





**AMENDMENT TO  
AGREEMENT AND LICENSE FOR PROPERTY ACCESS TO TRIM VEGETATION  
BETWEEN  
PALM BEACH COUNTY  
AND O. R. CONDOMINIUM ASSOCIATION, INC.**

**THIS AMENDMENT TO THE AGREEMENT AND LICENSE** is made and entered into on this 27 day of October, 2022, by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "Grantor" or County, and O.R. CONDOMINIUM ASSOCIATION, INC., hereinafter referred to as "Grantee", both being herein referred to collectively as the "parties" for the sole purpose of providing access for permit approved trimming of native vegetation.

WITNESSETH:

**WHEREAS**, the parties entered into the Agreement and License for Property Access to Trim Vegetation ("Agreement") on November 7<sup>th</sup>, 2017, to grant Grantee access over County property for permit approved trimming of native vegetation; and

**WHEREAS**, the parties desire to amend the Agreement to extend the term of the Agreement from November 7<sup>th</sup>, 2022 to November 1<sup>st</sup>, 2027 and revise certain provisions as described below;

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and representation herein, the parties agree as follows:

1. Section 4, Grantee's Obligations, of the Agreement, is hereby amended as follows:

**Grantee's Obligations.** Grantee shall obtain all local and state permits and approvals required by all applicable governmental entities to perform the acts contemplated herein. Grantee shall safeguard and maintain the License Premises and its immediate environs throughout the term of this Agreement when exercising the rights granted herein. Any damage caused by Grantee or its subcontractors, agents or employees to the License Premises or any property of the Grantor or others located on Grantor's property shall be immediately (in no event later than 30 days) repaired by the Grantee at Grantee's sole expense. Such repair work may include, but is not limited to, replanting sea grapes with vegetation of similar size to that damaged and providing sufficient irrigating for successful reestablishment of such sea grapes to the allowable trimmed height.

Grantee shall provide Grantor with thirty (30) days written notification of Grantee's desire to enter onto the License Premises for a major trimming event. Seven (7) days written notification shall be given for minor trimming.

Prior to a major trimming event, Grantee shall perform a pre-trim night inspection from the beach to assess existing lighting. If the inspection reveals that exposure of additional lights or indirect illumination will occur due to the trimming, corrective action must be taken prior to this trimming

event. Corrective action shall include but is not limited to the Grantee adhering to all applicable sea turtle codes and ordinances in effect during the term of the Agreement. Self-monitoring by the Grantee of the number of interior and exterior lights visible from the beach must be conducted once per month on a new moon during sea turtle nesting season. Results of the monitoring shall be sent to Grantee residents and Grantor within 5 days of each monitoring event.

A major trimming event is permitted once per year and shall occur only outside of sea turtle nesting season (November 1 – February 28). Minor trimming events (less than 1-foot vertical reduction) for maintenance of trimmed height can occur at any time.

The Grantee shall remove all existing exotic vegetation (Category I species as defined by the Exotic Pest Plant Council) located within the License Premises during each trimming event. Trimming must be performed in compliance with the Tree Care Industry Association ANSI A300 Standards for Crown Reduction Pruning by an experienced vendor who is knowledgeable of proper trimming techniques.

Trimming heights shall not be any lower than 6 feet on the north 90 feet of dune, shall transition evenly on an upward slope from 6 feet to 10 feet on the central 180 feet of dune, and be no lower than 10 feet on the south 180 feet of dune. Grantee shall ensure that all trim heights will be measured from the sidewalk and that PVC reference markers are installed to mark minimum trim heights. The trimming Plan is set out in Exhibit "~~A~~" "B", attached hereto and incorporated herein.

Prior to each nesting season, it is the responsibility of Grantee to verify that disorientation data will be collected (documented) for the season within the disorientation evaluation area described in Exhibit "A" by a Florida Fish & Wildlife Conservation Commission (FWC) marine turtle permit-holder. In the alternative, Grantee shall hire a qualified consultant, who holds a FWC permit, to document disorientation. Disorientation data shall be collected daily during the sea turtle nesting season within the disorientation evaluation area described in Exhibit "~~B~~" "A". Following the conclusion of each sea turtle nesting season, Grantee must present to the Grantor an evaluation of annual disorientation totals for the disorientation evaluation area. If the Grantor reasonably determines that trimming events are increasing sea turtle disorientation, it shall so advise Grantee and the parties will in good faith attempt to work out a resolution to the problem. If the parties are unable to resolve the disorientation problem, the Grantor may immediately give notice of termination of this Agreement.

