

## **EXHIBIT 'A'**

This Instrument Prepared by And Should Be Returned to:

Town of Lake Park  
Office of the Town Manager 535 Park Avenue  
Lake Park, FL 33403

### **RIGHT-OF-WAY IMPROVEMENT & MAINTENANCE AGREEMENT**

THIS RIGHT-OF-WAY IMPROVEMENT & MAINTENANCE AGREEMENT (“**Agreement**”) is made by and between the **TOWN OF LAKE PARK**, a municipal corporation of the state of Florida (“**Town**”), having an address of 535 Park Avenue, Lake Park, Florida 33403, and **NAUTILUS 220 CONDOMINIUM ASSOCIATION, INC.**, a Florida not for profit corporation, its successors and assigns, having an address of 11231 US Highway 1 Suite 354, North Palm Beach, FL 33408 (“**Association**”).

WHEREAS, the Town Commission is the governing body of the Town and has authority over the Town’s roads, alleys and rights-of-way within the Town street system;

WHEREAS, the Town generally maintains the Town rights-of-way platted or dedicated to it for public use;

WHEREAS, Forest Development LLC (the “**Developer**”) is developing a mixed-use condominium project known as “Nautilus 220”, located at 220 Lake Shore Drive, Lake Park, Florida 33403 (the “**Project**”);

WHEREAS, the Project features specialized landscaping, hardscape, lighting, and streetscape furniture, some of which will encroach upon a public right-of-way as set forth in the applicable plans approved by the Town (the “**Approved Plans**”);

WHEREAS, the Town has entered into an agreement with the Florida Department of Transportation (“**FDOT**”) whereby the Town is responsible for the costs of installation and maintenance of the landscaping and improvements to SR 5 / North Federal Highway (U.S. 1), at the request and for the benefit of the Association;

WHEREAS, the Developer is constructing the Project and all of the landscaping and improvements set forth in the Approved Plan and further authorized herein;

WHEREAS, Association, and not the Town, shall have the sole responsibility of maintaining any and all landscape improvements within the Maintenance Area (as defined herein);

WHEREAS, the Town Commission has previously reviewed the Approved Plans and finds that the aesthetics and specialty features planned for the right-of-way will enhance the streetscape to the benefit of the public; and

WHEREAS, the Town and the Association mutually recognize the need for entering into this Agreement designating and setting forth the responsibilities of each party with respect to the improvements in the right of way, as defined below and more fully described herein.

NOW THEREFORE, in consideration of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and are incorporated herein by reference.
2. **Encroachment and License.** The Town hereby consents to the encroachments of the those certain specialized landscaping, hardscape, lighting, and streetscape furniture described herein within the Town’s public rights-of-way of Cypress Drive, Lake Shore Drive and Bayberry Drive. In order to perform its obligations under this Agreement, Town grants Association, its successors and/or assigns, employees, contractors and agents, a non-exclusive license to access and use the Maintenance Area (as described below in Paragraph 4) for the purposes described in this Agreement.
3. **Installation and Maintenance Responsibilities.** Pursuant to the Approved Plans, Developer, at Developer’s expense, shall install the following landscape and hardscape improvements in accordance with the Approved Plans: landscaping, street trees, ground cover and sod; irrigation for all landscaping within the rights-of-way; concrete and concrete pavers along sidewalks, and streetscape furniture, including but not limited to, decorative street lighting, accent lighting, benches, bicycle racks, and trash receptacles (the “**Landscape Improvements**”). After installation, Association, at Association’s expense, shall be solely responsible for maintaining the Landscape Improvements.
4. **Area to Be Maintained.** The area to be maintained by the Association is: (i) that area encompassed by the FDOT Agreement, specifically known as “SR 5 / North Federal Highway/ U.S. 1” as further set forth in Exhibit B; and (ii) that area of the right- of-way along the building frontage, sidewalk and surrounding landscape area Cypress Drive, Lake Shore Drive, and Bayberry Drive as shown on Exhibit A (the “**Maintenance Area**”), attached hereto and incorporated herein, adjacent to the Association’s property, and the PCNs and legal descriptions below:

