no additional charge. Before removal, contractor shall contact the designated representative of owner for approval. Any replacement planting will be deemed extra to this contract and will be invoiced accordingly. All new plantings and/or installations will require the permission of owner prior to installation.**

- E. Edging - The use of a bed edger in combination with manual tools, will be used to maintain a grooved flowing line of distinction between lawn and shrub beds. This operation will be done twice during the year, mid-spring and mid-summer.
  
- F. Disease and Insect Pest Control - A systematic spraying program shall be established to keep insect pests in check. Most insect generally feed on the new shrub growth. Either Malathion or Diazinon will control most species of insects native to the local area. Some hard-to-kill insects (i.e., scale insects) will require the use of dormant oils to control them. Dormant oils must be applied when the temperature is between 45 degrees and 85 degrees F. Where diseased shrubs are found, corrective measures will be taken immediately to minimize additional shrub damage. In some cases, diseased shrubs may have to be removed to prevent further disease spread to adjacent planted shrubs. The Contractor at no additional charge will accomplish this. Any replacement planting will be deemed as extra work and will be invoiced accordingly. All new planting will require permission of owner prior to installation.  
**No pesticide and/or herbicide shall be applied needlessly. Those applied shall be used by or under the direct supervision of South Carolina State Licensed Pesticide Applicator and in accordance with the standards and regulations set forth by the South Carolina Pest Regulatory Service, the Environmental Protection Agency, OSHA, and all other federal, state; county, and local agencies.**
  
- G. Seasonal Planting - Seasonal planting is not a part of this agreement; however, the maintenance of such seasonal planting is included. Contractor will replace, without regard, any arid all, missing and/or dead seasonal planting within five working days, at the Contractors expense after initial planting.
  
- H. Debris and Trash - All shrub areas will be kept in a neat and groomed appearance by maintaining them free of leaves, limbs, litter, debris, etc. All normal accumulation of debris will be removed on a per visit basis. In the event of an excess of debris, as might occur during storms, hurricanes, or tornadoes, where additional cleanup is required, such clean-up work will be



deemed extra and additional to this Agreement and shall be invoiced accordingly.

- I. **Palm Tree Maintenance**: shall include, but not limited to, the spraying of a mixture' of Manicure (fungicide) and Boracare (Insecticide) through the top of the palm at a rate of two (2) to three (3) gallons mixture per palm tree, at a minimum of twice per year.

### **III. MAINTAINING PROPERTY PESTICIDE, HERBICIDE. FUNGICIDE, FERTILIZATION RECORDS:**

It shall be the responsibility of the contractor to maintain and provide to the owner monthly and yearly records of all fertilization usage, aquatic treatment schedules and usage, pesticide and fungicide usage and all herbicide usage per property.

### **IV. PAVED ROADWAYS AND PARKING AREAS:**

Roadways and parking areas will be cleaned of pine needles, leaves, sand, and other common types of debris not less than once weekly, or more often as the situation dictates. In areas of heavy leaf drop, especially parking lot corners, more attention will be provided as required.

### **V. IRRIGATION**

(Contractor) will be responsible for monitoring, the repair of all systems, and adjusting (setting timer clocks or water flow) the operations of any automatic irrigation system. (Contractor) will bring to the attention of the Association designated representative, any discovered malfunctions in the system for correction. (Contractor) may be engaged to make necessary corrections to the irrigation system. The repair parts shall be obtained from the designated representative for the Association, and should owners' parts not be available, these repair parts are to be deemed as extra to this Agreement and invoiced accordingly. In the event that the irrigation system is interrupted, hand watering will be included part of this agreement.

(Contractor) further agrees to furnish to the owners' designated representative written watering schedules for all lawn and plant bed areas, specifically the watering schedule for all seasonal plantings.

Contractor further agrees to furnish a monthly written report in regards to the operation of the landscaping irrigation system.

### **VI. MULCHING:**

The existing type(s) of mulch shall be replaced and/or replenished, where needed, on a continuing basis, with pine straw no less than two times annually, and hardwood mulch no less than two times annually. At no time will the depth of mulch, either hardwood or straw be more than a depth of 3 inches. This action will be furnished by Contractor.

### **VII. SPECIAL REQUIREMENTS OF CONTRACTOR:**

Should landscaping be turned over to contractor in phases, billing shall be pro-rated per square foot, per existing contract.

- A. Developed and/or undeveloped out parcels are not included in

this proposal.

- B. **Lake banks and diversion ditch banks will be kept in a well-trimmed condition, but at the direction of Owner due to planted aquatic vegetation. Chemical and mechanical control/removal of all noxious and/or illegal aquatic weeds, alligator weed and cattails is included. Algae control of lake and ditch area will be included in this agreement. Contractor is aware that owner has stocked these areas with fish and crayfish. Any loss of the fish and/or crayfish due to the actions of the contractor will be the contractor's responsibility.**
- C. **Monitoring or irrigation and wells are included in this proposal. Contractor will bring to the attention of Owner's designated representative, any discovered malfunctions in the system for correction. Repairs not covered by installer's warranty shall be billed for materials, following owner's consent. Any damage created by the contractor and/or contractor's employees, will be the responsibility of the contractor to make the necessary repairs.**
- D. **Ryegrass is included in all areas, seed and sod, to highways, except out parcels.**

**VIII. TRASH:**

Cleanup of landscaping debris and trash in plant beds will be done on a per visit basis.

