

Motion M2021-71 to authorize City Manager to extend the Right of Entry and Maintenance Agreements between the City of Myrtle Beach and the Grande Dunes Master Association.

This motion authorizes the parties to extend their agreements to share landscaping responsibilities for public rights of way located adjacent to all or parts of Marina Parkway, North Ocean Boulevard, Grand Dunes Boulevard, Cipriana Drive, and 62nd, 71st, and 79th Avenues North. Pursuant to these agreements, the City covers the costs associated with the standard level of maintenance, and the Master Association is responsible for improvements above this base standard. These agreements are annual agreements, which will automatically renew for 1-year unless either party gives the other a 60-day notice.

STATE OF SOUTH CAROLINA)	
)	RIGHT-OF-ENTRY AGREEMENT
COUNTY OF HORRY)	[Marina Parkway, 62nd Ave. N.,
)	71st Ave. N. 79th Ave. N.]
CITY OF MYRTLE BEACH)	

THIS RIGHT-OF-ENTRY AGREEMENT (“Agreement”), is dated to be effective as of the 25th day of March, 2021 (the “**Effective Date**”), and is made by and among **THE CITY OF MYRTLE BEACH**, a political subdivision of the State of South Carolina (“the “**Landowner**”) and **GRANDE DUNES MASTER ASSOCIATION**, a South Carolina non-profit corporation (the “**Permittee**”).

WITNESSTH:

WHEREAS, Permittee, the owner of certain property in the Grande Dunes Planned Unit Development (Grande Dunes PUD), desires to enhance the public Rights-Of-Way to install trees, plants and grasses to beautify the area for a more aesthetic sense of place consistent with the Grounds Maintenance Agreement attached hereto as “**Exhibit A**” (the “**Site Plan**”); and

WHEREAS, Permittee and Landowner entered into an initial Right-of-Entry Agreement with an Effective Date of March 25, 2019 for a term of one (1) year; and

WHEREAS, by Motion 2020-0027 as adopted by Myrtle Beach City Council January 28, 2020, Permittee and Landowner entered into a second Right-of-Entry Agreement with an Effective Date of March 25, 2020 for a term of one (1) year; and

WHEREAS, by Motion 2021-00 ___ as adopted by Myrtle Beach City Council April ___, 2021, Permittee and Landowner desire to enter into this third Right-of-Entry Agreement with an Effective Date of March 25, 2021 to provide for renewal as set forth herein; and

WHEREAS, Permittee, its employees, agents, contractors, subcontractors, or invitees shall be permitted to gain access to the portion of Permittee, its employees, agents, contractors, subcontractors, or invitees shall be permitted to gain access to the portion of the Areas 1 through 4, resulting in an overall length of approximately 12,540 linear feet of landscaping (i.e., the grand total of Areas 1 through 4 below), the defined boundaries of the site attached hereto as “**Exhibit B**” (the “**Site**”), for the purpose of defined landscaping according to the Site Plan, subject to the requirement of Resolution 2019-2 attached hereto as “**Exhibit C**”.

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.

NOW, THEREFORE, for and in consideration of the covenants and promises made herein to be well and duly performed as well as other good and valuable consideration acknowledged by the parties, Permittee and Landowner agree as follows:

1. Landowner hereby authorizes Permittee to enter upon the Site for purposes of performing all landscaping, planting and maintenance as set forth in the Site Plan. Permittee shall donate, and Landowner hereby accepts as a donation, all plants, trees, shrubs or grasses for the intended use of landscaping on the Site designated by this Agreement.

2. This Agreement shall become effective on the Effective Date and remain in effect for a term of one (1) year and automatically renew for an additional one (1) year term unless terminated in writing by either party at least sixty (60) days prior to the end of such term; provided however this Agreement shall automatically terminate twenty-five (25) years from the Effective Date.

3. Permittee agrees to indemnify and save the Landowner harmless from and against any and all liability, damage, expense, claims or judgments, including reasonable attorneys' fees resulting from injury to person or damage to property resulting from or arising out of this Agreement caused by an act, failure to act or omission of Permittee, its employees, agents, contractors, subcontractors, or invitees during the term hereof. This provision shall not expire until after three (3) years from the date of expiration.