PCN(s)# 36-43-42-20-01-114-0010, 36-43-42-20-01-114-0391, 36-43-42-20-01-114-0351, 36-43-42-20-01-114-0352, 36-43-42-20-01-114-0090 & 36-43-42-20-01-114-0130

Legal Description:

Parcel 1:

Lots 13,14 and 15, less County road right-of-way; and west 70 feet of Lots 32, 33 and 34, all in Block 114, Kelsey City (now known as Lake Park), according to the Plat thereof, on file in the Office of Clerk of the Circuit Court, in and for Palm Beach County, Florida, recorded in Plat Book 8, Page 15 and 23.

Parcel 2:

Lots 9, 10, 11 and 12, and the West 76.70 feet of Lots 35, 36, 37 and 38, all in Block 114, Kelsey City (now known as Lake Park), according to the Plat thereof as recorded in Plat Book 8, Page 23, less that portion conveyed for road right-of-way described in Deed Book 803, Page 223, and Deed Book 803, Page 305, Public Records of Palm Beach County,

Florida.

Parcel 3:

The East 210 feet of Lots 35, 36, 37 & 38, Block 114, Lake Park (formerly Kelsey City), according to the Plat thereof, on file in the Office of the Clerk of Circuit Court, in and for Palm Beach County, Florida, recoded in Plat Book 8, Pages 15 and 23.

Parcel 4:

Lots 1 to 8, both inclusive, Block 114, less the West 20 feet thereof for road right-of-way, and the West 108 feet of Lots 39 to 46, both inclusive, Block 114, Kelsey City (now known as Lake Park), according to the plat thereof on file in the Office of the Clerk of Circuit court in and for Palm Beach County, Florida, recorded in Plat Book 8, Pages 15 and 23.

Parcel 5:

Lots 39, 40, 41, 42, 43, 44, 45 and 46, Block 114, less the west 108 feet thereof Kelsey City, according to the plat thereof, on file in the Office of the Clerk of Circuit Court, in and for Palm Beach County, Florida, recorded in Plat Book 8, Page 23.

Said lands lying in the Town of Lake Park, Palm Beach County, Florida and containing total net area of 121,041 square feet (2.779 acres), more or less (the "**Property**").

5. **Association's Maintenance Responsibilities.** Association shall maintain, or cause to be maintained by contractor(s) of Association's choosing, the Landscape Improvements within the Maintenance Area according to the standards set forth below:

5.1 **Landscaping.** The landscaping, planting beds, trees, turf areas and irrigation system within the Maintenance Area shall be maintained by Association, regardless if the said improvement was made by the Town or Association, by periodic mowing, fertilizing, weeding, curb and sidewalk edging, pruning, litter pickup, necessary replanting, and irrigation system repair, in compliance with the following requirements. Association shall maintain Landscape Improvements as necessary or reasonably appropriate to keep the Landscape Improvements in substantially the same or better conditions as when originally installed.

a. **Watering Requirements.** Plant materials shall be watered to provide even and thorough water dispersal to wet the entire root zone, but not saturate the soil or overspray onto travel lanes. Irrigation systems shall be operated in accordance with Chapter 34, Article III of the Town Code.

b. **Integrated Plant Management Fertilization.** Association shall perform an assessment of each planting area's soil periodically to determine the nutrient levels and need for fertilization. Palms, shrubs, trees and turf areas should be fertilized in such a manner and frequency to ensure that the plant material remains healthy and vigorously growing. All fertilizing of plant material shall comply with Chapter 32, Article IV of the Town Code.

c. **Mulching.** Association shall mulch planting beds in such a manner as to: prevent weed growth; retain moisture to the plants; protect against soil erosion and nutrient

loss; maintain a more uniform soil temperature; and improve the appearance of the planting beds. Association shall avoid mulch mounded up on the trunks of trees, palms, and the base of shrubs to encourage air movement in this area which aids in lowering disease susceptibility. In accordance with Section 78-253 of the Town Code, Association shall install in all tree and shrub beds at least two inches of mulch. Mulch shall be temporarily applied to areas not immediately covered by ground cover. Where mulch is intended to be installed permanently, it shall be renewed and maintained at three inches of depth. Mulch shall be thoroughly wet at the time of application to prevent wind displacement.