**IX QUALITY CONTROL:**

- A. **Contractor's foreman will turn in work performance reports on a per visit basis.**
- B. **Inspections will be conducted weekly by the contractor, with the owner's designated representative. The contractor will turn in inspection reports following these weekly inspections with corrective suggestions, to owner on a weekly basis. Should the owner's designated representative not be available for the inspection, it shall be the contractor's responsibility to conduct the inspection and provide to the owner the written details of said inspection.**

**X. EXCLUSION:**

The Contractor will not be responsible for parking lot sweeping, striping or any lettering.

**XI PERFORMANCE SCHEDULE:**

The following performance schedule outlines the anticipated time frame for the implementation and accomplishment of the various aspects of the maintenance program. Certain factors such as weather, availability of products, and quality of irrigation water may require minor deviations in the schedule as projected.

1. **JANUARY**

Weeks 1 and 2

Make inspection of grounds and set priorities

Maintain all lawn areas free of debris and leaves  
Blow-Clean all roadways and parking areas  
The fertilization of ryegrass

Week 3

Continue maintaining all lawn areas free of debris and leaves Prune dead wood from shrubs  
Blow-Clean all roadways and parking areas  
Mow as needed

Week 4

Weed-eating around all trees and buildings  
Prune dead wood from shrubs  
Blow-Clean all roadways and parking areas  
Mow as needed

2.

**FEBRUARY**

Week 1

Complete the pruning of dead wood from shrubs  
Treat scale infected shrubs with dormant oil (if sustained temperature is above 45 degrees F)  
Maintain lawn areas free of debris and leaves Mow as needed  
Blow-Clean all roadways and parking areas  
The fertilization of rye grass

Week 2

Weed-eating around all trees and buildings  
Blow-Clean all roadways and parking areas  
Begin treatment for ant control  
Continue treatment for scale insects  
Soil samples for PH/Nutrient balance will be presented to the Owner with corrective action needed Mow as needed

Week 3 & 4

Begin cutback of pampas grass and decay removal Trim border grass  
Add needed mulching and begin general cleanup of shrub beds Blow-clean all roadways and parking areas  
Mow as needed

3.

**MARCH**

Week 1

Weed-eating around all trees and buildings  
Blow-Clean all roadways and parking areas  
Complete cutback of pampas grass and decay removal

## Week 2

Make first application of fertilizer to lawns  
Begin weed control program in shrub beds  
Blow clean all roadways and parking areas  
Mow as needed

## Weeks 3 & 4

Begin cutback of pampas grass and decay removal  
Trim border grass  
Begin general cleanup of shrub beds  
Blow-clean all roadways and parking areas  
Mow as needed

4.

**APRIL**

## Week 1

Complete pruning of evergreens and flowering shrubs.  
Make first application of fertilizer to shrubs.  
Blow-clean all roadways and parking areas.  
Mow as needed.

## Week 2

Mow all lawn areas.  
Weed-eat around all trees and buildings  
Blow-clean all roadways and parking areas.  
Maintain all lawn areas free of debris and leaves.

## Week 3

Mow all lawn areas.  
Begin edging program for all shrub beds.  
Continue with weed control program (spraying).  
Blow-clean all roadways and parking areas.

## Week 4

Mow all lawn areas.  
Apply insecticides for control of aphids, mites, etc.  
Apply more insecticides for scale when sustained temperatures are between 45 degrees and 85 degrees F.  
Blow-clean all roadways and parking areas.

5. **MAY**

Week 1

Mow all lawn areas.  
Blow-clean all roadways and parking areas.  
Continue treatments for fire ant control.  
Complete edging of shrub beds and add needed mulching.

Week 2

Begin pruning all early flowering shrubs for shape where needed. Mow all lawn areas.  
Weed-eat around all trees and buildings  
Blow-clean all roadways and parking areas.

Weeks 3 & 4

Make second application of fertilizer to lawn areas.  
Apply herbicides for weed control in beds.  
Apply needed insecticides to shrubs for insect control.  
Mow all lawn areas.  
Blow-clean all roadways and parking areas.

6. **JUNE**

Weeks 1 and 2

Mow all lawn areas.  
Weed-eat around all trees and buildings.  
Prune any fast-growing shoots on shrubs.  
Blow-clean all roadways and parking areas.

Weeks 3 & 4

Mow all lawn areas.  
Make second application of fertilizer to shrubs.  
Blow-clean all roadways and parking areas.  
Mow all lawn areas.

7. **JULY**

Weeks 1 & 2

All grass areas to be mowed as needed, dependent upon climate factors, through remainder of growing season  
Weed-eat all around trees and buildings

Blow-Clean all roadways and parking areas  
Check soil samples for PH Balance

Weeks 3 & 4

Begin second phase of edging program for shrub beds Edge roadways where needed  
Mow all lawn areas  
Blow-clean all roadways and parking areas

8. **AUGUST**

Week 1

Complete second phase of edging program  
Mow all lawn areas  
Blow-clean all roadways and parking areas  
Add needed mulching

Weeks 2, 3, & 4

Make final application of fertilizer to lawn areas  
Prune all evergreens in the foundation plantings  
Mow all lawn areas  
Soil samples for PH/Nutrient balance will be presented to Owner with corrective action needed  
Blow-Clean all roadways and parking areas

9. **SEPTEMBER**

Weeks 1, 2, 3 and 4

Continue to mow all grass areas as needed.  
Weed-eat around all trees and buildings.  
Blow-clean all roadways and parking areas.  
Apply broadleaf herbicide to lawn areas for weed control. Continue spraying of shrubs for insects.  
Continue weed control program in shrub beds.  
Mow all lawn are

10. **OCTOBER**

Weeks 1, 2, 3 and 4

Begin rye grass applications.  
Complete final treatment for fire ant control.