4. Permittee agrees that it shall, during the term of this Agreement, maintain the following insurance(s) and provide proof of such coverage to the Landowner as follows:

- Comprehensive General Public Liability Policy:
 - \$1,000,000.00 Workmen's Compensation Insurance covering Permittee's employees, agents, contractors, subcontractors, or invitees
- Comprehensive General Public Liability Insurance in the amount of:
 - \$500,000.00 per occurrence
 - \$1,000,000.00 aggregate
 - \$1,000,000.00 products/completed operations

With such insurance proof, the Landowner will permit right-of-entry to Permittee, its agents, employees, contractors, subcontractors and as set forth herein.

5. Permittee's right-of-entry shall not interrupt the operations of the Landowner in exercise of police power, or public health, safety or welfare.

6. Permittee expressly understands and acknowledges that this Agreement in no way indicates any express or implied approval of the proposed exercises of maintenance, and in no way involves the Landowner in any action taken, funds spent, or materials used, as such are at the sole risk of Permittee, and that the Landowner undertakes no responsibility for any loss suffered by

Permittee under the terms of this Agreement.

7. Should this Agreement expire, Permittee shall return the Site condition that reasonably matches its original condition at the discretion of the Landowner, or maintained or serviced which lies wholly within the Landowner's discretion. Upon expiration, all plants previously donated and accepted according to the approved Site Plan are subject to the discretion of the Landowner in terms of maintenance or replacement.

8. Landowner reserves the right to revoke this Agreement with same legislative procedure and act of equal dignity.

[SIGNATURE PAGES TO FOLLOW]

EXHIBIT A – SITE PLAN

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 the 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 as 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:

- A. Should landscaping be turned over to contractor in phases, billing shall be pro-rated per square foot, preexisting contract.
- B. Developed and/or undeveloped out parcels are not included in this proposal.
- C. 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.
- D. 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.

- E. Ryegrass is included in all areas, seed and sod, to highways, except out parcels. 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 rye grass