d. Pruning. All pruning and tree trimming shall be performed in accordance with Section 78-254 (d) of the Town Code and according to American National Standard Institute ANSI A300 standards, and shall be supervised by a certified arborist. Association shall ensure that pruning is carried out with consideration for the health and natural growth of plant materials and to maintain clear visibility for motorist and bicyclist, vertical clearance for pedestrians, bicyclist, and truck traffic where applicable, and to prevent potential roadway hazards. Landscaping within a visibility triangle shall be pruned in compliance Sections 78-254 (d) (5) and Section 34-7 of the Town Code.

e. Staking and Guying. All staking materials, except for replacements, shall be removed by the earlier of the expiration of any applicable warranty period or one year from installation. Staking and guying attachment materials shall be securely fastened and closely monitored so that they do not create public hazards.

f. Turf Mowing. All grassed areas shall be mowed and trimmed with sufficient frequency to maintain a deep, healthy root system while providing a neat and clean appearance to the urban landscape.

g. Weeding/Herbicide. All planting areas shall be maintained as weed free as reasonably practicable, by maintaining proper mulch levels. Any damage resulting from chemical herbicide overspray onto plant materials shall be remedied by Association by restoration of the plantings to the Approved Plans.

h. Plant Replacement. Plant replacement shall be substantially the same species, specification, size and quality, provided under the Approved Plans. Should it become necessary to change the species, then prior to any replacement, Association shall submit the proposed species to be substituted to the Community Development Department. Any such change shall be subject to it's reasonable approval.

5.2 Irrigation System. Irrigation systems shall be operated in accordance with Chapter 34, Article III of the Town Code. Association shall use commercially reasonable efforts to ensure there is no roadway overspray from the irrigation system during high traffic period, shall operate the system in compliance with Chapter 34, Article III of the Town Code, and shall adhere to any mandated water restrictions. To ensure water conservation, the irrigation system shall be monitored for water leaks and the rain sensors regularly checked to ensure they are functioning properly so that the system shuts down when there is sufficient rainfall. All utility costs associated with the irrigation systems, including the on-going cost of water, shall be the responsibility of the Association.

5.3 **Utilities.** All costs associated with the utilities associated with the irrigation systems, including the on-going cost of water, are Association's responsibility.

5.4 **Sidewalk and Hardscape.** The portion of the sidewalk, with specialty surfacing and/or pavers, and any hardscape and planters within the Maintenance Area shall be maintained and repaired as necessary so that such areas do not become a safety hazard. If the sidewalk/hardscape becomes damaged and requires replacement, it shall be replaced with substantially the same type and specifications as shown on the Approved Plans. Association shall provide maintenance, and repair or replace any portion of the curb and sidewalk in the Maintenance Area which is lifted, cracked or damages due to roots extending from the Landscape Improvements as necessary to prevent a safety hazard and to maintain the aesthetics.

5.5 **Tree Grates.** If tree grates are required under the Approved Plans or are provided, the Association shall maintain all tree grates in such a manner as to prevent any potential tripping hazards and protect damage to the tree grates and trees. If the tree grate(s) becomes damaged, grates shall be replaced with the same type and specifications as originally approved.

5.6 **Landscape Lighting.** Landscape accent lighting shall be maintained in such a manner as to prolong the life of the lighting fixture so the same shall not become a safety hazards. If the lighting fixtures and system become damaged and require replacement, they shall be replaced with substantially the same type and specification identified in the Approved Plans.

5.7 **Streetscape Furniture and Enhancements.** Association shall maintain and repair, or if necessary, replace, any bike racks, garbage cans, or other street furniture or enhancements installed in the Maintenance Area by Town as of the date of this Agreement, or by Association as part of the Landscape Improvements, so the same shall not become a safety hazard and to maintain the aesthetics. Replacement items shall comply with the Approved Plans.

