

3-3)



**City Council Agenda Item**  
**Meeting of November 17, 2015**

---

**TO:** The Honorable Mayor and Members of the City Council  
**FROM:** James R. O'Connor, City Manager  
**DATE:** November 6, 2015

---

**SUBJECT:** Lease Agreement by and between City of Vero Beach, Florida and Indian River Rowing Club, Inc.

**REQUESTED BY:** Indian River Rowing Club, Inc.

---

Attached is a copy of the above-referenced Lease Agreement which has been executed by the Indian River Rowing Club, Inc. This item is being placed on the Council's agenda for review and consideration.

---

Prepared by and return to:  
City Attorney  
Courthouse Box 40  
P.O. Box 1389  
Vero Beach, FL 32961-1389

**Lease Agreement  
by and between  
City of Vero Beach, Florida  
and  
Indian River Rowing Club, Inc.**

**THIS LEASE AGREEMENT**, hereinafter "Lease," is entered into as of the 1st day of December 2015, hereinafter "Effective Date," by and between the **CITY OF VERO BEACH, FLORIDA**, a Florida municipal corporation, hereinafter "Landlord," and **INDIAN RIVER ROWING CLUB, INC.**, a Florida not for profit corporation, hereinafter "Tenant." Landlord and Tenant may also be referred to herein individually as a "party" or collectively as the "parties."

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Landlord and Tenant agree as follows:

**1. LEASED PREMISES.** Landlord hereby leases to Tenant that certain City-owned real property located in **Alex MacWilliam Boat Basin Park at 310 Acacia Road, Vero Beach, Florida 32963**, including certain submerged land and other lands adjacent thereto, as more fully described and depicted in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein, including all buildings, structures, and other improvements currently existing or hereafter constructed, hereinafter the "Premises." Tenant is granted a leasehold in government property under this Lease with the land, buildings, structures, and other improvements being retained by Landlord as a leased fee. All buildings, structures, and other improvements to real property (including those built or otherwise added by Tenant) shall be owned by Landlord from the outset and remain government property throughout the Term of this Lease and all Renewal Terms.

**2. TERM AND RENEWAL.** The term of this Lease shall be approximately **Twenty-five (25)** years from **December 1, 2015** through **November 30, 2040**, hereinafter the "Term." Landlord and Tenant may by mutual agreement in writing renew this Lease for additional terms, hereinafter "Renewal Term(s)." Should Tenant desire to renew this Lease for any Renewal Term Tenant shall provide to Landlord its written request to renew at least One Hundred Eighty (180) days prior to the end of the Term or the then current Renewal Term, otherwise the Lease shall automatically terminate. All renewals of this Lease or, at the option of Landlord any new lease shall require approval by Landlord's City Council.

**3. RENT, TAXES, AND OTHER CHARGES.** Total rent for the initial Term of this Lease shall be **Six Hundred Twenty-five Dollars (\$625.00)** to be paid to Landlord on or before the Effective Date of this Lease and shall be nonrefundable should early termination of this Lease occur. No diminution or abatement of rent or offset shall be claimed or allowed for any reason whatsoever. Tenant shall pay to Landlord with the rent all taxes legally imposed on the rent by taxing authorities. The amount of taxes imposed on the rent and payable by the Effective Date of this Lease is **\$43.75**. The total amount of the rent plus taxes due by the Effective Date is **\$668.75**. Should Tenant claim an exemption from payment of taxes imposed on rent by any taxing authority, Tenant shall provide to Landlord and keep on file with Landlord current proof of such exemption. Rent shall be subject to adjustment by Landlord for

any Renewal Term. Tenant shall pay the rent and all other charges required to be paid under this Lease by cash, valid check, money order, or cashier's check. In addition to the foregoing payments, Tenant shall be solely responsible for and pay to the appropriate authority by the due date all other taxes, fees, assessments, and other charges legally imposed or accruing against the Premises or Tenant's leasehold, which, for purposes of example only, may include but are not limited to ad valorem taxes and non-ad valorem assessments. Dispute of any such taxes, fees, assessments, or charges shall be solely the responsibility of Tenant at Tenant's sole cost and expense and Tenant shall indemnify and hold Landlord harmless for any and all such taxes, fees, assessments, and charges imposed as well as all costs and expenses arising from non-payment or late payment thereof or otherwise from any such dispute, including but not limited to penalties, interest, attorneys' fees, and experts' fees.

**4. UTILITIES.** Tenant shall be solely responsible for establishing and maintaining all utilities and other services needed to serve the Premises and for Tenant's operations and activities. Tenant shall promptly pay on or before the due date all charges for electric, water, sewer, communications, solid waste removal, and all other utilities and services serving the Premises. Tenant shall hold Landlord harmless from payment of charges for any and all such utilities and services and for any interruption in the use or services of such commodities.

**5. USE OF PREMISES.** Tenant understands, acknowledges, and agrees that pursuant to the restrictions of section 5.05 of the City of Vero Beach Charter, Tenant's occupation and use of the Premises is strictly limited to public or civic purposes which also serve a recreational, artistic, or cultural purpose. Such uses are and shall be limited to those related to Tenant's mission of service to the public and community in promoting and teaching the sport of rowing and providing other civic and recreational services and opportunities to the public and the community with emphasis on the team sport of rowing. In order to fulfill and enhance Tenant's intended and approved use of the Premises, Tenant shall construct a boathouse, dock, and other capital improvements on the Premises as provided herein.

**(a) Limitations and Conditions on Use.** Tenant shall only occupy or use the Premises solely for the public and civic purposes specified and similar related functions. Tenant shall be solely responsible for the operation, management, and maintenance of the Premises consistent with this Lease. Landlord shall have the sole and absolute right to determine whether any proposed or actual use of the Premises is within the uses contemplated and allowed by this Lease and section 5.05 of the City of Vero Beach Charter.

**(b) Supervision by Tenant; Control of Premises.** Tenant shall instruct, monitor, supervise, and manage its members, officers, directors, employees, volunteers, agents, representatives, participants, guests, contractors, sub-contractors, and other invitees in use of the Premises consistent with this Lease and all limitations, restrictions, laws, and regulations. Tenant and not Landlord shall have the right and duty to control access to the Premises by such persons and other third parties. Tenant shall be deemed for all purposes to be solely in possession and control of the Premises.

**(c) Non-discrimination.** Tenant expressly agrees for Tenant and Tenant's successors and permitted assigns, that no person, on the grounds of race, color, religion, national origin, age, marital status, gender identity, sexual orientation, disability, or any other characteristic protected by Federal or Florida law, will be excluded from participation in, denied benefits of, or be otherwise subjected to discrimination in the use of the Premises or Tenant's programs or activities; and that in the

construction of any improvements on, in, over, or under the Premises and the furnishing of services on the Premises, no person, on any of the foregoing grounds, shall be excluded from participation therein, denied the benefits thereof, or be otherwise subjected to discrimination.

**(d) Security Policies and Procedures.** Tenant shall be responsible for ensuring that Tenant's members, officers, directors, employees, volunteers, agents, representatives, participants, guests, contractors, sub-contractors, and other invitees shall comply fully with any and all security policies and procedures adopted or implemented by Landlord from time to time as Landlord deems necessary and appropriate for protecting the public health, safety or, welfare or for compliance with any Federal, state, or local law or regulation. Landlord will provide Tenant with notice of any such adopted or implemented security policies and procedures affecting the Premises or its occupation or use.

**(e) Use of Premises Prior to Completion of Improvements.** Tenant may make use of the Premises for the purposes permitted hereunder prior to completion of the capital improvements contemplated by this Lease, but only to the extent approved by Landlord's City Council. All such use of the Premises and improvements under this subsection (e) shall be consistent and in compliance with this Lease and all applicable laws, rules, regulations, and policies of the City of Vero Beach and all other regulatory agencies, including but not limited to City of Vero Beach Land Development Regulations, the Florida Building Code, and Federal and state regulations and disabilities laws.

**6. COMPLIANCE WITH LAWS.** Tenant shall not occupy, use, or maintain or permit the occupation, use, or maintenance of the Premises or any part thereof for any unlawful, immoral, or improper purpose, or in such a manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of this Lease or any existing or future code, law, rule, requirement, order, ordinance, or regulation.

**7. PERMITS AND LICENSES.** Tenant shall be solely responsible for obtaining and paying for the expense of all required governmental and regulatory approvals, permits, and licenses necessary for Tenant's occupation, use, and operation of the Premises and access thereto, including but not limited to any required zoning and site plan approvals, building and other permits, licenses for parking and access, and licenses for use of rights-of-way or other real property. Should Tenant be unable to obtain all approvals necessary for Tenant's intended use or operation of the Premises or other necessary areas, this Lease shall terminate unless agreed otherwise in writing by the parties.