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

Weeks 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 areas

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

EXHIBIT B – SITE

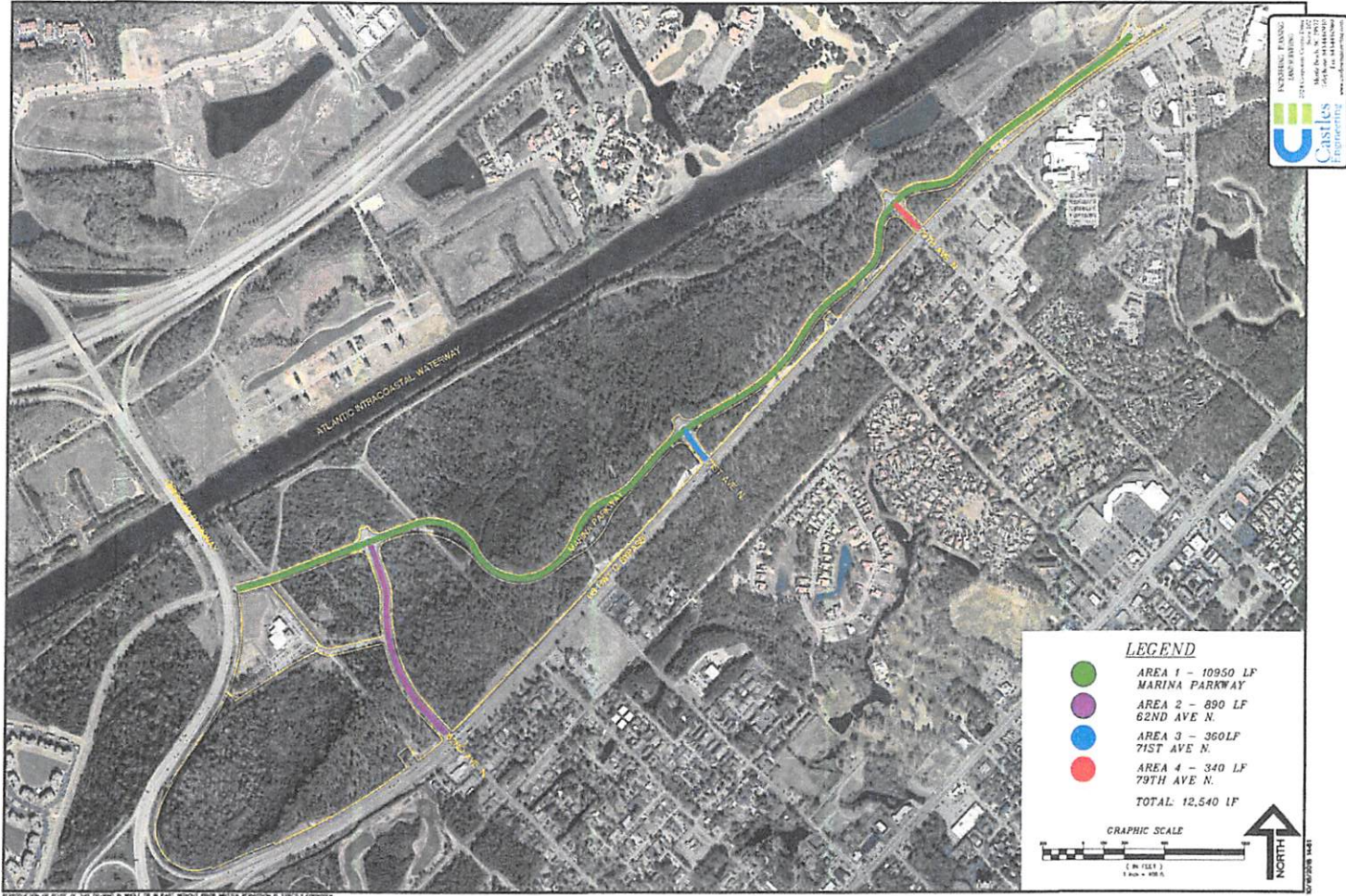


EXHIBIT C

Resolution 2019-2

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RESOLUTION R2019-2

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

**RESOLUTION SETTING FORTH THE
POLICY OF THE CITY OF MYRTLE
BEACH REGARDING ENHANCED
BEAUTIFICATION OF MEDIAN AREAS
IN AND THE RIGHTS OF WAYS
ALONG ARTERIAL STREETS AND
THROUGHFARES.**

WHEREAS, Wikipedia defines an arterial road as "a high-capacity urban road. The primary function of an arterial road is to deliver traffic from collector roads to freeways or expressways, and between urban centers at the highest level of service possible."; and

WHEREAS, in that regard, streets that primarily serve residential communities or commercial businesses, are not considered "arterial streets"; and

WHEREAS, in the City of Myrtle Beach the following roads may be considered "arterial roads":

- Highway 17 (the "By-pass).
- Kings Highway.
- Robert Grissom Parkway.
- Highway 16.
- Farrow Parkway.
- Coventry Boulevard.
- Harroton Boulevard.
- US 501.
- Joe White Avenue.
- 21st Avenue North.
- 29th Avenue North (west of Kings Highway).
- 36th Avenue North (west of Kings Highway).
- 62nd Avenue North (west of Highway 17).
- 71st Avenue West (west of Highway 17).
- 79th Avenue West (west of Highway 17).
- 82nd Parkway.
- Grand Dunes Boulevard.
- Marina Parkway.

and

Whereas the rights-of-ways and medians of such arterial streets are seen and experienced by millions of residents and visitors each year; and

WHEREAS, the City of Myrtle Beach has determined that the provisions of this resolution will substantially advance, and are reasonably and rationally related to, legitimate government interests by promoting the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of this City.