Begin raking of early-falling leaves from lawn areas.  
Blow-clean all roadways and parking areas.  
Mow as needed.  
Fertilization of rye grass.

11.

**NOVEMBER**

Weeks 1, 2, 3 and 4

Begin raking of heavy-falling leaves from lawn areas.  
Blow-clean all roadways and parking areas.  
Mow as needed.  
Fertilization of rye grass.  
Add needed mulching.

12.

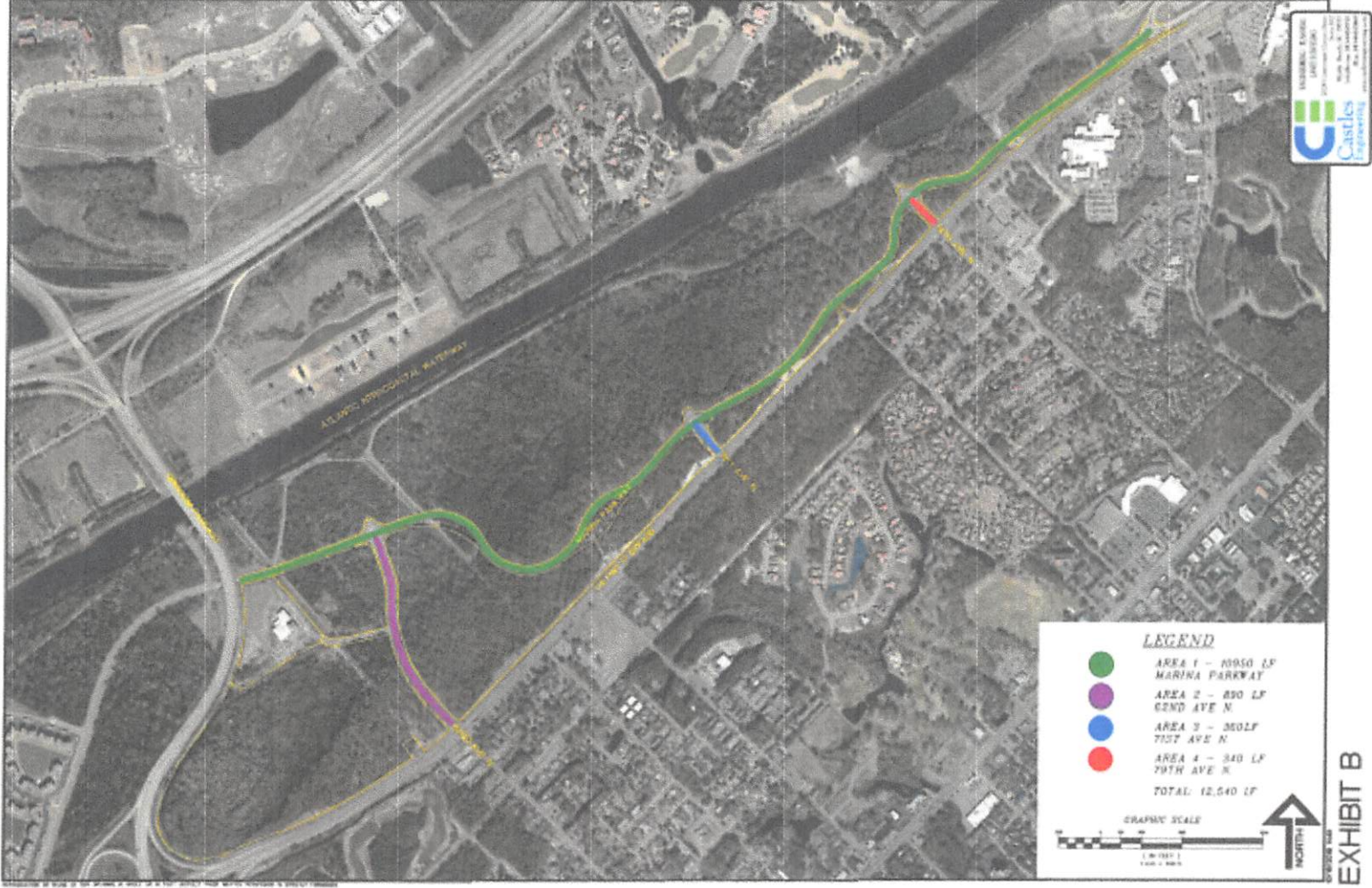
**DECEMBER**

Weeks 1, 2, 3 and 4

Blow-clean all roadways and parking areas.  
Weed-eat around all trees and buildings.  
Fertilization of rye grass.  
Mow as needed.