5.8 **Litter.** Association shall keep the Maintenance Area reasonably free from litter, and shall be responsible for collecting the garbage from the garbage cans installed within the Maintenance Area.

5.9 **Standard of Maintenance.** The Association shall provide maintenance and operation services in a diligent, careful and thorough manner consistent with good property management practice. Any of the foregoing standards requiring the prevention of a hazard shall refer to a hazard caused by the Association's failure to properly maintain the applicable Landscape Improvements in accordance with good property management practice.

5.10 **Compliance with Laws.** In performing its maintenance and repair obligations, the Association shall promptly comply with the applicable statutes, ordinances, rules, orders, regulations and requirements of all local, state and federal agencies; however the Association shall not be required to install any additional Landscape Improvements within the Maintenance Area. Furthermore, Association shall secure any applicable local, state, or federal permits necessary for the fulfillment of its obligations herein.

6. **Failure to Maintain.** If at any time it is determined by the Town that Association is not reasonably maintaining the Maintenance Area pursuant to the terms of this Agreement, the Town may, at its option, issue a written notice to Association of each deficient maintenance. If

Association does not correct and improve such deficient maintenance within thirty (30) calendar days of receipt of the Town's written notice (the “**Cure Period**”), the Town may declare Association to be in breach of this Agreement and may cause such deficiencies to be corrected and, in addition to any other rights and remedies it may have, the Town may make any necessary corrections or improvements and bill Association for the actual documented costs of such correction, plus a reasonable administrative fee, not to exceed 15% of the documented costs. Association shall then remit to the Town the amount so billed within thirty (30) calendar days of Association's receipt of such bill. However, if Association has commenced the appropriate actions to cure the violation within the Cure Period and thereafter diligently continues to pursue the cure of the violation, then the Cure Period shall be extended for so long as reasonably necessary to cure such violation given the nature or the violation and other factors not within Association's direct control. Notwithstanding the foregoing, Association acknowledges that, in the event of a failure to cure the violation, or after more than one (1) uncured violation in a calendar year, or a series of uncured violations for failure to maintain the Landscape Improvements over several years, the Town reserves the right, following the applicable notice and Cure Period, to remove the Landscape Improvements within the right-of-way and charge the Association the reasonable costs of such removal.

7. **Town Agreement with FDOT.** Association hereby acknowledges that the Town is entering into that certain Florida Department of Transportation District Four Landscape Maintenance Memorandum of Agreement, dated \_\_\_\_\_, 2024, with the Florida Department of Transportation (the “**FDOT Memorandum**”), a copy of which is attached hereto as Exhibit B. Association hereby agrees to perform, at Association’s sole cost and expense, any and all obligations of the Town pursuant to the FDOT Memorandum. Association shall be fully responsible to perform any and all of the installation and maintenance obligations of the Town throughout the duration of the FDOT Memorandum.

8. **Future ROW Landscape Improvements.** Association acknowledges and agrees that the Town reserves authority over the roads and rights-of-way owned and maintained by the Town and that it has the right to make such changes to the configuration and traffic pattern of the roads and/or rights of way within the Maintenance Area as it deems appropriate. Association understands and agrees that Landscape Improvements covered by this Agreement may be removed, relocated or adjusted at any time in the future, as determined to be necessary by the Town. Association shall be given not less than sixty (60) calendar days notice to remove any of the said Landscape Improvements at the Association's expense. In the event the Town makes changes to the configuration or traffic pattern of the rights of way within the Maintenance Area, or makes any improvements in the Maintenance Area, the Town shall have no liability to Association for any damage that may occur to the Landscape Improvements in the Maintenance Area.

9. **Association's Additional Landscape Improvements.** Association shall not make any additional improvements in the Maintenance Area unless the plans for such additional improvements have been previously approved in writing by the Town.