NOW, THEREFORE, THE CITY OF MYRTLE BEACH HEREBY RESOLVES THAT:
1. The beautification of the medians and rights-of-ways advances the City's Council policy goals with respect to enhancing the quality of life for our

- 1 residents, and promoting economic prosperity for the businesses within the City
2 limits.
3 2. The City may accept donations of landscaping and plant materials along such
4 rights-of-way, pursuant to staff review; and City Council approval of specific
5 landscaping plans.
6 3. Once donated by a private party these landscaping and plant materials are the
7 property of the City of Myrtle Beach and subject to any future modification,
8 including total removal, at the City's sole discretion.
9 4. Pursuant to a limited right of entry agreement, the City may also contract with
10 any Homeowners Association, property Owners' Association, Developer,
11 Business, or other third party to increase the frequency of maintenance of the
12 landscaping, including the frequency of grass mowing, at any such locations.
13 Provided that limited right of entry agreement stipulates that:
14 a. The City is properly indemnified and insured by the third party for any
15 accident or loss incurred in such area during any work provided by such
16 third party, such indemnification and insurance shall conform to the
17 requirements of the City's Director of Risk Services.
18 b. The agreement is subject to City Council's annual review and approval.
19 c. The third party agrees to pay for the incremental cost of such increased
20 frequency of maintenance activities.
21 d. An acknowledgement that upon the non-renewal of the agreement (by
22 either party), the frequency of such maintenance is subject to reverting
23 to the City's standard level of maintenance for such improvements.
24 5. Under no circumstances may any such landscaping improvement present the
25 appearance that the right-of-way or median is actually under private
26 ownership.
27 6. Under no circumstances may any such landscaping improvement present the
28 appearance or reality that public parking areas are not publicly available.

29 SIGNED, SEALED and DATED, this 8th day of January, 2019.

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33 BRENDA S. DETHUNE, MAYOR

34 ATTEST:

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37 JENNIFER STANFORD, CITY CLERK
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STATE OF SOUTH CAROLINA))	RIGHT-OF-ENTRY AGREEMENT
COUNTY OF HORRY))	[Part of Marina Parkway Part of N. Ocean
CITY OF MYRTLE BEACH))	Blvd., Grande Dunes Blvd East of Kings Hwy.,
)	Cipriana Dr., Grande Dunes Blvd. West of
)	Kings Hwy.]

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W I T N E S S T H:

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WHEREAS, by Motion 2021-00___ as adopted by Myrtle Beach City Council April ___, 2021, Permittee and Landowner desire to enter into this third Right-of-Entry Agreement with an Effective Date of March 25, 2021 to provide for renewal as set forth herein; and

WHEREAS, Permittee, its employees, agents, contractors, subcontractors, or invitees shall be permitted to gain access to the portion of the Areas 1 through 5, resulting in an overall length of approximately 28,185 linear feet of landscaping (i.e., the grand total of Areas 1 through 5 below), the defined boundaries of the site attached hereto as “**Exhibit B**” (the “**Site**”), for the purpose of defined landscaping according to the Site Plan, subject to the requirement of Resolution 2019-2 attached hereto as “**Exhibit C**”.

- Area 1: Beginning at the Northwestern most point of the intersection of 82nd Parkway and U.S. Highway 17 Business (King’s Highway) and proceeding in an easterly direction along the southern and northern sides of the street, for a total distance of 3,768 linear feet.
- Area 2: Beginning at the Northeastern most point of the intersection of Grande Dunes Boulevard and U.S. Highway 17 Business (King’s Highway) and proceeding in an easterly direction along the northern side of the street, for a total distance of 2,369 linear feet.
- Area 3: Beginning at the northeastern most point of the intersection of 82nd Parkway and Cipriana Drive and proceeding in a northerly direction

along the eastern and western sides of the street, for a total distance of 2,938 linear feet.

Area 4: Beginning at the northeastern most point of the intersection of Grande Dunes Boulevard and U.S. Highway 17 By-Pass and proceeding in an easterly direction along the northern and southern sides of the street, for a total distance of 8,225 linear feet.

