

RESOLUTION NO. 2018- 233

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING A BILL OF SALE FOR BULKHEAD IMPROVEMENTS AND STAIRS AT THE EAST END OF THIRTEENTH STREET IN NORTH BEACH SUBDIVISION AND ACCEPTING A DEED OF DEDICATION RIGHT-OF-WAY.

RECITALS

WHEREAS, P. Eric Berg and Kathleen Berg (“Berg”) are the owners of beachfront property on either side of the east end of Thirteenth Street (“County right-of-way”) in North Beach Subdivision; and

WHEREAS, at their expense, Berg constructed and installed a bulkhead along their east property line including the County right-of-way together with stairs for public access to the beach; and

WHEREAS, in an effort to protect Berg’s property and the County right-of-way and the interest of the public from high tides and beach erosion, the County allowed construction of the bulkhead on the County right-of-way; and

WHEREAS, Berg agreed to execute an indemnity agreement indemnifying and holding the County harmless from any loss or damage incurred during the construction and installation of the bulkhead and stairs; and

WHEREAS, now that the construction is complete, Berg has requested acceptance of the bulkhead and stairs by the County as allowed for in the indemnity agreement, and has presented a Bill of Sale, attached hereto as EXHIBIT “A”, incorporated by reference and made a part hereof, conveying the bulkhead and stairs to the County, and has provided a Release of Lien attached hereto as EXHIBIT “B”, incorporated by reference and made a part hereof; and

WHEREAS, a portion of the stairs were constructed on Berg’s property and Berg has agreed to dedicate and convey that portion to the County as described in Deed of Dedication, attached hereto as EXHIBIT “C”, incorporated by reference and made a part hereof; and

WHEREAS, Berg has executed a Declaration of Covenants and Restrictions benefiting the County to run with the land, attached hereto as EXHIBIT “D”, incorporated by reference and made a part hereof; and

WHEREAS, acceptance of any improvement in the Right-of-Way is at the sole discretion of the Board of County Commissioners.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are hereby adopted as findings of fact.

Section 2. The Board of County Commissioners hereby accepts the Bill of Sale, Deed of Dedication Right-of-Way, and Declaration of Covenants and Restrictions attached hereto.

Section 3. Acceptance of the bulkhead and stairs does not require replacement by St. Johns County should any improvement be destroyed or damaged beyond minor repair for any reason or by any cause whatsoever.

Section 4. Acceptance of the bulkhead and stairs shall not be construed as acceptance of any other improvements, nor shall acceptance be construed as replacement of any improvement in the County right-of-way.

Section 5. The Clerk is instructed to file the original Bill of Sale and record the original Release of Lien, Deed of Dedication Right-of-Way, and Declaration of Covenants and Restrictions in the public records of St. Johns County, Florida.

Section 6. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners this 7th day of August, 2018.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

By: Henry Dear
Henry Dear, Chair

ATTEST: Hunter S. Conrad, Clerk
By: Lam Halterman
Deputy Clerk

RENDITION DATE 8/9/18



EXHIBIT "A" TO RESOLUTION



BILL OF SALE
BULKHEAD IMPROVEMENTS

P. Eric Berg and Kathleen H. Berg, Trustees of the Berg Legacy Trust, dated September 7, 2016, (the "Seller") for and in consideration of the sum of Ten and No/100 Dollars (\$10) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, transfers and delivers to St. Johns County, Florida, a political subdivision of the State of Florida, the following personal property:

See Exhibit A "Schedule of Values" for the bulkhead improvements and stairs at the east end of Thirteenth Street in North Beach Subdivision as recorded in Map Book 3, page 28, of the public records of St. Johns County, Florida.

The Seller does, for itself and its successors and assigns, covenant to and with St. Johns County and its successors and assigns, that it is lawful owner of said personal property; that the personal property is free of all encumbrances; that it has good rights to sell the same; and that it will warrant and defend the sale of the personal property against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, the Seller has caused this instrument to be duly executed and delivered by its duly authorized office on this 27 of April 2018.