10. **Town's Responsibilities.**

10.1 The Town shall be responsible for the maintenance, repair, and replacement, as needed, of its rights-of-ways and roadways, curbs, concrete sidewalks and any other public

improvements within the Maintenance Area which are not the Association's express obligation to maintain, repair or replace under this Agreement.

10.2 The Town shall be responsible, and shall promptly reimburse Association, for any maintenance, repair, or replacement costs arising from damage to the Landscape Improvements to the extent such damage is caused by the negligent or intentional acts or omissions of the Town or its authorized agents, employees, contractors, subcontractors, successors, or assigns.

11. **Term.**

11.1 This term of this Agreement shall be in perpetuity and any subsequent amendments to this Agreement shall be in writing and executed by both parties, and shall only expire in the event that the Landscape Improvements are removed. Should any portion of the Landscape Improvements be removed, this Agreement, and the Association's obligations hereunder with respect to such portion, shall be deemed terminated as to the removed Landscape Improvements but shall remain in full force and effect as to any remaining Landscape Improvements unless otherwise terminated.

11.2 Notwithstanding anything to the contrary, the Town may unilaterally elect to terminate this Agreement for convenience by giving thirty (30) days' prior written notice to Association. Upon such termination, the Association shall be released from its obligations under this Agreement, and this Agreement shall be deemed terminated.

11.3 The termination of this Agreement shall not modify any approvals or other rights of the Association or any other third party unless (a) such approvals or rights were conditioned on the Association's compliance with this Agreement and (b) this Agreement was terminated by the Town due to a breach of this Agreement which was not cured within the Cure Period.

12. **Insurance.**

12.1 Association shall, upon the completion of the Landscape Improvements and issuance of a Certificate of Occupancy from the Town for the Project, maintain from a company or companies lawfully authorized to do business in Florida, such insurance to protect the Town from claims which may arise out of the installation of Landscape Improvements in the right-of-way and/or Association's failure to maintain the Maintenance Area in accordance with this Agreement, or by a contractor, subcontractor, agents, or employees of Association, or by anyone directly or indirectly employed by Association or by anyone for whose acts Association may be liable.

12.2 The insurance required shall be written for not less than the following limits of liability, adjusted every five (5) years to ensure coverages in the present-day equivalent coverages amounts shown below. Coverages shall be maintained without interruption from the effective date of this Agreement until the termination or expiration of this Agreement. Any liability coverage on claims made basis shall remain effective for five (5) years after final payment.

12.3 Association shall maintain the following minimum insurance coverages for the Maintenance Area.

a. Commercial General Liability: Commercial general liability insurance with limits not less than \$1,000,000.00 Combined Single Limit per each occurrence and

b. \$2,000,000.00 aggregate, for bodily injury. May not be subject to a self-insured retention or deductible exceeding \$50,000.00.

12.4 **Additional Insured**. The “Town of Lake Park, its commissioners, officers and employees” shall be named as additional insureds on all insurance policies..

12.5 **Certificate of Insurance**. Association shall annually furnish proof of the required insurance to the Town's Risk Manager. To be acceptable to the Town, each insurance certificate shall name the Town as an additional insured and should contain a clause substantially as follows:

“Should the above-described policies be canceled, not renewed, or materially modified before the expiration date, the issuing insurance company will mail thirty (30) days' written notice to the Risk Manager of the Town of Lake Park, 535 Park Avenue, Lake Park, Florida 33403.”

12.6 The Town shall continue to maintain its current insurance policies unless the Town Commission should determine otherwise during the term of this Agreement.

### 13. **Bonds**.

13.1 **Performance Bond**. In the event any contract for work within the Maintenance Area is \$200,000 or more, Association shall cause its contractor(s) to provide, on forms acceptable to the Town, a one hundred percent (100%) performance bond(s) in an amount not less than the total contract price by a surety company acceptable to Town, and which names the Town as a co-obligee under the bond.

13.2 **Payment Bond**. In the event any contract for work within the Maintenance Area is \$200,000 or more, Association shall cause its contractor(s) to provide, on forms acceptable to the Town, a one hundred percent (100%) payment bond in an amount not less than the total contract price covering payments to all claimants, as defined in Section 255.05(1), Fla. Stat., supplying such contractor with labor, materials, or supplies, used directly or indirectly in the work provided for in the contract, by a surety company acceptable to the Town, and which names the Town as a co-obligee under the bond.