Area 5: Beginning at the northwestern most pint of the intersection of Grande Dunes Boulevard and Marina Parkway and proceeding in a northerly direction along the western and eastern sides of the street, and beginning at the southwestern most point of the intersection of Grande Dunes Boulevard and Marina Parkway and proceeding in a southerly direction along the western and eastern sides of the street, for a distance of 5,236 linear feet; AND Beginning at the southeastern most point of the intersection of Grande Dunes Boulevard and Marina Parkway and proceeding in an easterly direction along the southern and northern sides of the street, for a distance of 1,079 linear feet. The cumulative total for this Area 5 is 10,885 linear feet.

NOW, THEREFORE, for and in consideration of the covenants and promises made herein to be well and duly performed as well as other good and valuable consideration acknowledged by the parties, Permittee and Landowner agree as follows:

1. Landowner hereby authorizes Permittee to enter upon the Site for purposes of performing all landscaping, planting and maintenance as set forth in the Site Plan. Permittee shall donate, and Landowner hereby accepts as a donation, all plants, trees, shrubs or grasses for the intended use of landscaping on the Site designated by this Agreement.

2. This Agreement shall become effective on the Effective Date and remain in effect for a term of one (1) year and automatically renew for an additional one (1) year term unless terminated in writing by either party at least sixty (60) days prior to the end of such term; provided however this Agreement shall automatically terminate twenty-five (25) years from the Effective Date.

3. Permittee agrees to indemnify and save the Landowner harmless from and against any and all liability, damage, expense, claims or judgments, including reasonable attorneys' fees resulting from injury to person or damage to property resulting from or arising out of this Agreement caused by an act, failure to act or omission of Permittee, its employees, agents, contractors, subcontractors, or invitees during the term hereof. This provision shall not expire until after three (3) years from the date of expiration.

4. Permittee agrees that it shall, during the term of this Agreement, maintain the following insurance(s) and provide proof of such coverage to the Landowner as follows:

- Comprehensive General Public Liability Policy:

- \$1,000,000.00 Workmen's Compensation Insurance covering Permittee's employees, agents, contractors, subcontractors, or invitees
- Comprehensive General Public Liability Insurance in the amount of:
 - \$500,000.00 per occurrence
 - \$1,000,000.00 aggregate
 - \$1,000,000.00 products/completed operations

With such insurance proof, the Landowner will permit right-of-entry to Permittee, its agents, employees, contractors, subcontractors and as set forth herein.

5. Permittee's right-of-entry shall not interrupt the operations of the Landowner in exercise of police power, or public health, safety or welfare.

6. Permittee expressly understands and acknowledges that this Agreement in no way indicates any express or implied approval of the proposed exercises of maintenance, and in no way involves the Landowner in any action taken, funds spent, or materials used, as such are at the sole risk of Permittee, and that the Landowner undertakes no responsibility for any loss suffered by Permittee under the terms of this Agreement.

7. Should this Agreement expire, Permittee shall return the Site condition that reasonably matches its original condition at the discretion of the Landowner, or maintained or serviced which lies wholly within the Landowner's discretion. Upon expiration, all plants previously donated and accepted according to the approved Site Plan are subject to the discretion of the Landowner in terms of maintenance or replacement.

8. Landowner reserves the right to revoke this Agreement with same legislative procedure and act of equal dignity.

[SIGNATURE PAGES TO FOLLOW]

EXHIBIT A – SITE PLAN

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 the 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 as 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:

- A. Should landscaping be turned over to contractor in phases, billing shall be pro-rated per square foot, preexisting contract.
- B. Developed and/or undeveloped out parcels are not included in this proposal.
- C. 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.
- D. 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.