WITNESS:

Laurie Ford
Witness Signature

Laurie Ford
Print Witness Name

Gail Oliver
Witness Signature

GAIL OLIVER
Print Witness Name

State of Florida
County of St. Johns

OWNER:

[Signature]
P. Eric Berg

[Signature]
Kathleen H. Berg

The foregoing instrument was acknowledged before me this 27th day of April, 2018, by P. Eric Berg and Kathleen H. Berg, who are personally known to me or have produced _____ as identification.

[Signature]
Notary Public



Exhibit "A"

Schedule of Values

Hayward Construction and Development:

Construction of Vinyl Bulkhead Including

950 Sheet Vinyl - 24ft lengths

1/2 inch stainless steel tiebacks every - 2 every five feet

24" X 30" concrete deadman running length of bulkhead

15" X 24" concrete cap running length of bulkhead

Price per linear foot \$875 Total price: \$53,900

Big Horse Aggregates LLC

40 Truckloads of DEP approved sand @\$225 - Total price \$9000

Carlos Rosand Professional Engineer Fl Lic 47904

Engineering Design \$2000

Total Investment - \$64,900

EXHIBIT "B" TO RESOLUTION



FINAL RELEASE OF LIEN

BULKHEAD IMPROVEMENTS

The undersigned lienor, in consideration of the sum \$64,900.00 hereby waives and releases its lien and right to claim a lien for labor, services or materials furnished through 2/28/18 to P. Eric Berg and Kathleen H. Berg to the following described property:

See Exhibit "A" for "Schedule of Values" for the bulkhead located at the east end of Thirteenth Street in North Beach Subdivision.

The waiver and release does not cover any retention or labor, services, or materials furnished after the date specified.

IN WITNESS WHEREOF, the Lienor has caused this instrument to be duly executed and delivered by its duly authorized office on this 7 of March 2018.

WITNESS:

Sarah Perez Guerra
Witness Signature

Sarah Perez Guerra
Print Witness Name

Hayward Construction and Development

Kathleen J. Hayward Mgrm
Lienor's Signature

Kathleen J. Hayward- Mgrm
Print Lienor's Name

State of FL
County of Duval

The foregoing instrument was acknowledged before me this 7 day of March, 2018 by Kathleen Hayward who is personally known to me or has produced _____ as identification.



[Signature]
Notary Public

Exhibit "A"

Schedule of Values

Hayward Construction and Development:

Construction of Vinyl Bulkhead Including
950 Sheet Vinyl - 24ft lengths
1/2 inch stainless steel tiebacks every - 2 every five feet
24" X 30" concrete deadman running length of bulkhead
15" X 24" concrete cap running length of bulkhead

Price per linear foot \$875 Total price: \$53,900

Big Horse Aggregates LLC

40 Truckloads of DEP approved sand @\$225 - Total price \$9000

Carlos Rosand Professional Engineer Fl Lic 47904

Engineering Design \$2000

Total Investment - \$64,900

EXHIBIT "C" TO RESOLUTION

Prepared by:
Laurie Ford
St. Johns County
500 San Sebastian View
St. Augustine, Florida 32084

DEED OF DEDICATION
RIGHT-OF-WAY

THIS INDENTURE, made and executed this 27th day of April, 2018, P. ERIC BERG and KATHLEEN H. BERG, as Trustees of the Berg Legal Trust under agreement dated September 7, 2016, by whose address is 3834 94th Avenue N.E., Yarrow Point, Washington 98004, hereinafter called Grantor, to and in favor of ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, hereinafter called Grantee.