13.3 **Recording of Bonds**. Association shall cause its contractor(s) to record the required bonds in the public records of Palm Beach County and Association shall provide certified copies of the recorded bonds to Town not more than ten (10) days from commencement of any work within the Maintenance Area with a contract value of \$200,000 or more.

13.4 **Bond Requirements**. Notwithstanding anything to the contrary contained herein, the bonding requirements set forth in this Section 12 shall not apply to any Landscape Improvements being installed in connection with the Project; rather, these bonding requirements, if applicable, shall only apply to work within the Maintenance Area in the future, that is, after the



Landscape Improvements have been installed in connection with the Project and after the Town has issued a Certificate of Occupancy for the Project.

14. **Notice of Claims.** In the event Association is notified in writing of any third-party claim for damages related to the Maintenance Area, Association shall provide written notice of such claim with all related facts and documents in Association's knowledge or possession, to the Town, within ten (10) calendar days of Association's receipt of written notice of such claim.

15. **Indemnification.** Association shall indemnify and hold harmless the Town and its elected and appointed officials, employees and agents (the "Indemnified Parties") from all liabilities, damages, losses and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of Association, its contractors, employees and agents, and any other persons directly or indirectly employed or utilized by Association in the performance of its maintenance obligations under this Agreement. Association agrees to pay all such claims and losses and shall defend all such suits, in the name of the Indemnified Parties, including but not limited to appellate proceedings, and shall pay all costs, judgments and reasonable attorneys' fees which may issue thereon. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this Agreement or otherwise. This section shall not be construed to require Association to indemnify the Indemnified Parties against the consequences of their own negligence, or intentional acts or omissions. Association and Town specifically agree that any contractual liability of Town to Association under this Agreement shall be limited to the same amounts established in Section 768.28, Florida Statutes. Nothing in this Agreement shall be deemed to be a waiver of the Town's sovereign immunity under Section 768.28, Florida Statutes. This clause shall survive the expiration or termination of this Agreement.

16. **Association's Additional Responsibilities.**

16.1 **Claims.** In the event of any third-party claims for damages related to the Maintenance Area, Association shall immediately provide written notice of such claim with all related facts and documents to the Town.

16.2 **Permits.** Association shall secure any applicable permits necessary for the fulfillment of its obligations under the terms and conditions of this Agreement.

16.3 **Flow of Traffic.** Should Association need to restrict the flow of traffic on the roadways near the Maintenance Area in order to perform its maintenance obligations, Association shall comply with the applicable governmental requirements related to restricting the normal flow of traffic.

16.4 **E-Verify.** Association, and its contractors, shall utilize the U.S. Department of Homeland Security's E-verify system to verify the employment eligibility of all new employees hired by Association to provide work in connection with the Maintenance Area during the term of this Agreement and to expressly require any contractors performing maintenance services pursuant to this Agreement to utilize the E-Verify system to verify the employment eligibility of new employees.



21. **Public Records.** The Association shall keep and maintain all plans, drawings, construction documents, technical specifications, specifications, correspondence, computer files, emails, and/or reports prepared with respect to the maintenance of the Landscape Improvements in the Maintenance Area. Any request to inspect or copy public records relating to the maintenance of the Maintenance Area shall be made directly to the Town. If the Town does not possess the requested records, the Town shall immediately notify the Association of the request, and the Association shall provide the records to the Town or allow the records to be copied within a reasonable time at the cost that would not exceed the cost allowed by law. All records stored electronically shall be provided to the Town, upon request, in a format that is compatible with the information technology systems of the Town. The Association shall ensure that public records that the Town has previously informed the Association are exempt or confidential and exempt from public records disclosure are not disclosed. Records that are exempt or confidential and exempt from public records requirements may include plans, drawings and records related to the physical security of Town facilities and systems and once so designated, shall not be disclosed by Association, except as authorized by law and specifically authorized by Town. Upon expiration or termination of this Agreement, the Association shall transfer, at no cost, to the Town all public records in possession of Association related to the maintenance of the Landscape Improvements in the Maintenance Area. Association shall destroy any duplicate public records that the Town has designated as exempt or confidential and exempt from public records disclosure requirements. Failure of the Association to provide public records to the Town within a reasonable time or allowable cost may be subject to penalties under Sec. 119.10, Fla. Stat., and may be cause for termination of this Agreement by the Town, in addition to any other remedies available under this Agreement or by law.