- E. Ryegrass is included in all areas, seed and sod, to highways, except out parcels. 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 rye grass

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

Weeks 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 areas

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

EXHIBIT B – SITE



<h3 style="margin: 0;">Landscape Agreement</h3> <p style="margin: 0;">Exhibit B</p> <p style="margin: 0;">Myrtle Beach, South Carolina</p>	<p>Legend</p> <ul style="list-style-type: none"> — Area 1: 3,768 LF — Area 2: 2,369 LF — Area 3: 2,938 LF — Area 4: 8,225 LF — Area 5: 10,885 LF 		<p>Burroughs & Chapin <i>Company Inc.</i></p> <p style="font-size: small;">8820 Marina Parkway Myrtle Beach, SC 29572 843-448-5123 Ph. www.burroughschapin.com</p>
<p>The information provided on this map is compiled from various sources. Parcel and Centense Data are courtesy of Local County's GIS Department. This data has not been verified for accuracy and is not guaranteed. The information provided should be used at the user's discretion and for general information purposes only.</p>			

File Path: \\GIS_Dev\Project_Plan\Grant_Dunes\2013 CCMB Landscape Agreement Exhibit B.mxd

EXHIBIT C

Resolution 2019-2

RESOLUTION R2019-2

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

**RESOLUTION SETTING FORTH THE
POLICY OF THE CITY OF MYRTLE
BEACH REGARDING ENHANCED
BEAUTIFICATION OF MEDIAN AREAS
IN AND THE RIGHTS OF WAYS
ALONG ARTERIAL STREETS AND
THROUGHFARES.**

WHEREAS, Wikipedia defines an arterial road as " a high-capacity urban road. The primary function of an arterial road is to deliver traffic from collector roads to freeways or expressways, and between urban centers at the highest level of service possible."; and

WHEREAS, in that regard, streets that primarily serve residential communities or commercial businesses, are not considered "arterial streets"; and

WHEREAS, in the City of Myrtle Beach the following roads may be considered "arterial roads":

- Highway 17 (the "By-pass).
- Kings Highway.
- Robert Grisson Parkway.
- Highway 15.
- Farrow Parkway.
- Coventry Boulevard.
- Harrelson Boulevard.
- US 501.
- Joe White Avenue.
- 21st Avenue North.
- 29th Avenue North (west of Kings Highway).
- 38th Avenue North (west of Kings Highway).
- 62nd Avenue North (west of Highway 17).
- 71st Avenue West (west of Highway 17).
- 79th Avenue West (west of Highway 17).
- 82nd Parkway.
- Grand Dunes Boulevard.
- Marina Parkway.

and

Whereas the rights-of-ways and medians of such arterial streets are seen and experienced by millions of residents and visitors each year; and

WHEREAS, the City of Myrtle Beach has determined that the provisions of this resolution will substantially advance, and are reasonably and rationally related to, legitimate government interests by promoting the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of this City.

NOW, THEREFORE, THE CITY OF MYRTLE BEACH HEREBY RESOLVES THAT:
1. The beautification of the medians and rights-of-ways advances the City's Council policy goals with respect to enhancing the quality of life for our

- 1 residents, and promoting economic prosperity for the businesses within the City
2 limits.
- 3 2. The City may accept donations of landscaping and plant materials along such
4 rights-of-way, pursuant to staff review; and City Council approval of specific
5 landscaping plans.
- 6 3. Once donated by a private party these landscaping and plant materials are the
7 property of the City of Myrtle Beach and subject to any future modification,
8 including total removal, at the City's sole discretion.
- 9 4. Pursuant to a limited right of entry agreement, the City may also contract with
10 any Homeowners Association, property Owners' Association, Developer,
11 Business, or other third party to increase the frequency of maintenance of the
12 landscaping, including the frequency of grass mowing, at any such locations.
13 Provided that limited right of entry agreement stipulates that:
- 14 a. The City is properly indemnified and insured by the third party for any
15 accident or loss incurred in such area during any work provided by such
16 third party, such indemnification and insurance shall conform to the
17 requirements of the City's Director of Risk Services.
- 18 b. The agreement is subject to City Council's annual review and approval.
- 19 c. The third party agrees to pay for the incremental cost of such increased
20 frequency of maintenance activities.
- 21 d. An acknowledgement that upon the non-renewal of the agreement (by
22 either party), the frequency of such maintenance is subject to reverting
23 to the City's standard level of maintenance for such improvements.
- 24 5. Under no circumstances may any such landscaping improvement present the
25 appearance that the right-of-way or median is actually under private
26 ownership.
- 27 6. Under no circumstances may any such landscaping improvement present the
28 appearance or reality that public parking areas are not publicly available.