## **8. IMPROVEMENTS.**

**(a) In General.** Except for required general maintenance, repairs, and replacements, Tenant shall not make or cause to be made or allow any construction, alterations, installations, or improvements to or on the Premises without prior approval of Landlord's City Council. Any and all construction, alterations, installations, and improvements shall be at Tenant's sole cost and expense and at no cost or expense to Landlord by an established contractor(s) properly licensed, insured, and authorized to work in the City of Vero Beach. Such costs shall include but are not limited to costs of planning, design, engineering, surveying, permitting, site preparation, construction, and installations. All work shall be performed in a good and workmanlike manner and consistent with Tenant's plans and specifications as approved by Landlord's City Council, and in compliance with all applicable laws, rules and regulations, including but not limited to City of Vero Beach Land Development Regulations, the Florida Building Code, Federal and state regulations, and disabilities laws (e.g., the Americans

with Disabilities Act), and payment and performance bond requirements for capital improvements on government real property. In the event any governmental authority directs, or any applicable Federal or state law or regulation requires, any modification or alteration to the Premises or any buildings, structures, or other improvements thereon or therein, whether now existing or constructed during the Term or any Renewal Term, Tenant shall be solely responsible for prosecution and completion of and payment for such modifications and alterations.

The parties recognize that any and all construction, alterations, installations, or improvements are capital improvements made to enhance the use of the Premises located in a public park and for the benefit of the general public. The costs of such improvements are not rent, they are not payments in lieu of rent, and they are not made for the right to occupy the Premises. Rent payment subject to tax imposed in section 212.031, Florida Statutes, is as provided for exclusively in this Lease.

Except as otherwise agreed in writing by the parties, at the termination of this Lease Tenant shall be solely responsible and pay for removal from the Premises any installations or improvements added to the Premises during the Term or any Renewal Term that are not found acceptable by Landlord. Notwithstanding any installations and improvements that are to remain on the Premises, Tenant shall be otherwise responsible and pay for restoration of the Premises.

**(b) Construction of Improvements.** In furtherance of Tenant's proposed use of the Premises, Tenant shall construct a boathouse, dock, and other capital improvements (collectively "improvements") designed to enhance Tenant's use of the Premises and Tenant's programs for the benefit of the community and general public. Tenant shall construct and complete the proposed improvements consistent with the terms of this Lease, including but not limited to the following additional provisions:

- (1) Within Twelve (12) months from the Effective Date, Tenant shall submit to Landlord for review Tenant's conceptual plans for the proposed boathouse and other capital improvements. If Tenant's conceptual plans are not approved by Landlord as proposed or otherwise require modifications, Tenant shall submit amended plans within Sixty (60) days after notice is sent advising of the rejection or required modifications. The City Planning and Development Director shall be Landlord's contact person and coordinator for such conceptual plans.
- (2) After approval of Tenant's conceptual plans by Landlord, including by Landlord's City Council, but no later than Eighteen (18) months after the date of such approval, Tenant shall submit to the Vero Beach Planning and Development Department a complete site plan application for the proposed permanent improvements and thereafter diligently pursue site plan approval.
- (3) If the Vero Beach Planning and Zoning Board fails to approve the site plan, Tenant shall either appeal that Board's decision to the City Council within Ten (10) days after the date such decision is made or within Thirty (30) days after the date of the decision submit an amended site plan application to the Vero Beach Planning and Development Department addressing the objections to site plan approval and those matters found not in compliance with City land use regulations.

- (4) In addition to all other site plan approval requirements, pursuant to City of Vero Beach Code section 62.09.01 a public hearing shall be held before Landlord's City Council to receive public comments before approving a site plan which includes impervious parking lot improvements.
- (5) Notwithstanding any other provision of this Lease or any other approvals given, Landlord's City Council retains final approval authority for the site plan and the proposed improvements.
- (6) Notwithstanding any other provision of this Lease, if Tenant fails to obtain final site plan approval within Thirty-six (36) months after the Effective Date, either party may elect to terminate this Lease.
- (7) After final approval of Tenant's site plan application, Tenant shall, within Six (6) months after the date of such approval, apply for and obtain, or cause Tenant's contractor(s) to apply for and obtain, all other approvals and permits required for construction of the improvements.
- (8) Tenant shall commence and prosecute construction of the improvements to completion, and obtain a certificate of occupancy evidencing such completion, within Twenty-four (24) months after the date of final approval of Tenant's site plan application, keeping continuously active all approvals and permits for such purposes during said period.
- (9) In advance of any and all construction activity, Tenant shall provide Landlord with copies of each and every approval and permit required and granted for development of the Premises and construction of the improvements, together with a complete set of site plans and construction plans approved by all permitting authorities.
- (10) Tenant shall obtain or cause Tenant's contractor(s) to obtain and provide a payment and performance bond satisfying the requirements of section 255.05, Florida Statutes, in the form approved by Landlord, for construction of the boathouse and any other improvements for which the value of the completed construction labor and materials will exceed \$10,000.00. Such bond shall be payable in an amount equal to One Hundred Twenty-Five Percent (125%) of the estimated cost to complete the improvements and shall be underwritten by a surety authorized to do business in the State of Florida and acceptable to Landlord as determined in Landlord's sole discretion. Tenant or Tenant's contractor(s) may substitute for a bond, a payment and performance irrevocable letter of credit, in the form approved by Landlord, from a bank authorized to do business in the State of Florida, and with an office located in Indian River County, Florida where such letter of credit may be drawn upon. All such bonds and letters of credit shall inure to the benefit of Landlord and Tenant and all other persons, companies, and corporations entitled to make a claim against the bond or letter of credit for payment or performance of the work pursuant to the applicable provisions of Florida law. Tenant shall record or require and cause Tenant's contractor(s) to record such bond or letter of credit in the public records of Indian River County, Florida as required by applicable law, which bond or letter of credit shall remain in effect through completion of the improvements and all guarantee and warranty periods. No construction shall commence before the

required bond or letter of credit is received and approved by Landlord and recorded by Tenant or Tenant's contractor(s).

- (11) Before making any progress payment to Tenant's contractor(s), Tenant shall cause its contractor(s) to provide a waiver and release of claims, in the form approved by Landlord, certifying that payment was made to all such contractor(s)'s subcontractors, materialmen, leasing companies, and all other persons, companies, and corporations for the goods, materials, labor, and services supplied for the improvements (referred to collectively herein as "subcontractors") through the date of the contractor(s)'s release. Tenant shall require such contractor(s) to also supply a waiver and release of claims on progress payment from all of such contractor(s)'s subcontractors supporting the contractor(s)'s release provided for the progress payment. Tenant shall cause its contractor(s) to provide a final waiver and release of all claims, in the form approved by Landlord, upon completion of the improvements and before making final payment to Tenant's contractor(s). Such final release shall certify that full and final payment was made to all of the contractor(s) subcontractors. Tenant shall require such contractor(s) to also supply a waiver and final release of claims from all of such contractor(s)'s subcontractors supporting the contractor(s)'s release provided for the final payment.
- (12) If the improvements intended for construction on the Premises are to be constructed as a phased project, all construction and phasing shall be in accordance with the applicable laws and ordinances relating to such phased construction.
- (13) All time periods set forth herein shall be as specified, unless such time is extended by written agreement of Landlord in Landlord's sole discretion for good cause shown by Tenant except where such time period is controlled by any law or regulation.

**9. LIENS.** Landlord's interest in the Premises shall not be subject to any lien for any construction, alterations, installations, improvements, or work as provided in section 713.10, Florida Statutes. Tenant shall notify all persons and entities constructing improvements or performing work on the Premises, or supplying materials, equipment rental, or other services for the improvements or work, that this Lease does not allow any liens to attach to Landlord's interest. Further, Tenant acknowledges and shall advise all such persons and entities that the Premises are governmental property not subject to any lien or right to claim a lien and any dispute regarding payment is limited to a claim against any payment and performance bond established pursuant to Chapter 255, Florida Statutes, as required herein. Tenant shall be responsible for obtaining and paying for any such bond, which bond shall be in the form required and approved by Landlord. If, notwithstanding the foregoing, any mechanic's, materialman's, laborer's, or any other lien, or any order or judgment for payment of money, shall be recorded against the Premises or any part thereof or against Tenant's leasehold interest or otherwise asserted against Landlord's interest (whether or not legally effective), then Tenant shall, at Tenant's own cost and expense, cause the same to be satisfied, cancelled, and discharged of record and, further, shall indemnify and hold Landlord harmless from and against any and all costs, expenses, claims, losses or damages, including reasonable attorneys' fees and experts' fees, through trial and appeal, resulting there from or by reason thereof.

**10. LANDLORD RIGHT OF ENTRY.** Landlord retains a general right of ingress, egress, and regress across the Premises as reasonably needed for Landlord's employees, contractors, and agents in

performance of their duties at all reasonable times. Landlord shall also have the right to enter the Premises for inspection, protection, or preservation of the Premises, including but not limited to inspection of the Premises to determine whether Tenant is complying with the terms of this Lease, applicable laws, orders, or regulations of any lawful authority having jurisdiction over the Premises or any activities conducted thereon or therein. Landlord's retained rights hereunder also include the right of ingress, egress, and regress for the installation, replacement, and maintenance of utilities and related facilities on, across, and under the Premises as may be deemed necessary by Landlord. Landlord shall, to the extent possible in Landlord's determination, locate such utilities and related facilities in such a manner as not to disturb Tenant's operations and use of the Premises. Entry by Landlord shall not constitute or be deemed an eviction of Tenant or any deprivation of Tenant's rights under this Lease; nor shall such entry alter in any manner Landlord's obligations hereunder.