1  
2  
3

**Exhibit "B"**  
**Grande Dunes Aerial Map**



4  
5





WHEREAS, Living Dunes, LLC, (Developer) is developing the real property described in Exhibit “B”, commonly known as “Living Dunes”, as a planned residential community subject to the Grande Dunes Resort Planned Unit Development Ordinances adopted by the City, the Living Dunes Tract Improvement District established pursuant to Ordinance 2017-40 adopted by the City on August 22, 2017, the Declaration of Covenants, Conditions and Restrictions for Grande Dunes Master Association dated April 24, 2000, and recorded in the Office of the Register of Deeds for Horry County, South Carolina in Deed Book 2254 at Page 1219, and the Declaration of Covenants, Conditions and Restrictions for Living Dunes established by the Developer, dated December 7, 2017, and recorded in the Office of the Register of Deeds for Horry County, South Carolina in Deed Book 4065 at Page 3235; and,

WHEREAS, Living Dunes, LLC, (Developer) has caused to be incorporated the Living Dunes Property Owners’ Association (the “Association”), a South Carolina non-profit, non-stock corporation, for the purposes of maintaining the Common Areas of Living Dunes and enforcing the Declaration of Covenants, Conditions and Restrictions for Living Dunes; and,

WHEREAS, Living Dunes, LLC, (Developer) has made certain drainage system improvements to the Ponds Area to improve the efficiency of storm water control in the Grande Dunes Boulevard area in accordance with a regional storm water study conducted by Castles Engineering, Inc., and has expended in excess of \$177,000.00 to design, engineer, and construct the said storm water drainage system improvements in the Ponds Area; and,

WHEREAS, Living Dunes, LLC, (Developer) has made certain hardscape and landscape improvements in the Ponds Area including but not limited to pond fountains and aerators, retaining walls, bridges, sidewalks, boardwalks, walkways, decks, bicycle paths, walking trails, and hardscape elements including art and sculpture installation, low-voltage accent lighting, and landscape enhancements, including irrigation and landscape berms; and,

WHEREAS, efficient operation and maintenance of the aforesaid storm water drainage system improvements in a manner that meets or exceeds the City’s approved standards for operation and maintenance of the storm water drainage system improvements is necessary for the successful development and maintenance of the Living Dunes planned residential community; and,

WHEREAS, Living Dunes, LLC, (Developer) intends to transfer all of its right, title, and interest in the storm water drainage system improvements, hardscape improvements, and landscape improvements to the Living Dunes Property Owners’ Association, which shall be responsible for the required upkeep, maintenance and repair costs associated with operation and maintenance of the storm water drainage system improvements to assure that the storm water drainage system improvements are operated and maintained in a manner that meets or exceeds the City’s approved standards for operation and maintenance of the storm water drainage system improvements; and,

WHEREAS, Living Dunes, LLC, (Developer) and the Living Dunes Property Owners’ Association (“Association”) desire to acquire from the City a non-exclusive, commercial in-gross, assignable, and transferable easement on, over, under, within, through and across the

Ponds Area, which includes the right to use the Ponds Area, or any portion thereof, for the purposes of maintaining, beautifying, aerating, and utilizing the Ponds Area for the benefit of the Developer, the Association, and their respective successors and assigns, and for the benefit of the Developer's real property which is described on Exhibit "B" attached hereto and incorporated herein; and,

WHEREAS, the City, in consideration of the storm water drainage system improvements made by Living Dunes, LLC, (Developer) to the Ponds Area, and the commitment of Living Dunes Property Owners' Association ("Association") to operate and maintain the storm water drainage system improvements in a manner that meets or exceeds the City's approved standards for operation and maintenance of the storm water drainage system improvements, has agreed to grant, bargain, sell, release, transfer, convey, and assign to Living Dunes, LLC, (Developer) and to Living Dunes Property Owners' Association ("Association"), and to their respective successors and assigns, a non-exclusive, commercial in-gross, assignable, and transferable easement on, over, under, within, through and across the Ponds Area described in Exhibit "A" attached hereto, and the right to use the Ponds Area, or any portion thereof, for the purposes of maintaining, beautifying, aerating, and utilizing the Ponds Area and Ponds Area improvements for the benefit of the Developer's real property which is described on Exhibit "B" attached hereto and incorporated herein.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the parties hereto hereby agree as follows:

1. Grant and Description of Easements: The City (Grantor), in consideration of the foregoing recitals which are incorporated herein by this reference as fully as if set forth herein verbatim, and in further consideration of the sum of TEN AND 00/100 (\$10.00) DOLLARS in hand paid to the City (Grantor) by or on behalf of Living Dunes, LLC, as Developer Grantee, and Living Dunes Property Owners' Association, as Association Grantee, the receipt and sufficiency of which consideration is hereby acknowledged by City (Grantor), hereby gives, grants, bargains, sells, releases, transfers, and conveys to and for the benefit of the said Grantees and their respective successors and assigns, and for the benefit of the real property described on Exhibit "B" attached hereto, the following described rights and easements, all of which shall be a burden upon the Ponds Area described on Exhibit "A", and all of which are sometimes collectively referred to hereinafter as the "Ponds Area Easements":

(a) A non-exclusive, commercial in-gross, assignable, and transferable easement on, over, under, within, through and across the land, ponds, structures, and improvements connecting the ponds which constitute TOWN CENTER PARCEL P-8 described on the Plat referenced in Exhibit "A" attached hereto (the "Ponds Area"), and the right to use the Ponds Area, or any portion thereof, for the purposes of constructing, installing, using, operating, maintaining, repairing, removing, and replacing at any time and from time to time one or more ponds, aerators, fountains, and such other improvements thereon as are reasonably necessary for the purposes of establishing, maintaining, beautifying, landscaping, improving, and/or aerating the ponds which constitute TOWN CENTER PARCEL P-8 described on the Plat referenced in Exhibit "A" attached hereto (the "Ponds Area"), or any portions thereof, together with the rights of ingress, egress, and access to, from and across the said Ponds Area, including without

limitation the right to construct, install, use, operate, maintain, improve, repair and replace at any time and from time to time one or more structures or improvements providing access to, over, under, within, through or across the Ponds Area, to include retaining walls, bridges, sidewalks, boardwalks, walkways, decks, roads, bicycle paths, walking trails, and hardscape elements including art and sculpture installation, lights, low-voltage accent lighting, and landscape enhancements, including irrigation and landscape berms and the like which may be reasonably necessary for the Grantees' full use and enjoyment of the Ponds Area Easements and the development of the surrounding property.