Grantee acknowledges and agrees that Grantor may at its own expense have a representative on-site observing the activities of Grantee during trimming and in the event Grantee, its agents, employees or subcontractors are violating the terms of this Agreement, Grantor and its representatives shall have the right to stop the work in progress, and Grantee shall hold Grantor harmless from such work stoppage. Grantee is solely responsible to pay for all costs related to sea grape trimming, exotic species removal and any corrective action in the event that the terms of this Agreement are violated.



2. Section 5, Term, of the Agreement is hereby amended as follows:

This Agreement shall be effective upon execution by both parties and shall continue ~~for five (5) years from the date of execution, until November 1<sup>st</sup>, 2027,~~ unless earlier terminated as provided herein. After the ~~initial five-year~~ term, the parties shall in good faith evaluate whether this Agreement has had a detrimental effect on sea turtles and, if not, whether it should be extended. At that time, the parties may decide to extend the Agreement for an additional period of time to be agreed upon by the parties.

3. Section 8, Insurance, of the Agreement is hereby amended as follows:

Grantee and its subcontractors, agents or vendors who actually perform the vegetation trimming work provided for herein shall maintain the insurance provided for herein below, which shall cover Grantee's performance under this Agreement.

**Grantee** agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Agreement the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as GRANTOR's review or acceptance of insurance maintained by Grantee is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Grantee under this contract. In addition, Grantee agrees to notify GRANTOR of any cancellation, non-renewal or material change taking place during the life of this Agreement.

**Commercial General Liability** Grantee agrees to maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall not contain any endorsement(s) excluding nor limiting Premises/Operations, Personal Injury, Product/Completed Operations, Contractual Liability, Severability of Interests or Cross Liability. Coverage shall be provided on a primary basis.

**Additional Insured** Grantee agrees to endorse COUNTY as an Additional Insured with a CG2026 Additional Insured or its equivalent – Designated Person or Organization endorsement to the Commercial General Liability. The additional insured shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents. Coverage shall be provided on a primary basis.

**Waiver of Subrogation** Except where prohibited by law, Grantee hereby waives any and all rights of Subrogation against the GRANTOR, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Grantee shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should Grantee enter into such an agreement on a pre-loss basis.

**Certificate(s) of Insurance** On execution of this Agreement, within forty-eight (48) hours of a request by Grantor, and upon expiration of any of the required coverage throughout the term of this Agreement, Grantee agrees to provide GRANTOR a Certificate(s) of Insurance evidencing

that all coverages, limits and endorsements required herein are maintained and in full force and effect. In addition, Grantee agrees to notify GRANTOR of any cancellation, non-renewal or material change taking place during the life of this contract. The Certificate Holder address shall read:

PALM BEACH COUNTY

Director  
Palm Beach County Department of Environmental Resources Management  
2300 North Jog Road 4th floor  
West Palm Beach, FL 33411  
Facsimile: 561-233-2414

**In addition** to the requirements above, the following requirements apply to the vendor(s) / subcontractors who will be doing the work.

**Business Automobile Liability** Grantee agrees to maintain Business Automobile Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Grantee does not own automobiles, Grantee agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy. Coverage shall be provided on a primary basis.

**Worker's Compensation Insurance & Employers Liability** Grantee agrees to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440. Coverage shall be provided on a primary basis.

**Umbrella or Excess Liability.** Grantee may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. Grantee agrees to endorse GRANTOR as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a pure/true "Follow-Form" basis.

**Right to Review** Grantor reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the GRANTOR reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due to its poor financial condition or failure to operating legally.

4. Section 10, Non-Discrimination, of the Agreement is hereby amended as follows:

~~Non Discrimination. Grantor and Grantee agree that no person shall, on the grounds of age, race, color, sex, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, or gender identity or expression, or genetic information be excluded from the benefits~~

~~of, or be subjected to any form of discrimination under, any activity carried out by the performance of this Agreement.~~

~~Grantee has submitted to Grantor a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R 2014 1421, as amended, or in the alternative, if Grantee does not have a written non-discrimination policy or one that conforms to the Grantor's policy, it has acknowledged through a signed statement provided to Grantor that Grantee will conform to the Grantor's non-discrimination policy as provided in R 2014 1421, as amended.~~

Non-Discrimination. The Grantor is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Grantee warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

As a condition of entering into this Contract, the Grantee represents and warrants that it will comply with the Grantor's Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the Grantee shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Grantee retaliate against any person for reporting instances of such discrimination. The Grantee shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the Grantor's relevant marketplace in Palm Beach County. The Grantee understands and agrees that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification or debarment of the company from participating in Grantor contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Grantee shall include this language in its subcontracts.

5. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement on the day and year first written above.

O.R. CONDOMINIUM ASSOCIATION, INC.

  
Richard Dubnoff, President


Date: 10/4/22

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

BY: /s/ Scott A. Stone  
Scott A. Stone  
Assistant County Attorney

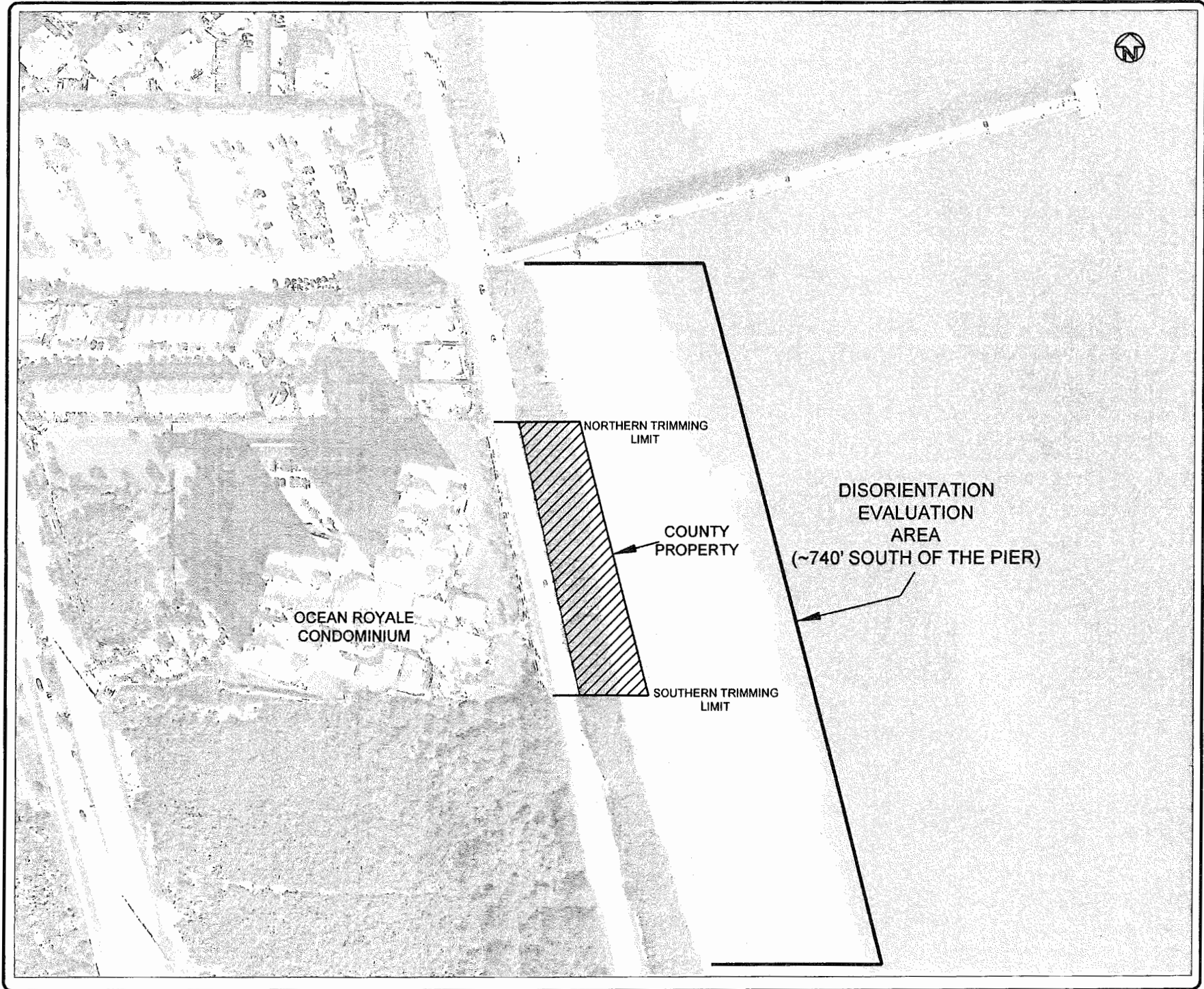
Date: 10/13/2022

PALM BEACH COUNTY

BY:   
Deborah Drum, Department Director  
Environmental Resources Management

Date: 10/27/22