**11. ASSUMPTION OF RISK; RELEASE AND INDEMNIFICATION.** For and in consideration of the separate sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by Landlord to Tenant, the receipt and sufficiency of which is hereby acknowledged by Tenant, Tenant agrees as follows:

**(a) Premises "As Is."** Tenant accepts the condition of the Premises "as is" and recognizes and hereby expressly and fully assumes all risks, known and unknown, that arise or might arise incidental to or in any way connected with the condition or use of the Premises or access to the Premises. Tenant acknowledges and agrees that Landlord has not made and makes no warranty of any kind whatsoever as to the condition of the Premises or fitness of the Premises for any particular purpose. This assumption of risk by Tenant is made for and on behalf of Tenant and Tenant's successors, permitted assigns, and Tenant's officers, directors, members, employees, volunteers, agents, representatives, participants, guests, contractors, subcontractors, and all other invitees.

**(b) Release and Indemnification (Premises).** Tenant hereby releases and forever discharges Landlord and Landlord's elected officials, officers, employees, and agents, cumulatively the "Released Parties," and agrees to indemnify and hold harmless the Released Parties, from and against any and all liabilities, claims, demands, damages, actions, lawsuits, costs, and expenses, of any kind or nature, including but not limited to costs of investigation, attorneys' fees, experts' fees, and costs through trial and appeal, arising out of, incidental to, or in any way connected with the condition, maintenance, or use of the Premises, access to the Premises, the condition, maintenance, or use of any installation, improvement, or equipment on, in, or serving the Premises, or otherwise arising under this Lease. TENANT UNDERSTANDS AND AGREES THAT THIS RELEASE AND INDEMNIFICATION INCLUDES ANY AND ALL CLAIMS BASED ON THE NEGLIGENCE, ACTIONS, OR INACTION OF LANDLORD OR ANY OTHER RELEASED PARTY AND INCLUDES ANY OTHER CAUSE OR CONDITION WHATSOEVER, AND COVERS, BUT IS NOT LIMITED TO, ANY CLAIMS FOR BODILY INJURY, DEATH, OR PROPERTY DAMAGE.

**(c) Indemnification (Use).** Tenant shall indemnify and hold the Released Parties harmless from and against any and all liabilities, claims, demands, damages, actions, lawsuits, judgments, penalties, losses, costs, or expenses, of any kind or nature, including but not limited to costs of investigation, attorneys' fees, experts' fees, and costs through trial and appeal, arising out of, incidental to, or in any way connected with Tenant's possession, use, occupancy, operation, or maintenance of the Premises, and any act or omission of Tenant or Tenant's members, officers, directors, employees, volunteers, agents, representatives, participants, guests, contractors, subcontractors, and other invitees.

**(d) Release and Indemnification (Public Improvements and Utilities).** Tenant's release and agreement to indemnify and hold the Released Parties harmless shall also include any claim for damage that any utility (whether publicly or privately owned) or public entity may sustain or receive by reason of Tenant's possession, use, occupancy, operation, or maintenance of the Premises, or any installations or improvements thereon or made by or for Tenant. Tenant waives all claims of any kind or nature whatsoever against the Released Parties for damages that Tenant may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, facility, or utility, whether presently in place or which may in the future be constructed or installed, including but not limited to any water or sewer mains, lines, pipes, structures, or other facilities; storm water structures, pipes, or other facilities; electric or communication lines, structures, conduit, or other facilities.

**(e) Claims Under Disabilities Laws.** Should a regulatory agency, private party, organization, or any other person or entity make a claim under the Americans with Disabilities Act or other Federal or state law against Tenant or Landlord, or both Tenant and Landlord, for an alleged violation of or noncompliance with any such law as to the Premises or any improvements thereon or therein, or as a result of Tenant's occupancy or use of the Premises or operation of Tenant's programs or services, Tenant shall defend, save, and hold harmless Landlord from any and all expenses incurred in responding to such a claim, including without limitation the fees of attorneys and other advisors or experts, court costs, and costs incurred for correcting any such violation or noncompliance found to exist.

**(f) Intent and Effect.** It is the intent and effect of the provisions contained in this section 11 and a condition in consideration for Landlord to enter into this Lease with Tenant, that Tenant's obligations hereunder shall be and include a full and total release and indemnification of the Released Parties against any kind or nature of claim whatsoever that is or may be asserted by reason of or as a consequence of Landlord having granted a leasehold to Tenant to possess, occupy, use, improve, operate, and maintain the Premises, and that any and all risks of loss and responsibility for claims shall be borne by Tenant and not by Landlord, the public, or Landlord's taxpayers. Tenant acknowledges and agrees that the provisions of this section 11 are provided as separate consideration and inducement for this Lease and such Lease would not have been entered into by Landlord absent the giving of such consideration by Tenant. Tenant's obligations under this section 11 shall survive the termination of this Lease for any matter arising prior to the effective date of the termination or the date Tenant no longer possesses, occupies, uses, operates, or maintains the Premises, whichever is later. Notwithstanding any other provision of this Lease, should any claim or litigation by any person or entity arise against Landlord as to liability for any injury, death, or property damage due to the condition of the Premises or Tenant's possession, occupancy, use, operation, or maintenance of the Premises or Tenant's activities, Tenant shall be responsible for, and promptly reimburse Landlord for, all costs of Landlord's defense of such claim or litigation, including but not limited to fees for Landlord's attorneys and experts.

**12. INSURANCE.** During the Term and all Renewal Terms, and so long as Tenant occupies, uses, operates, or maintains the Premises, Tenant shall procure and maintain insurance at Tenant's sole cost and expense, as follows:

**(a) Commercial General Liability Insurance.** Commercial general liability insurance providing all risks coverage which protects Tenant and Landlord and all other Released Parties from

and against any and all claims and liabilities for bodily injury, death, and property damage arising from operations, premises liability, fire, and all other risks. Such insurance shall provide minimum coverage of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate. Coverage shall be provided in a form no more restrictive than the latest edition of the commercial general liability policy filed by Insurance Services Office (ISO). Tenant shall be and remain liable for and pay all deductibles and other amounts not covered, paid, or reimbursed under the insurance policies.

**(b) Property Casualty Insurance.** Property casualty insurance providing coverage of not less than 100% of the insurable replacement value, without deduction for depreciation, for all buildings, structures, installations, fixtures, betterments, equipment, landscaping, and other improvements now existing or constructed or installed during the Term or any Renewal Term on or in the Premises (collectively "Improvements"), subject to the deductible limits provided below. Said insurance policies shall provide coverage for any loss due to fire, windstorm, and any other peril included in the broadest available standard form of extended coverage, and shall include coverage for flood. Deductible for all perils, except windstorm, shall not be greater than two percent (2%) of the full insurable replacement value, without deduction for depreciation, for the Improvements. Deductibles for windstorm damages shall not exceed five percent (5%) of the full insurable replacement value, without deduction for depreciation, for the Improvements. Tenant shall be and remain liable for and pay all such deductibles and other amounts not covered, paid, or reimbursed under the insurance policies for full repair or replacement of the damaged or destroyed Improvements.

**(c) Flood Insurance.** Flood insurance for all buildings, structures, and other improvements now existing or constructed or installed during the Term or any Renewal Term on or in the Premises that are located within an identified special flood hazard area. Said flood insurance coverage shall be for the lesser of the total insurable value of such buildings, structures, and other improvements or the maximum amount of flood insurance coverage available under the national Flood Insurance Program.

**(d) Workers' Compensation Insurance.** Tenant shall maintain workers' compensation insurance if and to the extent required by law, with coverage amounts that meet or exceed the statutory mandatory minimum and, if operations are to be undertaken on or about navigable waters, coverage to include the U.S. Longshoremen & Harbor Workers Act and Jones Act.

**(e) Builder's Risk.** Tenant shall provide and maintain, or shall require Tenant's contractor to provide and maintain, builder's risk insurance coverage for construction of the buildings, structures, and improvements on the Premises. Such builder's risk insurance shall meet or exceed the following requirements:

- (1) The form shall be all risks coverage and such coverage shall be no more restrictive than that afforded by the latest edition of Insurance Services Office (ISO) form for builder's risk coverage.
- (2) The amount of insurance coverage shall be 100% of the completed value of work, including the buildings, additions, and structures.
- (3) The policy must be specifically endorsed to eliminate any "Occupancy Clause" or similar warranty for representation that the buildings, additions, or structures in the course of construction shall not be occupied without specific endorsement of the policy.

The policy must be endorsed to provide that the builder's risk coverage will continue to apply until final acceptance of the buildings, additions or structures by Tenant and Landlord (as owner).

- (4) The maximum deductible shall be no more than \$5,000.00 each claim. A higher deductible may be permitted subject to Landlord's written approval.
- (5) The policy must be endorsed to provide machinery/equipment coverage during transit, storage and installation, including any directly purchased by the Tenant.
- (6) The policy must be endorsed to provide coverage for tangible property, materials, machinery/equipment, and supplies directly purchased by Tenant for which the risk of loss has transferred to Tenant. Such endorsement shall provide for reimbursement for loss or damage directly to Tenant as an additional insured if the insurance is provided by Tenant's contractor.
- (7) When the buildings, structures, or other improvements are located within an identified special flood hazard area, flood insurance protecting the interests of the contractor, Tenant, and Landlord must be provided for the lesser of the total insurable value of such buildings structures, and other improvements or the maximum amount of flood insurance coverage available under the national Flood Insurance Program.