29
30 SIGNED, SEALED and DATED, this 8th day of January, 2019.

31 
32 _____
33 BRENDA S. DETHUNE, MAYOR

34
35 ATTEST:

36 
37 _____
38 JENNIFER STANFORD, CITY CLERK

Area 3: Being the portion of the right-of-way of 82nd Avenue North adjacent to the Grande Dunes PUD beginning at a point West of the intersection of North Kings Highway and 82nd Avenue North and extending west to Highway 17 by-pass, for a total distance of 4,050 linear feet.

Area 4: Being the portions of the right of way of 76th Avenue North adjacent to the Grande Dunes PUD beginning at a point East of the intersection of 76th Avenue North and 17 By-Pass and extending east to a point adjacent to the last lot in Siena Park for a distance of 2,700 linear feet.

NOW, THEREFORE, for and in consideration of the covenants and promises made herein to be well and duly performed as well as other good and valuable consideration acknowledged by the parties, Permittee and Landowner agree as follows:

1. Landowner hereby authorizes Permittee to enter upon the Site for purposes of performing all landscaping, planting and maintenance as set forth in the Site Plan. Permittee shall donate, and Landowner hereby accepts as a donation, all plants, trees, shrubs or grasses for the intended use of landscaping on the Site designated by this Agreement.

2. This Agreement shall become effective on the Effective Date and remain in effect for a term of one (1) year and automatically renew for an additional one (1) year term unless terminated in writing by either party at least sixty (60) days prior to the end of such term; provided however this Agreement shall automatically terminate twenty-five (25) years from the Effective Date.

3. Permittee agrees to indemnify and save the Landowner harmless from and against any and all liability, damage, expense, claims or judgments, including reasonable attorneys' fees resulting from injury to person or damage to property resulting from or arising out of this Agreement caused by an act, failure to act or omission of Permittee, its employees, agents, contractors, subcontractors, or invitees during the term hereof. This provision shall not expire until after three (3) years from the date of expiration.

4. Permittee agrees that it shall, during the term of this Agreement, maintain the following insurance(s) and provide proof of such coverage to the Landowner as follows:

- Comprehensive General Public Liability Policy:
 - \$1,000,000.00 Workmen's Compensation Insurance covering Permittee's employees, agents, contractors, subcontractors, or invitees
- Comprehensive General Public Liability Insurance in the amount of:
 - \$500,000.00 per occurrence
 - \$1,000,000.00 aggregate
 - \$1,000,000.00 products/completed operations

With such insurance proof, the Landowner will permit right-of-entry to Permittee, its agents,

employees, contractors, subcontractors and as set forth herein.

5. Permittee's right-of-entry shall not interrupt the operations of the Landowner in exercise of police power, or public health, safety or welfare.

6. Permittee expressly understands and acknowledges that this Agreement in no way indicates any express or implied approval of the proposed exercises of maintenance, and in no way involves the Landowner in any action taken, funds spent, or materials used, as such are at the sole risk of Permittee, and that the Landowner undertakes no responsibility for any loss suffered by Permittee under the terms of this Agreement.

7. Should this Agreement expire, Permittee shall return the Site condition that reasonably matches its original condition at the discretion of the Landowner, or maintained or serviced which lies wholly within the Landowner's discretion. Upon expiration, all plants previously donated and accepted according to the approved Site Plan are subject to the discretion of the Landowner in terms of maintenance or replacement.

8. Landowner reserves the right to revoke this Agreement with same legislative procedure and act of equal dignity.

[SIGNATURE PAGES TO FOLLOW]

EXHIBIT A – SITE PLAN

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.

Services in Area 3 defined above are limited to simple mowing services 10 times a year. All other areas defined above will be maintained based on the specifications guide in this section.

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 the 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 Manicare (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 as 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:

- A. Should landscaping be turned over to contractor in phases, billing shall be pro-rated per square foot, preexisting contract.
- B. Developed and/or undeveloped out parcels are not included in this proposal.
- C. 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.

- D. 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.
- E. Ryegrass is included in all areas, seed and sod, to highways, except out parcels. 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 rye grass

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

Weeks 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 areas

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

EXHIBIT B - SITE



EXHIBIT C

Resolution 2019-2

RESOLUTION R2019-2

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

**RESOLUTION SETTING FORTH THE
POLICY OF THE CITY OF MYRTLE
BEACH REGARDING ENHANCED
BEAUTIFICATION OF MEDIAN AREAS
IN AND THE RIGHTS OF WAYS
ALONG ARTERIAL STREETS AND
THOROUGHFARES.**

WHEREAS, Wikipedia defines an arterial road as "a high-capacity urban road. The primary function of an arterial road is to deliver traffic from collector roads to freeways or expressways, and between urban centers at the highest level of service possible."; and

WHEREAS, in that regard, streets that primarily serve residential communities or commercial businesses, are not considered "arterial streets"; and

WHEREAS, in the City of Myrtle Beach the following roads may be considered "arterial roads":

- Highway 17 (the "By-pass).
- Kings Highway.
- Robert Crissom Parkway.
- Highway 15.
- Farrow Parkway.
- Coventry Boulevard.
- Harrelson Boulevard.
- US 501.
- Joe White Avenue.
- 21st Avenue North.
- 29th Avenue North (west of Kings Highway).
- 38th Avenue North (west of Kings Highway).
- 62nd Avenue North (west of Highway 17).
- 71st Avenue West (west of Highway 17).
- 79th Avenue West (west of Highway 17).
- 82nd Parkway.
- Grand Dunes Boulevard.
- Marina Parkway.

and

Whereas the rights-of-ways and medians of such arterial streets are seen and experienced by millions of residents and visitors each year; and

WHEREAS, the City of Myrtle Beach has determined that the provisions of this resolution will substantially advance, and are reasonably and rationally related to, legitimate government interests by promoting the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of this City.

NOW, THEREFORE, THE CITY OF MYRTLE BEACH HEREBY RESOLVES THAT:
1. The beautification of the medians and rights-of-ways advances the City's Council policy goals with respect to enhancing the quality of life for our

- 1 residents, and promoting economic prosperity for the businesses within the City
2 limits.
3 2. The City may accept donations of landscaping and plant materials along such
4 rights-of-way, pursuant to staff review, and City Council approval of specific
5 landscaping plans.
6 3. Once donated by a private party these landscaping and plant materials are the
7 property of the City of Myrtle Beach and subject to any future modification,
8 including total removal, at the City's sole discretion.
9 4. Pursuant to a limited right of entry agreement, the City may also contract with
10 any Homeowners Association, property Owners' Association, Developer,
11 Business, or other third party to increase the frequency of maintenance of the
12 landscaping, including the frequency of grass mowing, at any such locations.
13 Provided that limited right of entry agreement stipulates that:
14 a. The City is properly indemnified and insured by the third party for any
15 accident or loss incurred in such area during any work provided by such
16 third party, such indemnification and insurance shall conform to the
17 requirements of the City's Director of Risk Services.
18 b. The agreement is subject to City Council's annual review and approval.
19 c. The third party agrees to pay for the incremental cost of such increased
20 frequency of maintenance activities.
21 d. An acknowledgement that upon the non-renewal of the agreement (by
22 either party), the frequency of such maintenance is subject to reverting
23 to the City's standard level of maintenance for such improvements.
24 5. Under no circumstances may any such landscaping improvement present the
25 appearance that the right-of-way or median is actually under private
26 ownership.
27 6. Under no circumstances may any such landscaping improvement present the
28 appearance or reality that public parking areas are not publicly available.

29 SIGNED, SEALED and DATED, this 8th day of January, 2019.

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32 
33 BRENDA S. DETHUNE, MAYOR

34 ATTEST:

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36 
37 JENNIFER STANFORD, CITY CLERK
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