PALM BEACH COUNTY  
 DEPARTMENT OF  
 ENVIRONMENTAL RESOURCES MANAGEMENT  
 2300 NORTH JOG ROAD, 4th FLOOR  
 WEST PALM BEACH, FLORIDA  
 (561) 233-2400

Scale:	AS NOTED
Approved:	DS
Drawn:	RB
Checked:	DS
Date:	07/2022
Field Book No.:	

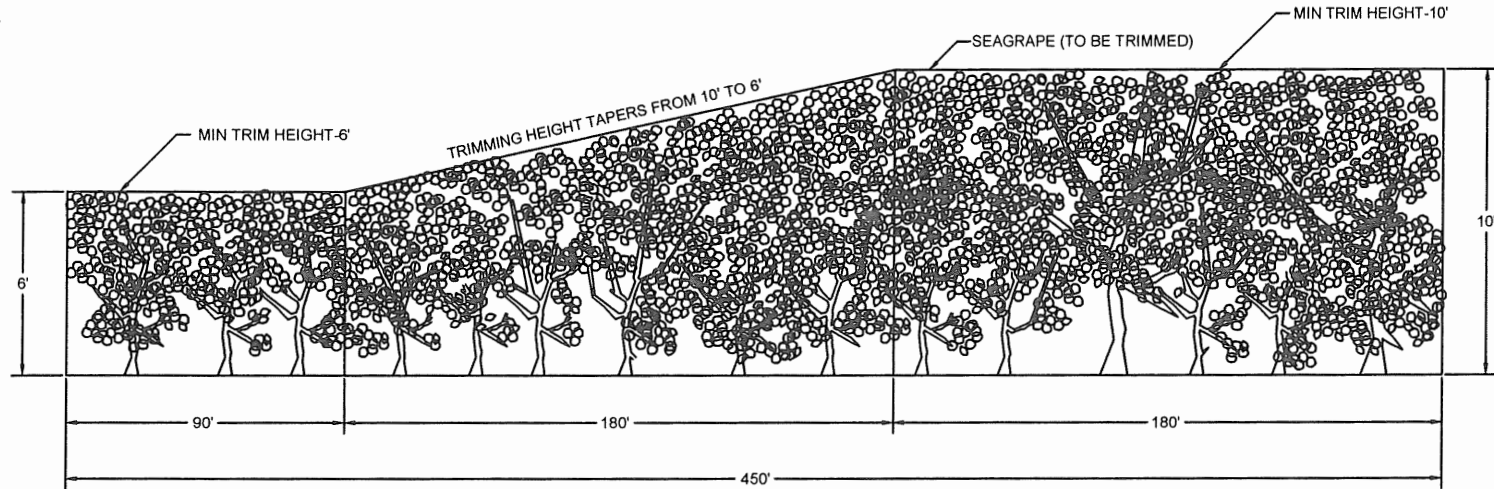
SEAL

Project:  
**DUNE TRIMMING EAST OF  
 OCEAN ROYALE CONDO**  
 JUNO BEACH, FLORIDA

Sheet:  
**EXHIBIT A**

### ELEVATION A

(VIEW LOOKING EAST ACROSS A1A FROM THE OCEAN ROYALE CONDO)

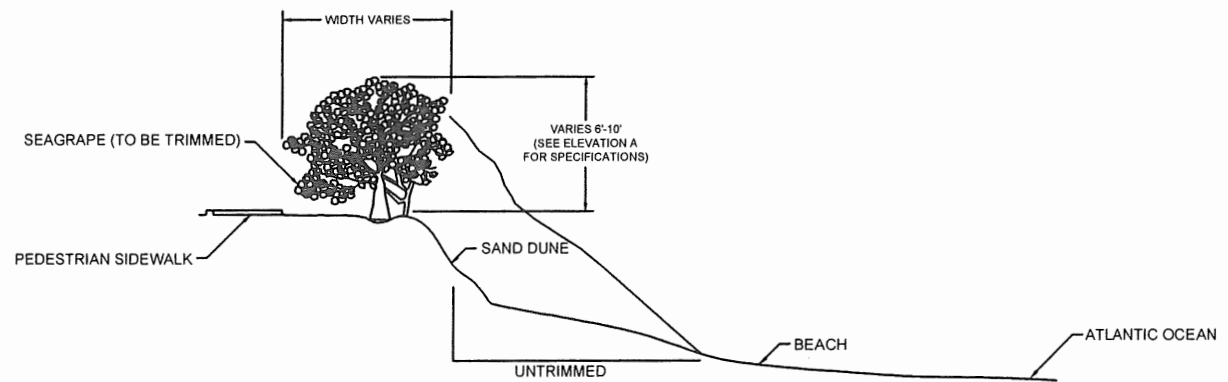


VERTICAL SCALE 1:6  
HORIZONTAL SCALE 1:60




### ELEVATION B

(VIEW LOOKING NORTH DOWN A1A DIRECTLY EAST OF THE OCEAN ROYALE CONDO)



NOT TO SCALE

PALM BEACH COUNTY  
DEPARTMENT OF  
ENVIRONMENTAL RESOURCES MANAGEMENT  
2300 NORTH JOG ROAD, 4th FLOOR  
WEST PALM BEACH, FLORIDA  
(561) 233-2400



By:	RB
Checked:	CT
Date:	7/12
Scale:	AS NOTED
Approved:	PD
Drawn:	RB
Field Book No.:	

SEAL

Project: SEAGRAPE TRIMMING EAST OF OCEAN ROYALE CONDO  
JUNO BEACH, FLORIDA

Sheet: EXHIBIT B

ATTACHMENT 2

AUG 8 2018



**INTEROFFICE MEMORANDUM**  
**Palm Beach County**  
**Environmental Resources Management**

**DATE:** August 2, 2018

**TO:** Verdenia C. Baker  
County Administrator

**THROUGH:** Patrick Rutter *PRR*  
Assistant County Administrator

**FROM:** Deborah Drum, Director *DD 8/7/18*  
Environmental Resources Management

**SUBJECT:** CLARIFICATION OF THE INTENT OF PREVIOUS DELEGATION  
OF APPROVAL AUTHORITY MEMOS

The intent of previously delegated authority memos was to delegate the signatory authority to the current Director and Deputy Director of Environmental Resources Management (ERM).

This memorandum clarifies that Deputy Director Michael Stahl and I have signatory authority to sign all future time extensions, task assignments, certifications, and other documents associated with previously approved and delegated Board items. If you agree, please sign below and return this memorandum. I am available to answer any questions you may have concerning this request. Thank you in advance for your consideration.

APPROVED: *VC Baker* DATE: 8/9/18  
Verdenia C. Baker, County Administrator

DD:kf




**INTEROFFICE MEMORANDUM**  
**Palm Beach County**  
**Environmental Resources Management**

**DATE:** November 16, 2017

**TO:** Verdenia C. Baker  
County Administrator

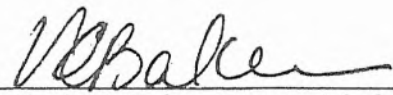
**THROUGH:** Jon Van Arman  
Deputy County Administrator

**FROM:**  Robert Robbins, Director  
Environmental Resources Management

**SUBJECT:** REQUEST FOR DELEGATION OF APPROVAL AUTHORITY:  
An Agreement and License for Property Access to trim vegetation  
with the O.F. Condominium Association, Inc.

On November 7, 2017, agenda item 3L1 (R2017-1695) the County Commission approved the County Administrator, or designee to sign all future extensions, task assignments, certifications, forms or any necessary minor amendments that do not substantially change the scope of work, terms or conditions of the Agreement.

This memorandum is my request for delegation of signatory authority for the Director or Deputy Director of Environmental Resources Management (ERM) to sign all future time extensions, task assignments, certifications, documents and any necessary minor amendments that do not substantially change the scope of work or terms and conditions of the Agreement. If you agree, please sign below and return this memorandum. I am available to answer any questions you may have concerning this request. Thank you in advance for your consideration.

APPROVED:  DATE: 11/22/17  
Verdenia C. Baker, County Administrator

RR:mc  
Attachment