**(f) Landlord Additional Insured; Policy Endorsements.** The policies of insurance required herein for commercial general liability insurance, property casualty insurance, flood insurance, and builder's risk insurance, including all renewals, shall be written to specifically name and include Landlord as additional insured or be endorsed to name and include Landlord as additional insured, and provide for at least thirty (30) days advance notice to Landlord by the insurer prior to any policy change, amendment, termination, or expiration of coverage. Tenant's property casualty insurance shall also provide for or be endorsed to make any loss payments payable jointly to Tenant and Landlord for losses covered under such policies. Tenant shall cause its insurance agent(s) or carrier(s) (or its contractor in the case of builder's risk) to provide Landlord with a copy of such policies, additional insured endorsements containing language no less restrictive than ISO Form CG 20 10 07 04 or ISO Form CG 20 33 07 04, and certificates of insurance stating that the coverage as required herein is in force and effective: no later than the Effective Date of this Lease for commercial general liability insurance; no later than commencement of construction work on the improvements for builder's risk; and no later than completion of the improvements for property casualty insurance and flood insurance. Tenant shall cause insurance policies, policy endorsements, and certificates of insurance in conformance with the requirements hereof to be promptly provided to Landlord for each subsequent policy renewal. For any new or replacement insurer, Tenant shall cause a copy of the new or replacement insurance policy and corresponding additional insured endorsement and certificate of insurance to be promptly provided to Landlord.

**(g) Tenant Insurance Primary; Approval of Insurer.** Tenant's insurance in all instances shall be primary and any insurance that may be maintained by Landlord shall be in excess of and shall not contribute with Tenant's insurance. All insurance policies shall be issued by a company licensed to do business in the state of Florida and be otherwise satisfactory to Landlord and subject to Landlord's approval.

**(h) Modification of Insurance Requirements.** Recognizing the extended Term of the Lease, Landlord shall have the right to periodically review the adequacy of the required insurance, its form and type, and the amount of coverage and, notwithstanding any other provision of this Lease, unilaterally modify the insurance requirements of this section by written notice of such amendment to Tenant. Such modifications shall be as found reasonably necessary in the sole discretion of Landlord. Factors which may be considered by Landlord include, but are not limited to, changes in generally accepted insurance industry standards and practices, changes in use of the Premises, changes in risk exposure, measurable changes in local and national economic indicators, and changes in Landlord's policies and procedures.

**(i) Failure to Maintain Insurance.** Tenant understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, type, and coverage required herein and to maintain proper Landlord additional insured policy endorsements and certificates of insurance is solely Tenant's responsibility and obligation which continues during the entire Term, all Renewal Terms, and until such time as Tenant no longer occupies the Premises, whichever date is later. Tenant further understands and acknowledges that failure to provide and maintain all insurance coverage as and in the manner required herein will be deemed detrimental to the public interest, an increased and unnecessary risk to the public and to Landlord's taxpayers, and a material breach of this Lease which can result in termination of this Lease and in Tenant being liable for the full amount of all losses incurred due to the failure to maintain insurance.

In the event that Tenant should fail for any reason to procure or maintain insurance in the forms, type, or minimum coverage required and maintain the Landlord additional insured policy endorsements and certificates of insurance, Tenant shall cure such material breach within fifteen (15) calendar days after service on Tenant of a written notice of such breach and demand for cure or possession of the Premises. Should Tenant fail to cure the breach within said period or such other time as may be agreed to by the Parties in writing, Landlord in Landlord's sole discretion may, but is not obligated to do so, secure replacement insurance coverage at Tenant's sole expense. Should Landlord elect to secure replacement insurance, Tenant shall thereafter reimburse Landlord within fifteen (15) calendar days of Landlord sending an invoice for the costs and premiums incurred by Landlord for the replacement insurance coverage plus an administrative charge of ten percent (10%) or \$250.00, whichever is greater. Tenant shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred during any lapse in coverage. Should Tenant subsequently obtain the required insurance, endorsements, and certificates, Tenant shall remain responsible for and reimburse Landlord for all costs and expense to Landlord for the insurance premiums earned and administrative charges.

### **13. MAINTENANCE AND REPAIRS.**

**(a) In General.** During the Term and all Renewal Terms, and until Tenant has surrendered possession of the Premises to Landlord, Tenant, at Tenant's sole cost and expense, shall maintain the Premises, including but not limited to all buildings, structures, installations, fixtures, betterments, equipment, landscaping, and other improvements (collectively "Improvements") in good order and repair and in a safe, clean, secure, sanitary, and presentable condition, and in conformance with the provisions of this Lease and all applicable codes, ordinances, laws, regulations, and approved site plans. Tenant and not Landlord shall have the continuing duty to inspect the Premises and repair defects. Notwithstanding any right of Landlord to enter the Premises for its purposes provided herein,

Landlord shall have no duty or responsibility to inspect, repair, or maintain the Premises or any part thereof.

**(b) Destruction of Improvements.** As soon as is reasonably possible after damage and/or destruction to any or all of the Improvements on the Premises, but no later than 18 months after such damage and/or destruction, Tenant shall, at Tenant's sole cost and expense (using Tenant's insurance proceeds available for that purpose, together with Tenant's own funds), commence to either repair and restore the Improvements as completely as possible to their condition immediately prior to the damage, or, in the alternative, replace the Improvements with buildings, structures, installations, fixtures, betterments, equipment, landscaping, and other improvements approved in advance by Landlord's City Council. In the event any insurance proceeds of Tenant's insurance policies shall remain unused after the completion of restoration or rebuilding to Landlord's satisfaction, evidenced in writing, and if the Tenant shall not be in default under this Lease, then the remaining funds shall be paid to Landlord toward any unpaid rent and other sums due, with any remaining sum paid to Tenant.

If the Premises have become wholly untenable due to the damage or destruction of the Improvements, Tenant may elect to not make the repairs and replacements and terminate this Lease thirty (30) days after serving Landlord with written notice of Tenant's intent to terminate the Lease and in such instance cause all insurance proceeds to be assigned and paid to Landlord by such termination date.

In either case, Tenant shall be and remain liable for and pay all insurance policy deductibles and all amounts not covered, paid, or reimbursed under Tenant's insurance policies for the cost and expense to fully repair and/or replace the damaged or destroyed Improvements. Such insurance policy proceeds, deductibles, and other payments from Tenant paid to Landlord may be used by Landlord in Landlord's sole and absolute discretion. In no case shall Landlord be obligated to make the repairs and/or replacements or otherwise rebuild the Improvements.

**14. SIGNS.** Licensee may install signs on the Premises subject to written approval by the City and in conformance with the City sign ordinance and all other applicable codes, ordinances, laws, and regulations.

**15. STORM PREPARATIONS.** In the event of approaching inclement weather, including but not limited to tornados, windstorms, or hurricanes, Tenant, at Tenant's sole expense, shall remove or cause the removal of all personal property from the exterior of the Premises and secure and provide for protection of the buildings and structures on the Premises and all personal property located thereon in advance of the inclement weather.

**16. ENVIRONMENTAL RESTRICTIONS; REMOVAL OF REFUSE.** Tenant shall not store, discharge, or dispose of any industrial or hazardous materials or wastes on, in, or adjacent to the Premises whatsoever or allow such storage, discharge, or disposal, with exception made only for proper storage and use as necessary in conjunction with construction of improvements or repairs. Tenant shall utilize, store, and dispose of all such industrial, hazardous, and solid wastes in accordance with applicable Federal, state, and local laws, rules and regulations. Tenant shall be solely responsible for and indemnify Landlord for all costs and expenses, including but not limited to costs of remediation, fines, penalties, attorneys' fees, experts' fees, and costs through trial and appeal, that arise in any manner out of environmental contamination caused by Tenant, Tenant's agents, officers,

members, employees, contractors, subcontractors, or invitees, or otherwise from Tenant's occupancy, use, or maintenance of the Premises or improvements thereto, which responsibilities, obligations, and liabilities shall survive the expiration or early termination of this Lease. Tenant shall be solely responsible at its own expense for regular removal and disposal of all refuse, garbage, debris, trash, and other discarded materials and shall not allow an accumulation thereof on, in, or adjacent to the Premises.

**17. DEFAULT AND REMEDIES.** Except as otherwise provided in this Lease, the following shall be deemed to constitute a default and material breach of the terms of this Lease if not cured within fifteen (15) days after service of notice of such noncompliance on the defaulting party:

- (a) Failure by Tenant to pay any obligation or amount of money due under this Lease.
- (b) Failure by Tenant or Landlord to comply with any provision or condition of this Lease.
- (c) Abandonment by Tenant of the Premises or any part of the Premises without the written agreement of Landlord.

Landlord and Tenant shall have all remedies for any default by the other party as provided for at law or in equity. Except as modified herein, this Lease shall be governed in accordance with Landlord-Tenant law regarding non-residential tenancies as provided in Chapter 83, Florida Statutes.

**18. SURRENDER ON TERMINATION; RESTORATION.** Tenant shall surrender the Premises to Landlord or Landlord's designee quietly and peaceably upon expiration or termination of this Lease. Within 30 days before the expiration or termination, Tenant shall restore the Premises to a clean and usable condition acceptable to Landlord, with exception made for reasonable and ordinary wear and tear.

**19. HOLDOVER TENANCY.** If Tenant remains in possession of the Premises after this Lease expires or terminates for any reason:

(a) Tenant shall be deemed to be occupying the Premises as a Tenant from month-to-month at the sufferance of Landlord. Tenant will continue to be subject to and comply with all of the provisions of this Lease, except that, at Landlord's discretion, the rent will be at a monthly rate up to an amount equal to 1/12<sup>th</sup> of the fair market annual rental value of the Premises, including all improvements, calculated at the time of the expiration or termination, and paid by Tenant on the first day of each month subsequent to the expiration or termination.

(b) Tenant shall reimburse Landlord for any and all additional losses and damages which Landlord suffers by reason of Tenant's continued occupancy.

(c) Tenant shall indemnify Landlord from and against all claims made by any successor Tenant insofar as such delay is occasioned by Tenant's failure to surrender possession of the Premises.

## **20. MISCELLANEOUS PROVISIONS.**

**(a) Amendment and Modification.** Except as otherwise provided in this Lease, no subsequent alteration, amendment, change, or addition to this Lease or any exhibit or attachment hereto shall be binding on Landlord or Tenant unless in writing and signed by them and made a part of this Lease by direct reference. Any amendment shall require the approval of Landlord's City Council.

**(b) Waiver of Compliance; Consents.** Any term or condition of this Lease may be waived by the party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the party waiving such term or condition. Any waiver by any party of any condition, or of the breach of any provision, term, covenant, representation, or warranty contained in this Lease, in any one or more instances, shall not invalidate this Lease, nor shall such waiver be deemed to be nor construed as a furthering or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this Lease. Except as otherwise provided herein, the failure of a party to assert any of its rights under this Lease or otherwise shall not constitute a waiver of such rights. A waiver by a party shall not invalidate this Lease, nor shall such waiver be construed as a waiver of any other covenant, condition, representation, or warranty. A waiver by a party of the time for performing any act shall not constitute a waiver of time for performing any other act or the time for performing an identical act required to be performed at a later time.

**(c) Third-Party Beneficiaries.** Notwithstanding the public nature of Tenant's intended use of the Premises, the terms and provisions of this Lease are intended solely for the benefit of the parties and their respective successors and permitted assigns, and it is not the intention of the parties to confer third-party beneficiary rights upon any other person.

**(d) Notices.** Any notices that are required to be served or that may be served pursuant to this Lease shall be in writing, addressed to the party's address below, and shall be deemed served as follows: (1) on the date hand delivered, as evidenced by an affidavit of service; (2) on the date delivered by courier service such as FedEx, UPS, or U.S. Priority or Express Mail; (3) on the date delivered by First Class U.S. Mail, as evidenced by a return receipt; (4) on the fifth day after the date sent by First Class U.S. Mail, as evidenced by an affidavit of mailing; or (5) on the date posted in a conspicuous place on the Premises, as evidenced by an affidavit of posting.

To Tenant:

Todd Young  
Indian River Rowing Club, Inc.  
P.O. Box 643063  
Vero Beach, FL 32964

To Landlord:

City of Vero Beach  
Attn: City Manager  
1053 20<sup>th</sup> Place  
P. O. Box 1389  
Vero Beach, FL 32961-1389

Any notice or request the delivery of which is refused by the recipient shall be deemed given as of the date it is mailed or sent. A party may change their foregoing address by providing written notification to the other in the manner provided herein.

**(e) Assignment.** Tenant shall not assign, sublease, or transfer all or any part of this Lease or the Premises without prior written consent of Landlord's City Council, which shall be in Landlord's sole discretion. Tenant shall not mortgage or otherwise encumber the leasehold, the Premises, or any installation or improvement thereon. Subject to this subsection (e), this Lease is binding upon, inures to the benefit of, and is enforceable by the parties and their respective successors and permitted assigns.

**(f) Tenant Organization.** Tenant's status as a legal entity shall continuously be in good standing, active, and current with the state of its incorporation or registration and with the State of Florida, and Tenant shall keep its status active and current throughout the Term and all Renewal Terms. Tenant shall keep Landlord apprised of all changes in its designated officers, directors, and other officials.

**(g) Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance, and remedies.

**(h) Venue.** Venue for resolution of any dispute arising from or under this Lease or its performance shall be in Indian River County, Florida and all actions and proceedings arising from or under this Lease or Tenant's possession, occupancy, use, or maintenance of the Premises or otherwise related to the subject matter of this Lease shall be in the court of the State of Florida in Indian River County, Florida, which court shall have exclusive jurisdiction for such purpose.

**(i) Waiver of Jury Trial.** Each of the parties hereto irrevocably waives its right to a jury trial with respect to any action or claim arising out of any dispute in connection with this Lease or Tenant's occupancy or use of the Premises or otherwise related to the subject matter of this Lease. This provision is a material inducement for the parties hereto to enter into this Lease, and shall survive the termination of this Lease.

**(j) Attorneys' Fees.** Except as otherwise provided in this Lease, in the event there arises between the parties any dispute or litigation, each party shall be responsible for its own attorneys' fees, experts' fees, consultants' fees, and costs.

**(k) Entire Agreement.** This Lease and its exhibits and attachments set forth all the promises, agreements, conditions, and understandings, either oral or written, between the parties.

**(l) Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original and all which together shall constitute one and the same instrument.

**(m) Exhibits.** Except as otherwise provided in this Lease, all exhibits and attachments referred to herein are intended to be and hereby are specifically made a part of this Lease.

**(n) Recording.** Landlord will record this Lease, or in the alternative a memorandum of lease executed by the parties, in the public records of Indian River County, Florida at Tenant's expense. Tenant shall promptly reimburse Landlord for the cost of such recording and any administrative fee charged to cover Landlord's expense.

**(o) No Joint Venture or Agency.** Nothing in this Lease or any exhibit or attachment hereto creates or is intended to create an association, trust, partnership, joint venture, or other entity or similar legal relationship among or between the parties, or impose a trust, partnership or fiduciary duty, obligation, or liability on or with respect to the parties. Neither party is nor shall be deemed the agent or representative of the other party in any instance whatsoever.

**(p) Landlord Agent.** Except as otherwise provided herein, Landlord's City Manager shall be Landlord's agent and shall have the authority to administer this Lease on behalf of Landlord, including but not limited to the authority to cause notices to be served on Tenant; enforce or terminate the Lease upon default of any terms by Tenant; and to enforce Landlord's right to enter the Premises as provided herein.

**(q) Severability.** If any provision of this Lease is held to be illegal, invalid, or unenforceable under any present or future law, and if the rights or obligations of any party under this Lease will not be materially and adversely affected thereby, such provision shall be fully severable; this Lease will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; the remaining provisions of this Lease will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision; the parties shall negotiate in good faith to restore insofar as practicable the benefits to each party that were affected by such ruling and to include as a part of this Lease a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as possible.

**(r) Radon.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county health department.

**(s) Real Estate Commission.** Landlord and Tenant each covenant and warrant to the other that they have not authorized nor contracted with any person, firm, or entity as a real estate agent or broker to deal on behalf of such party with respect to this Lease and that no such person, firm, or entity has been paid or is owed any remuneration, commission, or fee arising out of this transaction or Lease.

**(t) Captions.** The captions, paragraphs, sections, or letters appearing in this Lease are inserted only as a matter of convenience and in no way affect, define, limit, construe, or describe the scope or intent of the sections and paragraphs of this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the dates entered below and each party's respective signatory whose signature appears below hereby warrants and represents that such signatory has been and is on the date of execution of this Lease duly authorized to execute this Lease on behalf their respective party.

**SIGNATURE PAGES FOLLOW**

TENANT:

INDIAN RIVER ROWING CLUB, INC.

ATTEST:

Charlotte LaJoie  
Charlotte LaJoie  
Secretary

By: Todd Young  
Todd Young  
President

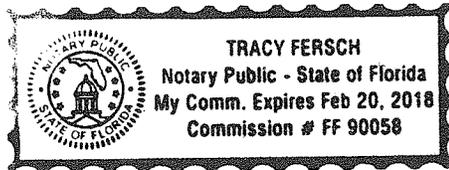
Date: 11/5/2015

[Seal]

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing Lease Agreement was acknowledged before me this 5<sup>th</sup> day of November 2015 by Todd Young, as President, and attested by Charlotte LaJoie, as Secretary, of Indian River Rowing Club, Inc., Tenant. He/She     is personally known to me OR     produced FL Drivers License as identification.

Tracy Fersch  
NOTARY PUBLIC  
Commission No.:  
My Commission Expires:



**LANDLORD:**

**CITY OF VERO BEACH, FLORIDA**

**ATTEST:**

\_\_\_\_\_  
Tammy K. Vock  
City Clerk

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

[Seal]

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

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

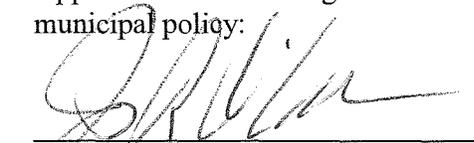
The foregoing Lease Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2015 by \_\_\_\_\_, as Mayor, and attested by Tammy K. Vock, as City Clerk, of the City of Vero Beach, Florida, Landlord. They are both known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Commission No.  
My Commission Expires:

Approved as to form and  
legal sufficiency:

  
\_\_\_\_\_  
Wayne R. Coment  
City Attorney

Approved as conforming with  
municipal policy:

  
\_\_\_\_\_  
James R. O'Connor  
City Manager

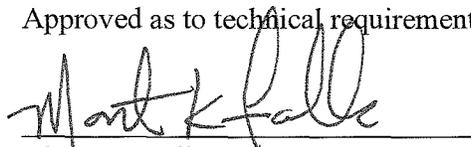
Approved as to technical requirements:

  
\_\_\_\_\_  
Rob Slezak  
Recreation Director

Approved as to technical requirements:

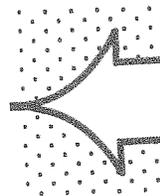
  
\_\_\_\_\_  
Cynthia D. Lawson  
Finance Director

Approved as to technical requirements:

  
\_\_\_\_\_  
Monte K. Falls  
Public Works Director

Approved as to technical requirements:

  
\_\_\_\_\_  
Tim Grabenbauer  
Marina Director



**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**  
**LEASE OF CITY PROPERTY/ INDIAN RIVER ROWING CLUB**  
**MACWILLIAM BOAT BASIN PARK**  
**Parcel #32-40-31-00000-0020-00001.3**

Situated in the State of Florida, County of Indian River, City of Vero Beach, being part of Government Lot 2, Section 31, Township 32 South, Range 40 East, being a part of MacWilliam Boat Basin Park and being more particularly bounded and described as follows:

Commencing at the northeast corner of the southeast quarter of the northeast quarter of said Section 31-32-40;

Thence South  $89^{\circ}39'18''$  West along the north line of Government Lot 2 for a distance of 1120.22 feet to an intersection with the west right of way of Indian River Drive East;

Thence South  $00^{\circ}03'57''$  East along the west right of way of Indian River Drive East for a distance of 684.01 feet to the northeast corner of MacWilliam Boat Basin Park;

Thence continue South  $00^{\circ}03'57''$  East along the west right of way of Indian River Drive East for a distance of 117.68 feet to the Point of Curvature of a curve concave to the northeast;

Thence southeasterly along said curve, having a radius of 642.45 feet and a delta angle of  $3^{\circ}57'53''$ , for a distance of 44.46 feet;

Thence continue southeasterly along said curve, having a radius of 642.45 feet and a delta angle of  $9^{\circ}39'14''$ , for a distance of 108.25 feet to a point, said point being 10 feet north of and parallel with the north line of the Ambulance Squad lease;

Thence South  $89^{\circ}20'15''$  West for a distance of 120.06 feet to a point, said point being 2 feet west of and parallel with the west line of the Ambulance Squad lease;

Thence South  $00^{\circ}01'13''$  East for a distance of 145.17 feet to a point on the north right of way of State Road 60 as shown of Florida Department of Transportation Map No. 88030-2514;

Thence South  $89^{\circ}38'31''$  West along said north right of way for a distance of 16.89 feet to a Point of Curvature of a curve concave to the south;

Thence westerly along said curve of the north right of way, having a radius of 5799.58 feet and a delta angle of 4°16'04", for a distance of 432.00 feet;

Thence North 58°00'00" East for a distance of 18.00 feet;

Thence North 71°00'00" East for a distance of 88.00 feet;

Thence North 47°00'00" East for a distance of 140.00 feet;

Thence North 58°00'00" East for a distance of 90.00 feet;

Thence North 40°00'00" East for a distance of 95.00 feet;

Thence North 84°00'00" East for a distance of 28.00 feet;

Thence North 77°00'00" East for a distance of 20.00 feet;

Thence North 64°00'00" East for a distance of 26.00 feet;

Thence North 77°00'00" East for a distance of 10.00 feet;

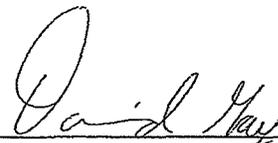
Thence South 85°00'00" East for a distance of 29.00 feet;

Thence North 86°00'00" East for a distance of 12.00 feet;

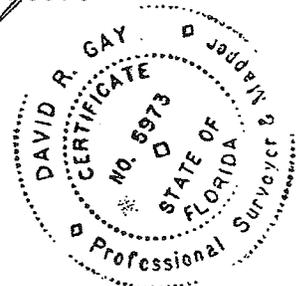
Thence North 79°00'00" East for a distance of 36.00 feet;

Thence South 81°52'15" East for a distance of 57.50 feet to the Point of Beginning;

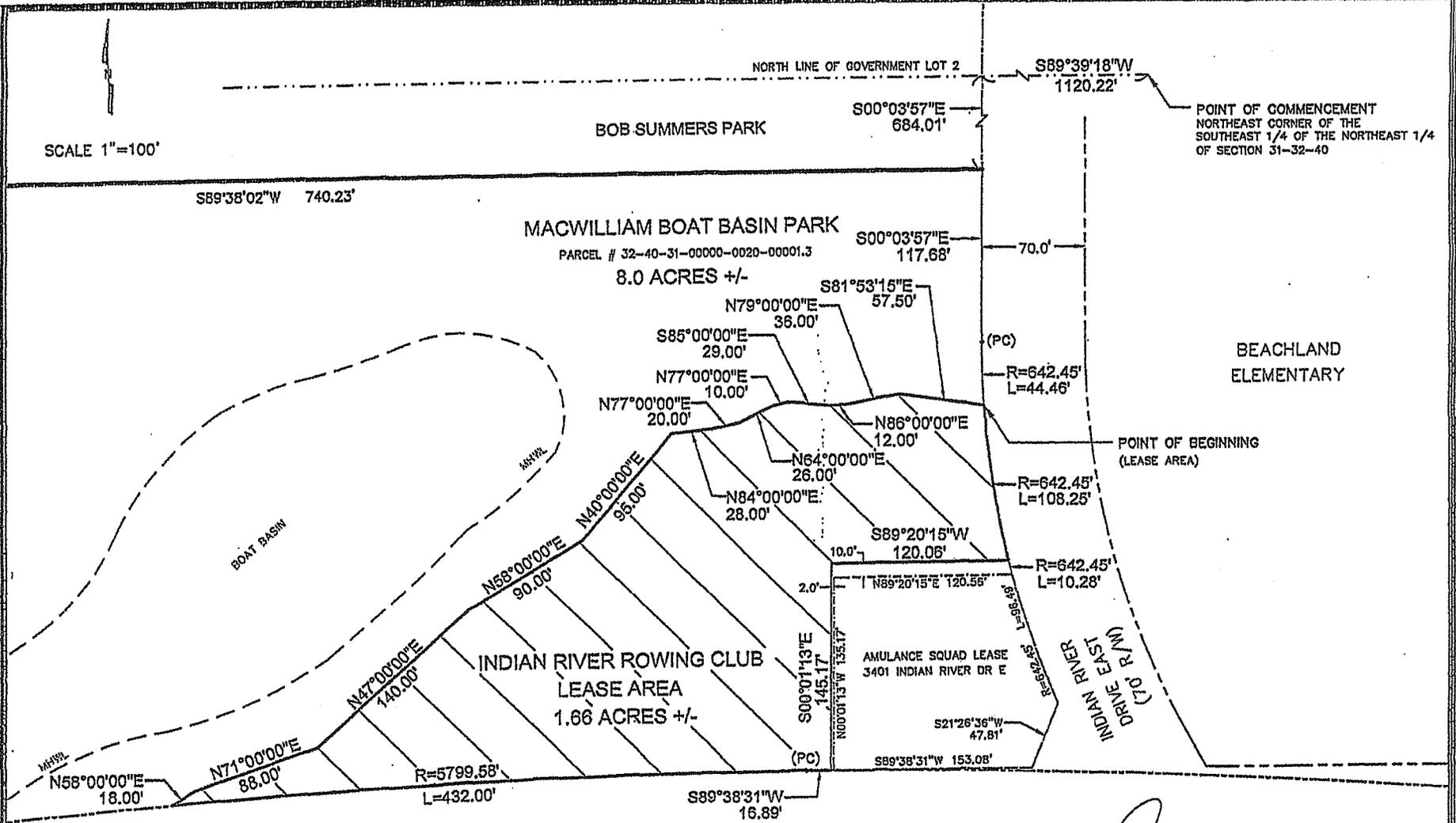
Said lease area containing 72,123 square feet or 1.66 acres more or less.



David R. Gay, PSM #5973



SCALE 1"=100'



THIS SKETCH IS NOT A SURVEY

CITY OF VERO BEACH  
 DEPARTMENT OF PUBLIC WORKS  
 SURVEY DIVISION

SKETCH OF PROPERTY DESCRIPTION  
 INDIAN RIVER ROWING CLUB LEASE AREA  
 MACWILLIAM BOAT BASIN PARK

EXHIBIT "A"  
 CITY PROJECT NO. 2015-19  
 DATE 09/2015 DRWN BY DG CHKD BY MKF

DAVID GAY, PSM #5973 DATE 9/29/15

SHEET 1 OF 3

STATE OF FLORIDA  
 PROFESSIONAL SURVEYOR

Professional Seal of David R. Gay, PSM #5973, State of Florida, No. 5973

**EXHIBIT "B"**  
**PROPERTY DESCRIPTION**  
**LEASE OF CITY PROPERTY – INDIAN RIVER ROWING CLUB**  
**MACWILLIAM BOAT BASIN PARK**  
**Parcel #32-40-31-00000-0020-00001.3**

Situated in the State of Florida, County of Indian River, City of Vero Beach, being part of Government Lot 2, Section 31, Township 32 South, Range 40 East, being a part of MacWilliam Boat Basin Park and being more particularly bounded and described as follows:

Commencing at the northeast corner of the southeast quarter of the northeast quarter of said Section 31-32-40;

Thence South 89°39'18" West along the north line of Government Lot 2 for a distance of 1120.22 feet to an intersection with the west right of way of Indian River Drive East;

Thence South 00°03'57" East along the west right of way of Indian River Drive East for a distance of 684.01 feet to the northeast corner of MacWilliam Boat Basin Park;

Thence continue South 00°03'57" East along the west right of way of Indian River Drive East for a distance of 117.68 feet;

Thence South 89°56'03" West for a distance of 203.00 feet;

Thence South 45°02'00" West for a distance of 185.00 feet to the Point of Beginning of the Indian River Rowing Club Dock Lease Area;

Thence from the Point of Beginning, continue South 45°02'00" West for a distance of 120.00 feet;

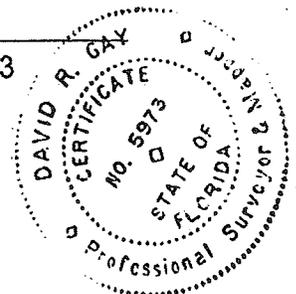
Thence North 44°58'00" West for a distance of 42.00 feet;

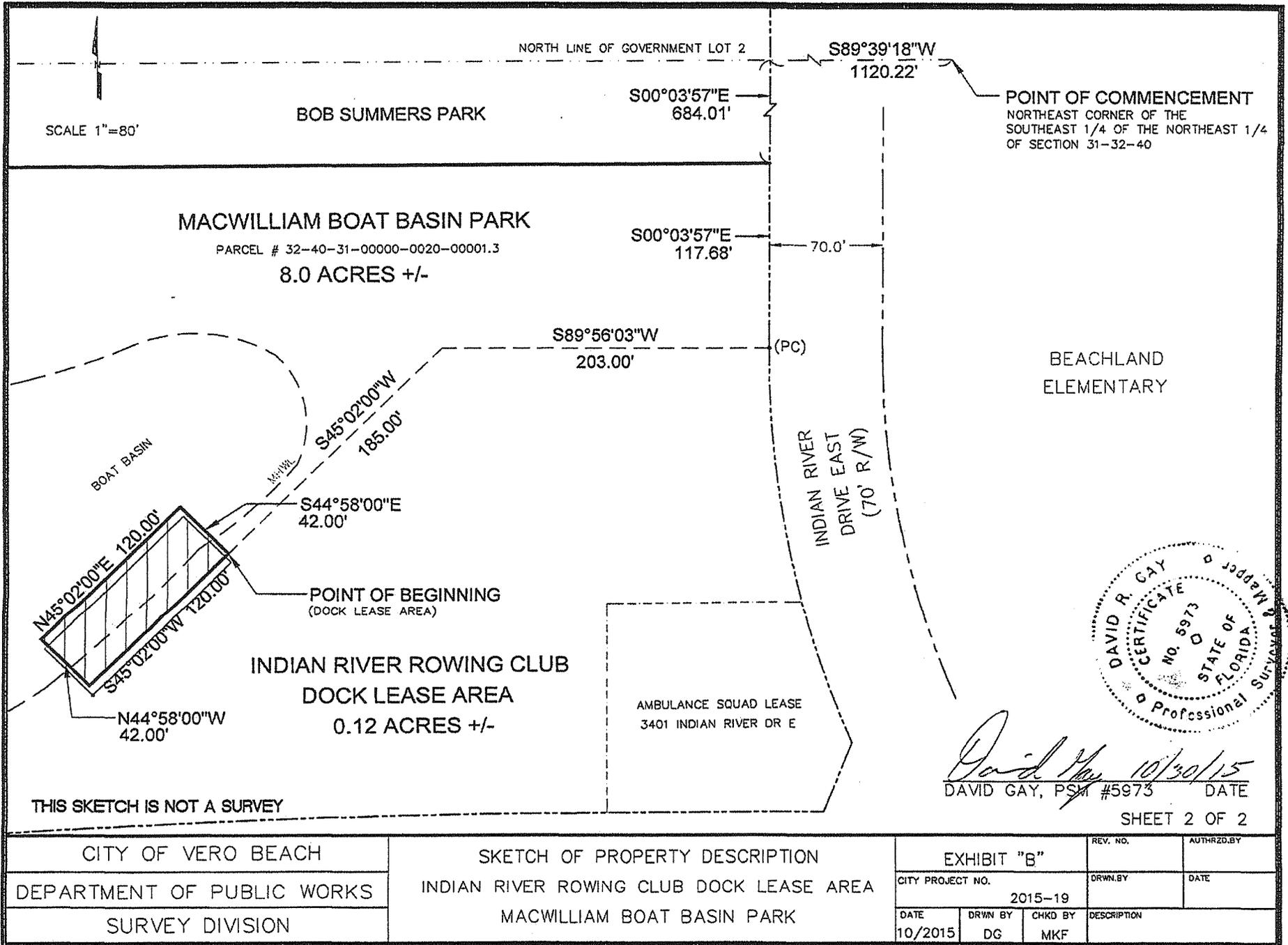
Thence North 45°02'00" East for a distance of 120.00 feet;

Thence South 44°58'00" East for a distance of 42.00 feet to the Point of Beginning;

Said lease area containing 5,040 square feet or 0.12 acres more or less.

  
David R. Gay, PSM #5973





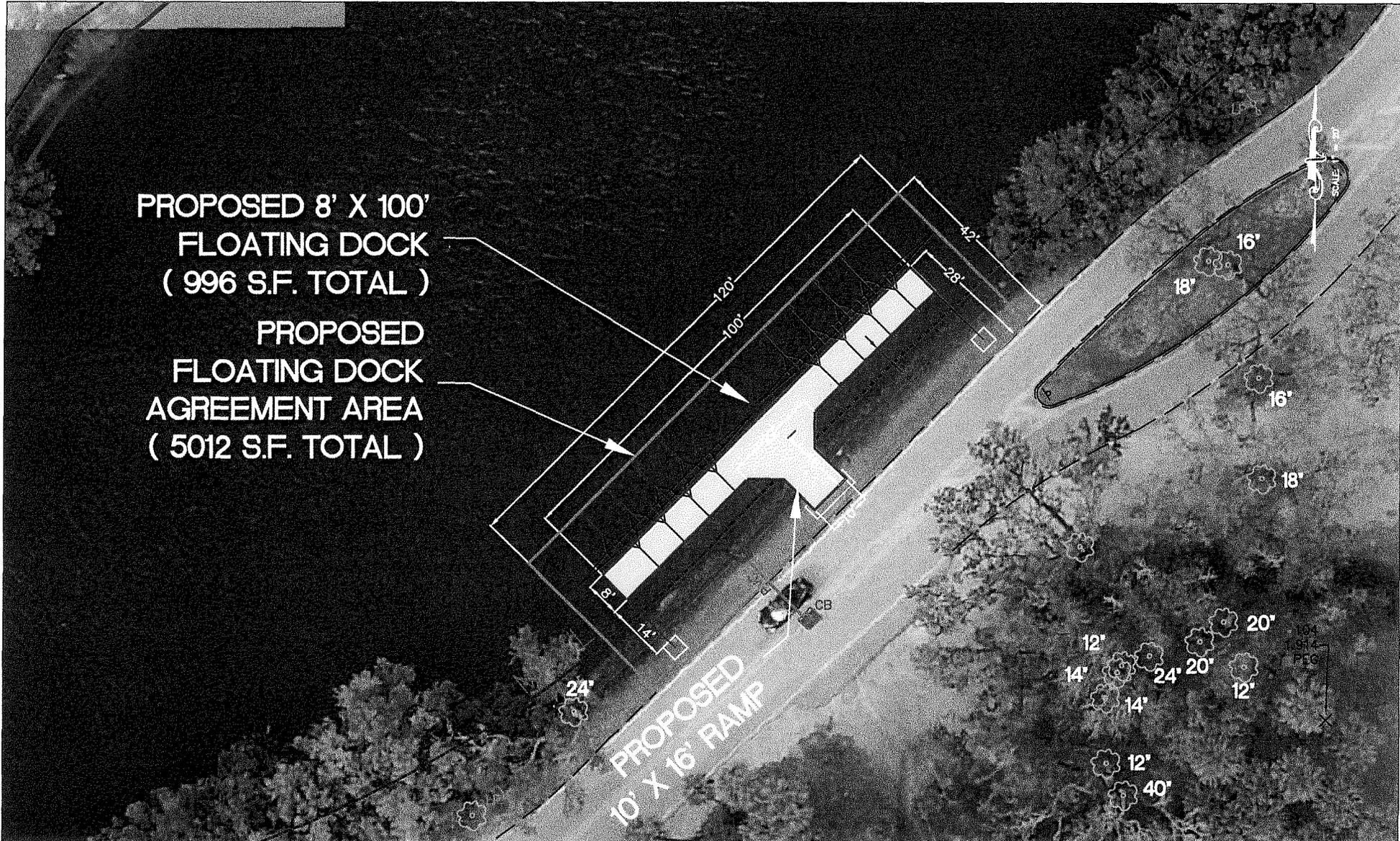
*David Gay* 10/30/15  
 DAVID GAY, PSM #5973 DATE