(b) A non-exclusive, commercial-in-gross, assignable, and transferable easement for the benefit of the Developer, the Association, their respective successors and assigns, and the real property described on Exhibit "B" attached hereto and incorporated herein, on, over, under, within, through and across the land, ponds, structures, and improvements connecting the ponds which constitute TOWN CENTER PARCEL P-8 described on the Plat referenced in Exhibit "A" attached hereto (the "Ponds Area") to use that portion of TOWN CENTER PARCEL P-8 described on the Plat referenced in Exhibit "A" attached hereto, measured from the boundary lines on the Plat referenced in Exhibit "A" inward fifteen (15') feet (the "Pond Maintenance Area"), or any portion thereof, for the purpose of maintaining and grassing the Pond Maintenance Area, or any portion thereof, together with the right of ingress, egress, regress and access to, from and across said Ponds Maintenance Area.

(c) A non-exclusive, commercial-in-gross, assignable, and transferable easement for the benefit of the Developer, the Association, their respective successors and assigns, and the real property described on Exhibit "B" attached hereto and incorporated herein, on, over, under, within, through and across the land, ponds, structures, and improvements connecting the ponds which constitute TOWN CENTER PARCEL P-8 described on the Plat referenced in Exhibit "A" attached hereto (the "Ponds Area") to use the land, ponds, structures, and improvements connecting the ponds which constitute the Ponds Area for the purposes of constructing, installing, operating, using, maintaining, repairing, replacing, extending, connecting, relocating and removing lines, equipment, and facilities for the delivery of storm water drainage and other utility services to the real property described on Exhibit "B" attached hereto and incorporated herein, and the buildings and other improvements from time to time located thereon.

2. Use of Easements: The use of all easements created by this Agreement, otherwise known as the Ponds Area Easements, will, in each instance, be non-exclusive and for the common use and benefit of the Grantees, their respective successors and assigns, and the real property described on Exhibit "B" attached hereto and incorporated herein. Grantees shall have the right to use the Ponds Area Easements, the Pond Areas, and the easement area improvements in common with any subsequent assignee(s) in any manner so long as the Grantees and the assignee(s) make no use of the Ponds Area Easements, the Ponds Area, and the easement area improvements which is inconsistent with uses and purposes for which the Ponds Area Easements have been granted pursuant to the terms of this Agreement. The Parties hereby contemplate and agree that the Grantees' use of the Ponds Area Easements will expand in proportion to the Grantees' authority to freely assign their non-exclusive rights hereunder and that said expansion of the scope of the Ponds Area Easements is not inconsistent with uses and purposes for which the easements were created and granted by the Grantor. This Section shall not prohibit the

installation of signage, fencing or other structures limiting or restricting access to the Ponds Area, or setting forth use restrictions or other rules and regulations for the Ponds area as may be jointly agreed to by the Parties hereto, in writing.

3. Maintenance of Easements:

(a) The Living Dunes Property Owners' Association (Association) shall be responsible for maintaining and operating the Ponds Area Easements, the Ponds Areas, and the storm water drainage system improvements constructed and installed thereon, in a good, safe, neat, clean and orderly condition, in compliance with the City's approved standards for operation and maintenance of the storm water drainage system improvements and all applicable laws, rules, regulations, codes and ordinances. The Association shall promptly and diligently make all repairs as reasonably necessary to keep and maintain the Ponds Area Easements, the Ponds Areas, and the improvements constructed and installed thereon in a good, safe, neat, clean and orderly condition, in compliance with the City's approved standards for operation and maintenance of the storm water drainage system improvements and all applicable laws, rules, regulations, codes and ordinances.

(b) As set forth in the terms and conditions of the Living Dunes Tract Improvement District established pursuant to Ordinance 2017-40 adopted by the City on August 22, 2017, the City has reserved, and by these presents the City does hereby reserve, such easements and rights-of-way as shall be necessary for the City to provide any and all necessary annual maintenance for the proper operation of the storm water drainage system in accordance with the storm water drainage engineering model prepared by Castles Engineering, Inc., as originally approved by the City if the Association fails to provide all necessary annual maintenance for the proper operation of the storm water drainage system. In the event that it becomes necessary to fund the City's maintenance of the storm water drainage system, the City shall implement the Improvement Plan established pursuant to Ordinance 2017-40 adopted by the City on August 22, 2017 to fund maintenance of the storm water drainage system.

4. Liability Insurance: The Living Dunes Property Owners' Association (Association) shall maintain in force at all times a policy of general liability insurance. All policies of general liability insurance which the Association is required to maintain hereunder shall protect the Association, as named insured, and the City, as additional insured, against all claims for damages to person(s) or property or loss of life occurring upon, in, or about the Ponds Area Easements, the Ponds Area, and the easement area improvements with a combined single minimum limit of not less than \$1,000,000.00 for each occurrence of bodily injury and/or property damage and an annual aggregate minimum limit of not less than \$2,000,000.00. All general liability insurance coverage required hereunder shall be procured at the sole cost and expense of the Association and shall be effected under standard form policies issued by insurers of recognized responsibility which, at the time of issuance of the policy or policies, are licensed to transact business in South Carolina and are rated as superior by A.M. Best Company. A duplicate original copy of the initial insurance policy procured by the Association to satisfy the coverage requirements established hereunder or other evidence of insurance coverage satisfactory to the City, together with a paid receipt for the policy premium, shall be deposited with the City upon reasonable request by the City. Duplicate original copies of subsequent policies and any renewals thereof

shall be promptly delivered to the City, together with a paid receipt for all premiums becoming due thereon. Each policy procured by the Association shall provide that the City shall be given copies of all notices issued pursuant to the policy and shall further provide that the policy shall not be canceled for any reason unless and until the City is given TWENTY (20) DAYS prior written notice by the insurance company.

5. Indemnification: Association agrees to fully indemnify, protect, defend, and hold harmless City, its council members, officers, agents, servants, and employees and any successors to City's interest in the City owned property, from and against any and all claims, penalties, demands, losses, liability, damages, lawsuits, costs and expenses (including court costs and reasonable attorneys' fees) (except such as result from the sole negligence or willful misconduct of City, or its council members, officers, agents, servants, and employees) for, or in connection with, any accident, injury, or damage whatsoever caused to any person or property occurring upon, in, or about the Ponds Area Easements, the Ponds Area, and the easement area improvements or the use and/or occupancy of the Ponds Area Easements, the Ponds Area, and the easement area improvements or any part thereof, or arising directly or indirectly, from any act or omission of Association or the Association's servants, agents, employees, or contractors, and from and against any and all costs, expenses, losses, and liabilities incurred in connection with any such claims and/or proceedings brought thereon. The insurance coverage maintained by Association pursuant to this Ponds Area Easement and Maintenance Agreement shall support any insurable aspects of the foregoing indemnity; provided, however, Association's liability pursuant to such indemnity shall not be limited to the amount or coverage of such insurance.

6. Specific Indemnification for Environmental Damage and Hazardous Materials Release: To the extent permitted by applicable law, the Association shall indemnify, defend (with counsel satisfactory to City) and hold City, its council members, officers, agents, servants, and employees and any successors to City's interest in the City owned property, harmless from and against any and all losses, costs, damages, expenses (including reasonable attorney's fees) claims, causes of action, judgments, penalties, fines or liabilities, directly or indirectly relating to or arising from the use, storage, release, discharge, handling or presence of Environmental Damage or Hazardous Materials on, under, or about the Ponds Area Easements, the Ponds Area, and the easement area improvements under this Agreement ("Environmental Damage or Hazardous Materials Release"). This indemnification shall include, without limitation (a) personal injury claims; (b) the payment of liens; (c) diminution of the value of the City's portion of the Ponds Area or other property owned by the City which is directly affected by the operation of the Ponds Area; (d) sums paid in settlement of claims; (e) actual attorney fees, consulting fees, and expert fees; (f) the cost of any investigation of site conditions; (g) the costs of any repair, cleanup, detoxification, or remedial, removal, or restoration measures required by any governmental authority or deemed necessary in City's reasonable judgment; and (h) any fines associated with City's activities. City shall have the right, but not the obligation, to join and participate in and control, if it so elects, any legal proceedings or action initiated in connection with an Environmental Damage or Hazardous Materials Release. City may also negotiate, defend, approve, and appeal any action taken or issued by any applicable governmental authorities with regard to an Environmental Damage or Hazardous Materials Release. Association's obligations to the City pursuant to the foregoing environmental indemnification shall survive the expiration or termination (including

by default) of this Agreement and shall bind the successors and assigns of the Association and inure to the benefit of City, its successors and assigns.

7. Assignment and Delegation:

(a) Each easement right granted to Developer and Association by this Agreement is a non-exclusive, commercial-in-gross, assignable, and transferable easement which may be unilaterally transferred, assigned or encumbered by the Developer and the Association as provided for in this Agreement. The Parties hereby contemplate, and the Grantor hereby consents to, Developer's transfer and conveyance of rights to use the Ponds Area Easements, the Ponds Area, and the easement area improvements, including but not limited to bridges, sidewalks, boardwalks, walkways, decks, roads, bicycle paths, walking trails, and hardscape elements, to owners of lots in the Living Dunes planned residential community and their respective tenants, guests, and licensees. The Parties hereby further contemplate, and the Grantor hereby consents to, Developer's and Association's assignment and delegation of temporary rights of access to the Ponds Area and the easement area improvements from time to time to permit Developer's and Association's agents, employees, contractors, engineers, and other independent professional consultants to design, construct, install, operate, maintain, repair, remove, and replace such improvements as are reasonably necessary to keep and maintain the Ponds Area Easements, the Ponds Areas, and the improvements constructed and installed thereon in a good, safe, neat, clean and orderly condition.

(b) The rights and obligations of the City under this Agreement may be unilaterally assigned by the City to another governmental or municipal body or entity only. All other assignments by the City must be consented to in writing by the Developer, if then in existence, and the Association

8. Binding Effect: All of the terms of this Agreement shall be binding upon and shall inure to the benefit of and shall be enforceable by and against the respective successors and assigns of the Parties hereto.