WITNESSETH: that for and in consideration of the acceptance of this Dedication by the Grantee, said Grantor does hereby give, grant, dedicate, and convey to the Grantee, its successors and assigns forever, the following described land, situate in St. Johns County, Florida, to wit:

THE NORTH 2.5 FEET OF LOTS 1 AND 5, BLOCK 63, NORTH BEACH AS RECORDED IN MAP BOOK 3, PAGE 28 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA. BOUNDED ON THE WEST BY THE EAST RIGHT OF WAY LINE OF COASTAL HIGHWAY AND BOUNDED ON THE EAST BY THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN.

TO HAVE AND HOLD the same unto the Grantees, its successors and assigns forever, in fee simple for a public road, including therein the right to construct, maintain, and operate, either above or below the surface of the ground, electric light and power, water, sewer, and drainage lines and other public utilities.

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2017.

IN WITNESS WHEREOF, the said Grantor has hereunto set hand and seal the day and year first above written.

Signed and Sealed
in Our Presence:

(sign) Laurie Ford
(print) Laurie Ford
(sign) Gail Oliver
(print) GAIL OLIVER

Grantor:

[Signature]
P. Eric Berg, Trustee
[Signature]
Kathleen H. Berg, Trustee

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 27th day of April, 2018, by P. Eric Berg and Kathleen H. Berg, who are personally known to me have has produced _____ as identification.

[Signature]
Notary Public
My Commission Expires: 4-17-2020



EXHIBIT "D" TO RESOLUTION

This instrument prepared by:
St. Johns County Real Estate Division
500 San Sebastian View
St. Augustine, Florida 32084

DECLARATION OF RESTRICTIVE COVENANTS

This **DECLARATION OF RESTRICTIVE COVENANTS (Declaration)**, made this 30 day of July, 2018 between **P. ERIC BERG** and **KATHLEEN H. BERG**, Trustees of the Berg Legacy Trust, dated September 7, 2016, whose mailing address is 3834 94th Avenue NE, Yarrow, Washington 98004, ("Name") and **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, ("County") whose address is 500 San Sebastian View, St. Augustine, Florida, 32084, second party:

- A. "Name" at their expense, constructed and installed a bulkhead along their east property line including the County right-of-way together with stairs for public access to the beach at the east end of Thirteenth Street.
- B. The bulkhead was constructed for the purpose of assisting oceanfront property owners against high tides, beach erosion, and to assist in protecting oceanfront property.
- C. "Name" is requesting acceptance of the bulkhead and stairs by the "County".
- D. Pursuant to the Board of County Commissions acceptance of the Bill of Sale, Schedule of Values, and Release of Lien for said bulkhead and stairs "Name" and the "County" wish to enter into this Declaration, to be recorded in the public records of St. Johns County, Florida ("Public Records") for the purpose of providing record notice that the lands described in EXHIBIT "A" ("Lands") are subject to certain conditions for the acceptance of said bulkhead and stairs.

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. "Name" acknowledges the "County" is not required to replace the bulkhead and stairs should they be destroyed or damaged beyond repair for any reason or by any cause whatsoever.
2. Nothing herein shall be construed to obligate the County to perform maintenance, repair, or replacement of any portion of the bulkhead and stairs.
3. The "County" reserves the right to remove all or any portion of the bulkhead and stairs from the County right-of-way at any time whatsoever.
4. The "County" is not responsible for any property damage to the "Lands" resulting from the failure of the bulkhead and stairs, or any portion thereof.