IF THE ASSOCIATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ASSOCIATION'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN CLERK, WHO IS THE TOWN'S CUSTODIAN OF PUBLIC RECORDS, AT:

Office of the Town Clerk Town of Lake Park  
535 Park Avenue  
Lake Park, FL 33403  
561-881-3311  
[TownClerk@lakeparkflorida.gov](mailto:TownClerk@lakeparkflorida.gov)

22. **Non-discrimination.** Association shall not discriminate against any person in performing its obligations under this Agreement because of race, color, religion, sex, gender identity or expressions, genetic information, national origin, age, disability, familial status, marital status or sexual orientation, or any other factor which cannot be lawfully used as a basis for treatment.

23. **Non-Binding Mediation.** Prior to the commencement of any court action arising out of this Agreement, the parties agree to attempt to resolve the dispute through non-binding mediation with a mediator mutually acceptable to both parties. The costs of such mediation shall be shared equally by the parties.

24. **Governing Law; Jurisdiction; Venue; Litigation.** This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law without regard to conflicts of law provisions. The parties hereby irrevocably submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida, for state law claims, or the Southern District of Florida, for any federal claims. The Association agrees to waive all defenses to any suit filed in Florida based upon improper venue or forum nonconveniens.

TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

25. **Severability.** Should any provision of this Agreement be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Agreement as a whole or any part thereof, other than the provision declared to be invalid, and every other term and provision of this Agreement shall be deemed valid and enforceable to the maximum extent permitted by law.

26. **Waiver.** No delay or failure on the part of the Town to exercise any right or remedy occurring to the Town upon the occurrence of an event or violation of this Agreement shall affect any such right or remedy, held to be in abandonment thereof or preclude the Town from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation by the Town shall be deemed to be a waiver of any subsequent event of violation. Furthermore, no waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates.

27. **Estoppel Certificate.** Town agrees, within fifteen (15) days after request by Association, to execute, acknowledge and deliver to Association or to any prospective purchaser, assignee or mortgagee designated by Association, a certificate stating: (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, that this Agreement is in full force and effect as modified, and identifying the modification agreements); (ii) whether or not there is an existing default by Association under this Agreement of which the Town has knowledge, and if there is any such default, specifying the nature and extent thereof; (iii) whether or not there are any defenses or counterclaims against enforcement of the obligations to be performed hereunder existing in favor of the Town; and (iv) such other matters concerning the status of this Agreement or the performance by Association of its obligations hereunder as shall be reasonably requested.

28. **Entire Agreement.** This Agreement and any exhibits which are incorporated into this Agreement in their entirety, embody the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous agreements and understandings, oral or written, relating to said subject matter.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have made and executed this Right-of-Way Improvement & Maintenance Agreement as of the date executed by the Town, which shall execute last.

Witness: Nautilus 220 Condominium Association, Inc.,  
a Florida not for profit corporation

By: \_\_\_\_\_ By: \_\_\_\_\_  
Farid Jazouli, Vice President

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF FLORIDA )  
) SS.  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged, sworn and subscribed before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_ day of \_\_\_\_\_, 2024, by Farid Jazouli, who [ ] is personally known to me or [ ] has produced a \_\_\_\_\_ as identification.

[SEAL]

\_\_\_\_\_  
Notary Public

ATTEST:

**TOWN OF LAKE PARK**

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
(MAINTENANCE AREA)

**EXHIBIT B**

(FDOT LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT)