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CITY OF MYRTLE BEACH  
COUNTY OF HORRY  
STATE OF SOUTH CAROLINA

A MOTION TO APPROVE, IN RELATIONSHIP  
TO LIVING DUNES DEVELOPMENT, LLC, A  
TERMINATION OF PONDS EASEMENT,  
RELEASE AND AMENDMENT OF  
RESTRICTIONS AND POND AREA EASEMENT  
AGREEMENT, AS ATTACHED.

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

ATTEST:

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



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 ingress, 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







Signed, Sealed and Delivered  
in the Presence of:

LIVING DUNES PROPERTY OWNERS' ASSOCIATION

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

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

\_\_\_\_\_ )  
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.

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

\_\_\_\_\_  
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.



TMS# 165-00-01-419/ PIN 394-09-03-0003 TOWN CENTER; PARCEL P-2  
TMS# 165-00-01-421/ PIN 394-09-03-0002 TOWN CENTER; PARCEL P-3  
TMS# 165-00-01-425/ PIN 394-09-03-0001 TOWN CENTER; PARCEL P-4  
TMS# 165-00-01-426/ PIN 394-16-02-0002 TOWN CENTER; PARCEL P-5  
TMS# 165-00-01-427/ PIN 394-16-02-0003 TOWN CENTER; PARCEL P-6  
TMS# 165-00-01-422/ PIN 394-16-01-0010 TOWN CENTER; PARCEL P-7  
TMS# 165-00-01-423/ PIN 394-00-00-0263 TOWN CENTER; PARCEL P-8; and,

WHEREAS, the Vesting Deed conveyed the Property to the City subject to certain restrictions and exceptions, which restrictions and exceptions were acknowledged, ratified and agreed to by the City, as Grantee, including the following restrictions upon the use of the Property:

“1. The Property shall not be used by Grantee or its authorized agents for any purpose other than drainage and irrigation and maintenance of the Property and any improvements thereon related directly thereto.

2. That certain Ponds Area Easement Agreement by and between Grantor and Grantee of even date herewith to be recorded immediately following the recording of this Deed in the Register of Deeds Office for Horry County.”; and,

WHEREAS, the City, as Grantor, and Grande Dunes, as Grantee, executed and delivered that certain Ponds Area Easement Agreement that pertains to the above described Property of the City of Myrtle Beach, which Ponds Area Easement Agreement was recorded on December 9, 2009 in Deed Book 3434 at Page 1643 in the Office of the Register of Deeds for Horry County, South Carolina (the “**Ponds Easement Agreement**”); and,

WHEREAS, Grande Dunes and the City, by virtue of that certain Termination of Ponds Area Easement Agreement of even date herewith, have terminated on behalf of themselves, and their successors and assigns, the Ponds Easement Agreement and released all rights, obligations, and interests in connection therewith: and,

WHEREAS, as to the following restriction encumbering TOWN CENTER PARCEL P-7 and TOWN CENTER PARCEL P-8 set forth in the Vesting Deed (the “**Drainage and Irrigation Deed Restriction**”):

“1. The Property shall not be used by Grantee or its authorized agents for any purpose other than drainage and irrigation and maintenance of the Property and any improvements thereon related directly thereto.”; and,

Grande Dunes and City desire to: (i) release such Drainage and Irrigation Deed Restriction as to TOWN CENTER PARCEL P-7 and (ii) amend and restate such Drainage and Irrigation Deed Restriction as to TOWN CENTER PARCEL P-8, as further set forth in this instrument.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Grande Dunes and the City, 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 Five and 00/100 (\$5.00) Dollars in hand paid to each other, the receipt and sufficiency of which is hereby acknowledged by both parties, hereby agree as follows:

(A) Grande Dunes releases and quitclaims unto the City the Drainage and Irrigation Deed Restriction as to the TOWN CENTER PARCEL P-7, as shown and delineated on the Ponds Easement Plat, so that said Drainage and Irrigation Deed Restriction is hereby terminated and shall be of no further force or effect with respect to such TOWN CENTER PARCEL P-7;

(B) the Drainage and Irrigation Deed Restriction encumbering TOWN CENTER PARCEL P-8, as shown and delineated on the Ponds Easement Plat, is hereby amended and restated in its entirety as follows:

“1. Use of TOWN CENTER PARCEL P-8 by the Grantee, its successors and assigns, and their respective authorized agents shall be restricted to storm water drainage system and irrigation purposes, which shall include landscaping and beautification of TOWN CENTER PARCEL P-8 and maintenance, repair, replacement, and improvement of storm water drainage system improvements and irrigation improvements now or hereafter located in, upon, or about TOWN CENTER PARCEL P-8 (the “**Primary Use**”); provided, however, that the Grantee, its successors and assigns, and their respective authorized agents shall have 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 TOWN CENTER PARCEL P-8, 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 for recreational activities in connection with such landscaping and recreational improvements, as authorized by the Grantee City of Myrtle Beach or any successor authority charged with maintaining the drainage system in the Grande Dunes Boulevard area of which TOWN CENTER PARCEL P-8 is a part (the “**Authority**”), provided such additional uses do not substantially interfere with Primary Use as determined by the Authority.”

(C) except as released as to TOWN CENTER PARCEL P-7 and amended and restated as to TOWN CENTER PARCEL P-8, the Drainage and Irrigation Deed Restriction set forth in the Vesting Deed shall continue in full force and effect as an encumbrance on the Property in accordance with the Vesting Deed without alteration.

**IN WITNESS WHEREOF, Grande Dunes and the City have executed and delivered this Release and Amendment of Property Restriction Agreement which shall be effective on the effective date first set forth hereinabove.**

**[Signature Pages Follow]**









NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Grande Dunes and the City, on behalf of themselves and their successors and assigns, in consideration of the foregoing recitals which are incorporated herein by this reference, the mutual covenants contained herein, and other good and valuable consideration in hand paid to each other (the receipt and sufficiency of which is hereby acknowledged by Grande Dunes and the City), hereby terminate the Easement Agreement so as to be of no further force or effect.

IN WITNESS WHEREOF, Grande Dunes and the City have executed and delivered this Termination of Ponds Area Easement Agreement which shall be effective on the effective date first set forth hereinabove.

[Signature Pages Follow]





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

ALL those certain pieces, parcels, lots, or tracts 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-1, P-2, P-3, P-4, P-5, P-6, P-7 and 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 Numbers:

TMS# 165-00-01-418/ PIN 394-09-02-0001 TOWN CENTER; PARCEL P-1  
TMS# 165-00-01-419/ PIN 394-09-03-0003 TOWN CENTER; PARCEL P-2  
TMS# 165-00-01-421/ PIN 394-09-03-0002 TOWN CENTER; PARCEL P-3  
TMS# 165-00-01-425/ PIN 394-09-03-0001 TOWN CENTER; PARCEL P-4  
TMS# 165-00-01-426/ PIN 394-16-02-0002 TOWN CENTER; PARCEL P-5  
TMS# 165-00-01-427/ PIN 394-16-02-0003 TOWN CENTER; PARCEL P-6  
TMS# 165-00-01-422/ PIN 394-16-01-0010 TOWN CENTER; PARCEL P-7  
TMS# 165-00-01-423/ PIN 394-00-00-0263 TOWN CENTER; PARCEL P-8

DERIVATION: This being the identical 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.