5. Covenant running with the "Lands"; Successors and Assigns; the parties acknowledge and agree that the terms of this Declaration specifically touch and concern the use and maintenance of said bulkhead, stairs, and "Lands", and, therefore, the provisions of this Declaration shall constitute covenants running with the land, burdening the "Lands" and binding on any future owner with respect to the "Lands" or portion thereof.
6. No Third Part Beneficiaries. Notwithstanding anything to the contrary set forth in this Declaration, this Declaration is for the benefit of "County", and any Designated Successor only, and may not be relied upon, or enforced by any person or entity other than the "County" or its Designated Successor(s).
7. Amendment Waiver. This Declaration may not be modified or amended without the written consent of "County" or the Designated Successor, on the one hand, and "Name" or any Future Owner, on the other hand. Any such amendment shall be recorded in the Public Records. The failure by "County" or the Designated Successor to enforce any covenant, condition or restriction set forth herein shall in no event be deemed a waiver of the right to enforce the same or any other breach of violation thereof, and no waiver of any right or obligation hereunder shall be effective unless in writing signed by the party to be charged with such waiver.
8. Effect of Declaration. This Declaration is intended to memorialize the agreement between "County" and "Name" under the Agreement with respect to the matters set forth herein. Nothing in this Declaration is intended to limit "County's" rights under the Agreement, whether or not full set forth herein as to any other matter, including other provisions of the Agreement, which survive any Closing and termination of the Agreement.
9. Termination of Declaration. Notwithstanding anything to the contrary contained herein, this Declaration shall terminate automatically in thirty (30) years. "County" agrees that after this Declaration has automatically terminated, within ten (10) days after written request from "Name" or any third party purchaser of the "Lands", deliver to the requesting party a document in recordable form acknowledging such termination. Requests for such documentation acknowledging termination of this Declaration must be sent to "County" at the address first set forth above, or such other address as "County" may designate by recorded amendment to this Declaration, from time to time.
10. Notices. Any notice to be given or to be served upon any party hereto in connection with this Declaration must be in writing, and may be given by certified mail, hand delivery or overnight receipt delivery service, and shall be deemed to have been given and received; (a) if given by certified mail, three (3) days after the letter, properly addressed, with postage prepaid, is deposited in the United States mail; or (b) if given by overnight delivery or courier service, when received by the party to whom it is addressed or such party's agent or representative. Such notices shall be given to the parties at the addresses set forth in the preamble of this Declaration.
11. Enforcement. In the event of the breach of any of the provisions set forth in this Declaration, "County" or Designated Successor, shall be entitled to all rights and remedies available at law (except for the recovery of special, consequential or punitive damages which are hereby waived) or in equity, including, without limitation, injunctive relief for the immediate and irreparable harm that would be caused by any act or omission by "Name" or any Future Owner to comply with the terms of this Declaration. In the event of any action for enforcement of this Declaration by "County" or its Designated Successors, such enforcing

party shall be entitled, in addition to all other relief granted by the court, to a judgement for reasonable attorneys' and legal assistants' fees and costs incurred by reason of such action, and all costs of mediation, arbitration or suit at both the trial and appellate levels.

12. Governing Law and Venue. This Declaration shall be construed, by and controlled under the laws of the State of Florida. Venue and jurisdiction for any dispute arising under this Declaration shall be exclusively in the courts located in the County, or the United States District Court for the Middle District of Florida.
13. Jury Trial Waiver. The parties each knowingly, voluntarily and intentionally waive any right which either of them may have to a trial by jury with respect to any litigation or legal proceeding based upon or arising directly, indirectly or otherwise in connection with, out of, related to or from this Declaration including, by way of example but not limitations, any course of conduct, course of dealings, verbal or written statements or acts or omissions of either party which in any way relate to this Declaration. The parties have specifically discussed and negotiated for this waiver and understand the legal consequences of it.
14. Severability. In case any one (1) or more of the provisions contained in this Declaration is found to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Declaration shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein unless such unenforceable provision results in a frustration of the purpose of this Declaration or the failure of consideration.
15. Construction. The parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Declaration and that this Declaration has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Declaration shall not be construed or interpreted for or against any party hereto based upon authorship.

IN WITNESS WHEREOF, the parties have executed this Declaration as of the date and year set forth above.

Debra J. Roberts
Witness (Print Name): Debra J. Roberts

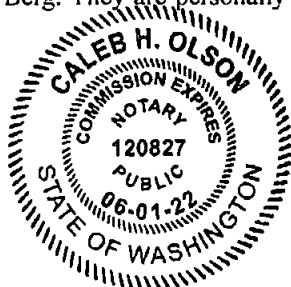
Rat Hughes
Witness (Print Name): RAT HUGHES

P. Eric Berg
P. Eric Berg, Trustee

Kathleen H. Berg
Kathleen H. Berg, Trustee

STATE OF WA
COUNTY OF King

The foregoing instrument was acknowledged before me this 30th day of July, 2018, by P. Eric Berg and Kathleen H. Berg. They are personally known to me or have produced WA Drivers Lic identification.



Caleb H. Olson
Notary Public, State of WA
My commission expires: 6-1-22



Subject Area



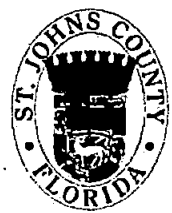
2016 Aerial Imagery
0 50 100
Feet
March 9, 2018

North Beach Bulkhead
and Stairs

Thirteenth Street

Land Management
Systems
Real Estate
Division
(904) 209-0790

Disclaimer:
This map is for reference use only.
Data provided are derived from multiple
sources with varying levels of accuracy.
The St. Johns County Real Estate
Division disclaims all responsibility
for the accuracy or completeness
of the data shown hereon.



SECTION 40.0 OCEANFRONT RIGHT-OF-WAY BULKHEAD PERMITS

Section 40.01 Introduction

Oceanfront right-of-way bulkhead construction requires a Clearance Sheet and Building Permit. The purpose of this section is to regulate construction or installation of bulkheads within any oceanfront right of way owned by St. Johns County. Due to high tides and beach erosion, and in order to assist oceanfront property owners in protecting their property, the County will allow construction of bulkheads across County rights of way when certain criteria's are met. This section only applies to right of way adjacent to ocean front property and does not apply to any other right-of-way in St. Johns County. Provisions in this section are based on the proprietary right and superintendence of right-of-way. Improvements in the right-of-way are under a license for permissive use only and does not operate to create or vest any property rights into the right of way. Nothing herein shall be interpreted as acceptance or ownership of any improvement or bulkhead placed in the County right-of-way. Bulkhead improvements in the right-of-way must be affirmatively accepted at the sole discretion of Board of County Commissioners.

Section 40.02 General Information

- A. Applications for bulkheads within rights of way owned by St. Johns County are submitted to the Growth Management Department for processing.

Address: 4040 Lewis Speedway, St. Augustine, FL 32084
Phone: 904-209-0660
Email: faxplandept@sjcfl.us

Section 40.03 Application Process

A complete application package must be received in order to begin the review process. Following is a list of the items required.

- A. Completed Clearance Sheet Application
- B. Construction plan set, signed and sealed by a Florida Registered Professional Engineer, containing the following items:
1. Current topographic survey of the site.
 2. A detailed site plan, showing the relation of the proposed improvement to the site and to adjoining land or areas.
 3. Arrangement and structural details in the plan, section and elevation views sufficiently expanded to serve as construction drawings.
 4. 2 copies of construction plan set (**both of which need to be signed and sealed**).

- C. Florida Department of Environmental Protection Permit.
- D. Owner's Authorization from the adjacent property owner(s) and the County. The County's owner authorization is provided by the Land Management Systems Department.

Address: 500 San Sebastian Vw, St. Augustine, FL 32084
Phone: 904-209-0760
Email: lford@sjcfl.us

- E. Executed Ocean Bulkhead Release Form addressing maintenance responsibilities and hold harmless (1 copy).