9. Applicable Law/Partial Invalidity: This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina. If any covenant, condition, or provision of this Agreement shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, but shall be valid and enforceable to the fullest extent permitted by law.

10. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts shall constitute one and the same instrument.

11. Headings, Gender And Person: All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement, and shall not affect in any way the meaning or interpretation of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context

requires. Any reference to a "person" herein shall include an individual, firm, corporation, limited liability company, partnership, trust, governmental authority or body, association, unincorporated organization or any other entity.

12. Amendment and Modification: This written Agreement constitutes the full and complete agreement among the Parties hereto concerning the subject matter of this Agreement and supersedes any and all prior or contemporaneous oral or written understandings or agreements between the Parties concerning the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between the Parties hereto relating to the subject matter of this Agreement that are not fully expressed herein. No modification or amendment of this Agreement and no waiver of any of its terms and conditions shall be effected unless made in writing and signed by all Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute and deliver this Ponds Area Easement and Maintenance Agreement which is effective as of the date first set forth hereinabove.

Signed, Sealed and Delivered  
in the Presence of:

CITY OF MYRTLE BEACH, SOUTH CAROLINA

\_\_\_\_\_  
witness #1

\_\_\_\_\_  
By: John G. Pedersen, City Manager (L.S.)

\_\_\_\_\_  
witness #2

STATE OF SOUTH CAROLINA )  
)  
COUNTY OF HORRY )

ACKNOWLEDGMENT  
(Pursuant to S.C. Code §30-5-30)

I, \_\_\_\_\_, the undersigned Notary Public, do hereby certify that John G Pedersen, in his capacity as City Manager of the City of Myrtle Beach, South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the City of Myrtle Beach, South Carolina.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
(Seal)  
Notary Public for South Carolina

\_\_\_\_\_  
Print Name of Notary Public

My Commission Expires: \_\_\_\_\_



Signed, Sealed and Delivered  
in the Presence of:

LIVING DUNES, LLC

\_\_\_\_\_  
witness #1

\_\_\_\_\_  
By: Daniel M. Murphy, Manager (L.S.)

\_\_\_\_\_  
witness #2

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF HORRY            )

ACKNOWLEDGMENT  
(Pursuant to S.C. Code §30-5-30)

I, \_\_\_\_\_, the undersigned Notary Public, do hereby certify that Daniel M. Murphy, in his capacity as Manager of Living Dunes, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of Living Dunes, LLC.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public for South Carolina (Seal)

\_\_\_\_\_  
Print Name of Notary Public

My Commission Expires: \_\_\_\_\_

Signed, Sealed and Delivered  
in the Presence of:

LIVING DUNES PROPERTY OWNERS' ASSOCIATION

\_\_\_\_\_  
witness #1

\_\_\_\_\_  
By: Daniel M. Murphy, President (L.S.)

\_\_\_\_\_  
witness #2

STATE OF SOUTH CAROLINA    )  
  )  
COUNTY OF HORRY            )

ACKNOWLEDGMENT  
(Pursuant to S.C. Code §30-5-30)

I, \_\_\_\_\_, the undersigned Notary Public, do hereby certify that Daniel M. Murphy, in his capacity as President of Living Dunes Property Owners' Association, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of Living Dunes Property Owners' Association.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public for South Carolina (Seal)

\_\_\_\_\_  
Print Name of Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who, being first duly sworn according to law, did depose and say:

1. I have read the information contained in this affidavit and I understand such information.
2. The easement interests being transferred pertain to property bearing Horry County Tax Map Number 165-00-01-423/ PIN 394-00-00-0263 and were transferred by the City of Myrtle Beach, South Carolina to Living Dunes, LLC, and Living Dunes Property Owners' Association on \_\_\_\_\_, 2018.

3. Check one of the following: The deed is

- (a) \_\_\_\_\_ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (b) \_\_\_\_\_ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c)  X  exempt from the deed recording fee because (See Information section of affidavit):  
See Exemption #1

\_\_\_\_\_  
(If exempt, please skip items 4-7, and go to item 8 of this affidavit)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (see Information section of this affidavit):

- (a) \_\_\_\_\_ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ \_\_\_\_\_
- (b) \_\_\_\_\_ The fee is computed on the fair market value of the realty which is \_\_\_\_\_
- (c) \_\_\_\_\_ The fee is computed on the fair market value of the realty as established for property tax purposes which is \_\_\_\_\_

5. Check Yes \_\_\_\_\_ or No  X  to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes", the amount of the outstanding balance of this lien or encumbrance is \_\_\_\_\_.

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in Item 4 above here: \_\_\_\_\_ \$ \_\_\_\_\_
- (b) Place the amount listed in Item 5 above here: \_\_\_\_\_  
(If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: \_\_\_\_\_ \$ \_\_\_\_\_

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \_\_\_\_\_.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

\_\_\_\_\_  
Responsible Person Connected with the Transaction

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2018

John G. Pedersen  
Print or Type Name Here

\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_

**INFORMATION**

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership;
- (12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed;

(13) transferring realty subject to a mortgage whether by a deed in lieu of foreclosure executed by the mortgagor or deed pursuant to foreclosure proceedings;

(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty; and.

(15) transferring title to facilities for transmitting electricity that is transferred, sold or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791 (a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

**EXHIBIT "A"**  
**Description of the Pond Areas**

ALL that certain piece, parcel, lot, or tract of land, situated, lying and being in the City of Myrtle Beach, County of Horry, State of South Carolina, being shown and designated as "P-8" on that certain plat entitled in part "PLAT OF GRANDE DUNES BOULEVARD AND CIPRIANA DRIVE RIGHT OF WAYS, PARCELS A-1, A-2, A-3 AND P-1 THRU P-8, TOWN CENTER AT GRANDE DUNES, MYRTLE BEACH, HORRY COUNTY, SOUTH CAROLINA, PREPARED FOR: GRANDE DUNES DEVELOPMENT COMPANY, LLC", prepared by Associated Land Surveyors, Michael D. Oliver, Vice President, P.L.S. No. 13520, dated June 20, 2007 and recorded November 30, 2007 in the Register of Deeds Office for Horry County, South Carolina in Plat Book 232 at Page 285 (the "Plat"), and having such size, shape, buttings, boundings, dimensions and location as appear on said Plat, which is incorporated herein by reference, be all the dimensions and measurements shown thereon a little more or less.

Horry County Tax Map and Property Identification Number:

TMS# 165-00-01-423/ PIN 394-00-00-0263 TOWN CENTER; PARCEL P-8

DERIVATION: This being a portion of the property conveyed to the City of Myrtle Beach, a South Carolina municipal corporation, by Deed of Grande Dunes Development Company, LLC, dated December 7, 2009 and recorded December 9, 2009 in Deed Book 3434 at page 1639 in the Office of the Register of Deeds for Horry County, South Carolina.

**EXHIBIT "B"**  
**Description of the Living Dunes, LLC, Property**

ALL THOSE CERTAIN pieces, parcels or tracts of land, situate, lying and being in the City of Myrtle Beach, Horry County, South Carolina, more particularly shown and designated as a "PORTION OF PIN 394-00-00-0262 AND PIN 394-16-03-0001, 1,372,137 SQ. FT., 31.50 ACRES" and as a "PORTION OF PIN 394-00-00-0262, 435,476 SQ. FT., 10.00 ACRES" on a plat entitled "SUBDIVISION PLAT OF 31.50 ACRE AND 10.00 ACRE PORTIONS OF PARCEL A-1, PIN 394-16-03-0001 AND 394-00-00-0262" prepared by Castles Engineering, dated December 17, 2015 and recorded on December 22, 2015 in Plat Book 268 at Page 259 in the Office of the Register of Deeds for Horry County, South Carolina.

SUBJECT TO easements and restrictions appearing of public record, including all easements, restrictions, and conditions set forth upon that certain plat entitled "SUBDIVISION PLAT OF 31.50 ACRE AND 10.00 ACRE PORTIONS OF PARCEL A-1, PIN 394-16-03-0001 AND 394-00-00-0262" prepared by Castles Engineering, dated December 17, 2015 and recorded on December 22, 2015 in Plat Book 268 at Page 259 in the Office of the Register of Deeds for Horry County, South Carolina.

SUBJECT ALSO TO that certain Collateral Assignment of Proceeds executed and delivered by Living Dunes, LLC, to GDMB Lake LLC recorded December 22, 2015 in Deed Book 3880 at Page 2661 in the Office of the Register of Deeds for Horry County, South Carolina.

SUBJECT ALSO TO that certain Distribution Right of Way Easement executed and delivered by Living Dunes, LLC, to the South Carolina Public Service Authority recorded December 19, 2016 in Deed Book 3973 at Page 1775 in the Office of the Register of Deeds for Horry County, South Carolina.

SUBJECT ALSO TO that certain Permanent Access and Utility Easement executed and delivered by Living Dunes, LLC, to the City of Myrtle Beach dated February 1, 2017 and recorded February 1, 2017 in Deed Book 3984 at Page 2239 in the Office of the Register of Deeds for Horry County, South Carolina:

DERIVATION: THIS BEING THE IDENTICAL real property conveyed to Living Dunes, LLC, by Deed of GDMB Lake LLC dated December 18, 2015 and recorded December 22, 2015 in Deed Book 3880 at Page 2655 in the Office of the Register of Deeds for Horry County, South Carolina.

LESS AND EXCEPTING therefrom the hereinafter described parcel of land conveyed by Living Dunes, LLC, to the City of Myrtle Beach by Deed dated

February 1, 2017 and recorded February 1, 2017 in Deed Book 3984 at Page 2234 in the Office of the Register of Deeds for Horry County, South Carolina:

ALL THAT CERTAIN piece, parcel, or tract of land, situate, lying, and being in the City of Myrtle Beach, Horry County, South Carolina, containing approximately 0.03 acre (1,401 square feet), more or less, as shown and delineated on that certain plat entitled "Combination Plat of 0.03 Acres A Portion of PIN 394-16-03-0001 Combined Into PIN 394-16-02-0004 Totaling 0.08 Acres Pump Station Located in Myrtle Beach, Horry County, South Carolina" prepared for the City of Myrtle Beach by Michael D. Oliver, P.L.S., as agent for Castles Consulting Engineers, Inc., dated September 26, 2016 and recorded October 12, 2016 in Plat Book 272 at Page 159, in the Office of the Register of Deeds for Horry County, South Carolina, which plat is incorporated herein by this reference to form a part of this description pursuant to §30-5-250 of the Code of Laws of South Carolina, 1976, as amended.