Section 14.04 Review Process

- A. The above items are routed to the appropriate Departments and Divisions who review the plans and supporting information for compliance within 7 working days.
- B. Review criteria includes, but is not limited to the following:
 - 1. Bulkheads shall be designed by a Florida Registered Professional Engineer.
 - 2. Bulkheads shall be designed per the current Florida Building Code.
 - 3. Bulkheads shall be permitted per St. Johns County Building Services Division.
 - 4. No such permit shall be issued for any improvements or repair to any existing improvement which is deemed substandard by the Building Official.
 - 5. Bulkhead wall sheeting/cribbing shall, at a minimum be vinyl. Wood plank cribbing shall not be permitted.
 - 6. Any bulkhead constructed across County ROW connecting to adjacent bulkheads or being constructed jointly as part thereof shall be constructed of the more stringent of the two adjacent designs.
 - 7. Bulkheads shall have a concrete cap, per engineered drawings.
 - 8. Bulkheads shall have tie backs, per engineering drawings.
 - 9. Bulkheads crossing County right of way shall be of uniform construction and shall be continuous.
 - 10. Bulkheads shall provide access stairs at access points where walkover or footpaths previously existed, in compliance with the Florida Building Code for access to and from the beach.

Section 40.05 Completion of Construction

- A. Upon completion of improvements constructed across County rights of way the applicant may request acceptance by the Board of County Commissioners of said improvements. In order for the Board of County Commissioners to consider acceptance the applicant will be required to provide the following:
1. Bill of Sale for the bulkhead improvements, including a schedule of values.
 2. Final Release of Lien from the Contractor for labor, services or materials.
 3. Execute Declaration of Restrictive Covenants setting forth the conditions associated with the acceptance.
- B. Acceptance of the improvements is at the sole discretion of the Board of County Commissioners.
- C. Contact the Land Management Systems Department to initiate the acceptance request.

Address: 500 San Sebastian Vw, St. Augustine, FL 32084
Phone: 904-209-0760
Email: lford@sjcfl.us



St. Johns County Board of County Commissioners

Land Management Systems | Real Estate Division

OWNER'S AUTHORIZATION

Because of beach erosion, and in order to assist beachfront property owners, I hereby permit the following entities:

(Contractor and address)

and its authorized agents to construct a bulkhead and stairs (if required) on the following described County property:

St. Johns County Property – A 60 foot right-of-way known as _____ North Beach Subdivision, as recorded in Map Book 3, page 28, of the public records of St. Johns County, Florida, lying east of Coastal Highway.

This authorization allows the bulkhead to be placed across this property. Bulkhead improvements in the right-of-way are under a license for permissive use only and does not operate to create or vest any property rights into the right of way. Nothing herein shall be interpreted as acceptance or ownership of any improvement or bulkhead placed in the County right-of-way. Bulkhead improvements in the right-of-way must be affirmatively accepted at the sole discretion of the Board of County Commissioners.

Gail Oliver, PLS, County Surveyor
Land Management Systems Director

State of Florida
County of St. Johns

Signed and sworn before me on this ____ day of _____, 2018, by Gail Oliver who is personally known to me has executed this document.

OCEAN BULKHEAD RELEASE

Due to high tides and beach erosion Requestor has requested to be allowed to construct a bulkhead on County Property described as follows:

St. Johns County Property – a ____ foot right-of-way known as _____, as recorded in _____ of the public records of St. Johns County, Florida.

As a condition of the County's Authorization for Requestor to construct a bulkhead (and stairs, if required) on County Property, Requestor has agreed to execute a Release indemnifying the County. Such Authorization shall be made a part of and shall be read together with this Release.

In consideration for the County's authorization for Requestor to construct and maintain a bulkhead on County Property, Requestor, Requestor's successors, assigns, and contractors agree to protect, defend, indemnify, and hold St. Johns County and its tenants, elected officials, officers, employees, and agents, free and unharmed from and against any, and all, third party (including employees of owner and its contractors, and subcontractors) claims, liability, losses, and/or cause of action, which may arise from any negligent act or omission of Requestor's staff, employees, or agents (including court costs and reasonable attorneys' fees) associated with, or connected with, the bulkhead by Requestor, and its contractors, including ingress and egress thereto. Requestor will also reimburse the County for damages sustained as a result of negligence of Requestor's employees, or the employees of Requestor's contractors, or other subcontractors assisting requestor.

Requestor acknowledges that bulkhead Improvements in the right-of-way are under a license for permissive use only and does not operate to create or vest any property rights into the right of way. Nothing herein shall be interpreted as acceptance or ownership of any improvement or bulkhead placed in the County right-of-way. Bulkhead improvements in the right-of-way must be affirmatively accepted at the sole discretion of the Board of County Commissioners.

Requestor acknowledges that pursuant to Comprehensive Plan Objective E.1.1 and Section 2 of the St. Johns County Beach Code, Ordinance No. 2007-19, as amended, public access to the beach shall not be obstructed. The County retains the right to remove any structures on the property obstructing access and may provide an access walkway when funds are available.

Agreed to this ____ day of _____, 2018.

Signed, sealed and delivered in our presence:

Witnesses:

Requestor:

Print Name: _____

Print Name: _____

State of Florida
County of _____

Signed and sworn before me on this ____ day of _____, 2018, by
_____, who is/are personally known to me or
has/have produced _____ as identification.

Notary Public
My Commission Expires: _____

This instrument prepared by:
St. Johns County Real Estate Division
500 San Sebastian View
St. Augustine, Florida 32084

DECLARATION OF RESTRICTIVE COVENANTS

This **DECLARATION OF RESTRICTIVE COVENANTS (Declaration)**, made this ____ day of _____, 2018 between _____, (“Name”) whose mailing address is (Address, City, State & Zip), first party, and **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, (“County”) whose address is 500 San Sebastian View, St. Augustine, Florida, 32084, second party:

- A. “Name” at their expense, constructed and installed a bulkhead along their east property line including the County right-of-way together with stairs for public access to the beach at the east end of _____ Street.
- B. The bulkhead was constructed for the purpose of assisting oceanfront property owners against high tides, beach erosion, and to assist in protecting oceanfront property.
- C. “Name” is requesting acceptance of the bulkhead and stairs by the “County”.
- D. Pursuant to the Board of County Commissions acceptance of the Bill of Sale, Schedule of Values, and Release of Lien for said bulkhead and stairs “Name” and the “County” wish to enter into this Declaration, to be recorded in the public records of St. Johns County, Florida (“Public Records”) for the purpose of providing record notice that the lands described in EXHIBIT “A” (“Lands”) are subject to certain conditions for the acceptance of said bulkhead and stairs.

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. “Name” acknowledges the “County” is not required to replace the bulkhead and stairs should they be destroyed or damaged beyond repair for any reason or by any cause whatsoever.
- 2. Nothing herein shall be construed to obligate the County to perform maintenance, repair, or replacement of any portion of the bulkhead and stairs.
- 3. The “County” reserves the right to remove all or any portion of the bulkhead and stairs from the County right-of-way at any time whatsoever.
- 4. The “County” is not responsible for any property damage to the “Lands” resulting from the failure of the bulkhead and stairs, or any portion thereof.

5. Covenant running with the "Lands"; Successors and Assigns; the parties acknowledge and agree that the terms of this Declaration specifically touch and concern the use and maintenance of said bulkhead, stairs, and "Lands", and, therefore, the provisions of this Declaration shall constitute covenants running with the land, burdening the "Lands" and binding on any future owner with respect to the "Lands" or portion thereof.
6. No Third Part Beneficiaries. Notwithstanding anything to the contrary set forth in this Declaration, this Declaration is for the benefit of "County", and any Designated Successor only, and may not be relied upon, or enforced by any person or entity other than the "County" or its Designated Successor(s).
7. Amendment Waiver. This Declaration may not be modified or amended without the written consent of "County" or the Designated Successor, on the one hand, and "Name" or any Future Owner, on the other hand. Any such amendment shall be recorded in the Public Records. The failure by "County" or the Designated Successor to enforce any covenant, condition or restriction set forth herein shall in no event be deemed a waiver of the right to enforce the same or any other breach of violation thereof, and no waiver of any right or obligation hereunder shall be effective unless in writing signed by the party to be charged with such waiver.
8. Effect of Declaration. This Declaration is intended to memorialize the agreement between "County" and "Name" under the Agreement with respect to the matters set forth herein. Nothing in this Declaration is intended to limit "County's" rights under the Agreement, whether or not full set forth herein as to any other matter, including other provisions of the Agreement, which survive any Closing and termination of the Agreement.
9. Termination of Declaration. Notwithstanding anything to the contrary contained herein, this Declaration shall terminate automatically in thirty (30) years. "County" agrees that after this Declaration has automatically terminated, within ten (10) days after written request from "Name" or any third party purchaser of the "Lands", deliver to the requesting party a document in recordable form acknowledging such termination. Requests for such documentation acknowledging termination of this Declaration must be sent to "County" at the address first set forth above, or such other address as "County" may designate by recorded amendment to this Declaration, from time to time.
10. Notices. Any notice to be given or to be served upon any party hereto in connection with this Declaration must be in writing, and may be given by certified mail, hand delivery or overnight receipt delivery service, and shall be deemed to have been given and received; (a) if given by certified mail, three (3) days after the letter, properly addressed, with postage prepaid, is deposited in the United States mail; or (b) if given by overnight delivery or courier service, when received by the party to whom it is addressed or such party's agent or representative. Such notices shall be given to the parties at the addresses set forth in the preamble of this Declaration.
11. Enforcement. In the event of the breach of any of the provisions set forth in this Declaration, "County" or Designated Successor, shall be entitled to all rights and remedies available at law (except for the recovery of special, consequential or punitive damages which are hereby waived) or in equity, including, without limitation, injunctive relief for the immediate and irreparable harm that would be caused by any act or omission by "Name" or any Future Owner to comply with the terms of this Declaration, In the event of any action for enforcement of this Declaration by "County" or its Designated Successors, such enforcing

party shall be entitled, in addition to all other relief granted by the court, to a judgement for reasonable attorneys' and legal assistants' fees and costs incurred by reason of such action, and all costs of mediation, arbitration or suit at both the trial and appellate levels.

12. Governing Law and Venue. This Declaration shall be construed by and controlled under the laws of the State of Florida. Venue and jurisdiction for any dispute arising under this Declaration shall be exclusively in the courts located in the County, or the United States District Court for the Middle District of Florida.
13. Jury Trial Waiver. The parties each knowingly, voluntarily and intentionally waive any right which either of them may have to a trial by jury with respect to any litigation or legal proceeding based upon or arising directly, indirectly or otherwise in connection with, out of, related to or from this Declaration including, by way of example but not limitations, any course of conduct, course of dealings, verbal or written statements or acts or omissions of either party which in any way relate to this Declaration. The parties have specifically discussed and negotiated for this waiver and understand the legal consequences of it.
14. Severability. In case any one (1) or more of the provisions contained in this Declaration is found to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Declaration shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein unless such unenforceable provision results in a frustration of the purpose of this Declaration or the failure of consideration.
15. Construction. The parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Declaration and that this Declaration has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Declaration shall not be construed or interpreted for or against any party hereto based upon authorship.

IN WITNESS WHEREOF, the parties have executed this Declaration as of the date and year set forth above.

Witness (Print Name): _____

Witness (Print Name): _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ___ day of _____, 2018, by _____, He/She/They are personally known to me or has produced _____ as identification.

Notary Public, State of Florida

My commission expires: _____

Witness (Print Name): _____

(Name), Chair

Witness (Print Name): _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ . He/She/They are personally known to me or has produced _____ as identification.

Notary Public, State of Florida

My commission expires: _____