SHEET 2 OF 2

CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS SURVEY DIVISION	SKETCH OF PROPERTY DESCRIPTION INDIAN RIVER ROWING CLUB DOCK LEASE AREA MACWILLIAM BOAT BASIN PARK	EXHIBIT "B"		REV. NO.	AUTHORIZED BY
		CITY PROJECT NO. 2015-19		DRWN BY	DATE
		DATE 10/2015	DRWN BY DG	CHKD BY MKF	DESCRIPTION

PROPOSED 8' X 100'  
FLOATING DOCK  
( 996 S.F. TOTAL )

PROPOSED  
FLOATING DOCK  
AGREEMENT AREA  
( 5012 S.F. TOTAL )



APPROVED	X
DRAWN BY	X
DATE	10-27-2015

REVISION

CITY OF VERO BEACH  
MACWILLIAM BOAT BASIN PARK

PROPOSED FLOATING DOCK FOR  
INDIAN RIVER ROWING CLUB

DWG. NO.	
SHEET 1 OF 1	

Prepared by and return to:  
City Attorney  
City of Vero Beach  
P.O. Box 1389  
Vero Beach, FL 32960-1389

## MEMORANDUM OF LEASE

This Memorandum of Lease (“Memorandum”) is made as of the 1st day of December 2015 by and between the **CITY OF VERO BEACH, FLORIDA**, Florida municipal corporation, whose mailing address is P.O. Box 1389, Vero Beach, FL 32961-1389, hereinafter “Landlord,” and **INDIAN RIVER ROWING CLUB, INC.**, a Florida not for profit corporation, whose mailing address is P.O. Box 643063, Vero Beach, Florida 32964, hereinafter “Tenant”.

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the agreements hereinafter set forth and those of the Lease Agreement memorialized herein, Landlord and Tenant hereby acknowledge and agree as follows:

1. Landlord and Tenant entered into that certain Lease Agreement effective as of December 1, 2015, including all exhibits and attachments thereto, (“Lease”) by which Lease Landlord leased to Tenant and Tenant leased from Landlord that certain improved real property located at 310 Acacia Road in MacWilliam Boat Basin Park in the City of Vero Beach, Indian River County, Florida, (“Lease”), said real property being as more particularly described in Exhibit “A” and Exhibit “B” attached hereto and made a part hereof (“Leased Premises”).

2. Landlord and Tenant desire to record this Memorandum in order to place all persons on notice of the existence of the foregoing described Lease. To that end, this Memorandum shall serve as public notice of the rights of Tenant and Landlord with respect to the Leased Premises pursuant to the terms of the Lease.

3. The term of the Lease commenced as of December 1, 2015 and continues for a period of approximately twenty-five (25) years, subject to renewal of the Lease by the parties pursuant to its terms.

4. Reference is hereby made to the Lease for all other terms, conditions and agreements between the parties, which terms, conditions and agreements are incorporated herein by reference. A true and correct copy of the Lease is available at the office of Landlord, the City of Vero Beach, Attention City Clerk, at 1053 20<sup>th</sup> Place, Vero Beach, Florida 32960.

5. This instrument is merely a Memorandum and is subject to all of the terms, provisions and conditions of the Lease. Where the terms and conditions of this Memorandum and the Lease conflict, the terms and conditions of the Lease shall control and supersede. All terms herein shall have the same meaning as ascribed in the Lease.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the dates entered below and each party’s respective signatory whose signature appears below hereby warrants and represents that such signatory has been and is on the date of execution of this Memorandum duly authorized to execute this Memorandum on behalf their respective party.

TENANT:

Indian River Rowing Club, Inc.

ATTEST:

Charlotte C. LaJoie  
Charlotte LaJoie  
Secretary

By: Todd Young  
Todd Young  
President

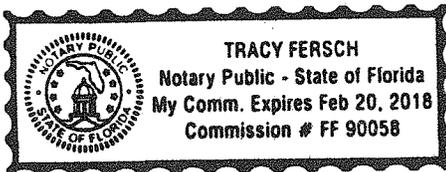
[Seal]

Date: 11/5/2015

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing Lease Agreement was acknowledged before me this 5<sup>th</sup> day of November 2015 by Todd Young, as President, and attested by Charlotte LaJoie, as Secretary, of Indian River Rowing Club, Inc., Tenant. He/She      is personally known to me OR      produced FL Drivers lic. as identification.

Tracy Fersch  
NOTARY PUBLIC  
Commission No.:  
My Commission Expires:



**LANDLORD:**

**City of Vero Beach, Florida**

**ATTEST:**

\_\_\_\_\_  
Tammy K. Vock  
City Clerk

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

[Seal]

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

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing Memorandum was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2015 by \_\_\_\_\_, as Mayor, and attested by Tammy K. Vock, as City Clerk, of the City of Vero Beach, Florida. They are both known to me.

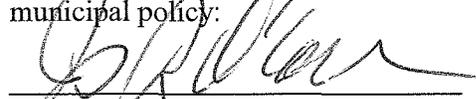
\_\_\_\_\_  
NOTARY PUBLIC

Commission No. \_\_\_\_\_ [Seal]  
My Commission Expires: \_\_\_\_\_

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
Wayne R. Coment  
City Attorney

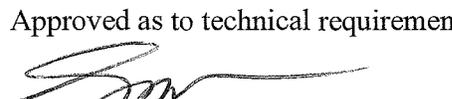
Approved as conforming with municipal policy:

  
\_\_\_\_\_  
James R. O'Connor  
City Manager

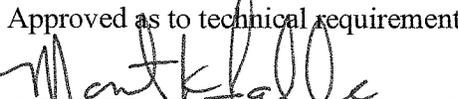
Approved as to technical requirements:

  
\_\_\_\_\_  
Rob Slezak  
Recreation Director

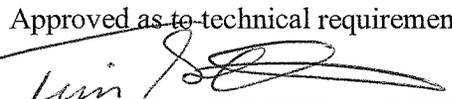
Approved as to technical requirements:

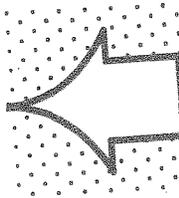
  
\_\_\_\_\_  
Cynthia D. Lawson  
Finance Director

Approved as to technical requirements:

  
\_\_\_\_\_  
Monte K. Falls  
Public Works Director

Approved as to technical requirements:

  
\_\_\_\_\_  
Tim Grabenbauer  
Marina Director



**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**  
**LEASE OF CITY PROPERTY/ INDIAN RIVER ROWING CLUB**  
**MACWILLIAM BOAT BASIN PARK**  
**Parcel #32-40-31-00000-0020-00001.3**

Situated in the State of Florida, County of Indian River, City of Vero Beach, being part of Government Lot 2, Section 31, Township 32 South, Range 40 East, being a part of MacWilliam Boat Basin Park and being more particularly bounded and described as follows:

Commencing at the northeast corner of the southeast quarter of the northeast quarter of said Section 31-32-40;

Thence South 89°39'18" West along the north line of Government Lot 2 for a distance of 1120.22 feet to an intersection with the west right of way of Indian River Drive East;

Thence South 00°03'57" East along the west right of way of Indian River Drive East for a distance of 684.01 feet to the northeast corner of MacWilliam Boat Basin Park;

Thence continue South 00°03'57" East along the west right of way of Indian River Drive East for a distance of 117.68 feet to the Point of Curvature of a curve concave to the northeast;

Thence southeasterly along said curve, having a radius of 642.45 feet and a delta angle of 3°57'53", for a distance of 44.46 feet;

Thence continue southeasterly along said curve, having a radius of 642.45 feet and a delta angle of 9°39'14", for a distance of 108.25 feet to a point, said point being 10 feet north of and parallel with the north line of the Ambulance Squad lease;

Thence South 89°20'15" West for a distance of 120.06 feet to a point, said point being 2 feet west of and parallel with the west line of the Ambulance Squad lease;

Thence South 00°01'13" East for a distance of 145.17 feet to a point on the north right of way of State Road 60 as shown of Florida Department of Transportation Map No. 88030-2514;

Thence South 89°38'31" West along said north right of way for a distance of 16.89 feet to a Point of Curvature of a curve concave to the south;

Thence westerly along said curve of the north right of way, having a radius of 5799.58 feet and a delta angle of 4°16'04", for a distance of 432.00 feet;

Thence North 58°00'00" East for a distance of 18.00 feet;

Thence North 71°00'00" East for a distance of 88.00 feet;

Thence North 47°00'00" East for a distance of 140.00 feet;

Thence North 58°00'00" East for a distance of 90.00 feet;

Thence North 40°00'00" East for a distance of 95.00 feet;

Thence North 84°00'00" East for a distance of 28.00 feet;

Thence North 77°00'00" East for a distance of 20.00 feet;

Thence North 64°00'00" East for a distance of 26.00 feet;

Thence North 77°00'00" East for a distance of 10.00 feet;

Thence South 85°00'00" East for a distance of 29.00 feet;

Thence North 86°00'00" East for a distance of 12.00 feet;

Thence North 79°00'00" East for a distance of 36.00 feet;

Thence South 81°52'15" East for a distance of 57.50 feet to the Point of Beginning;

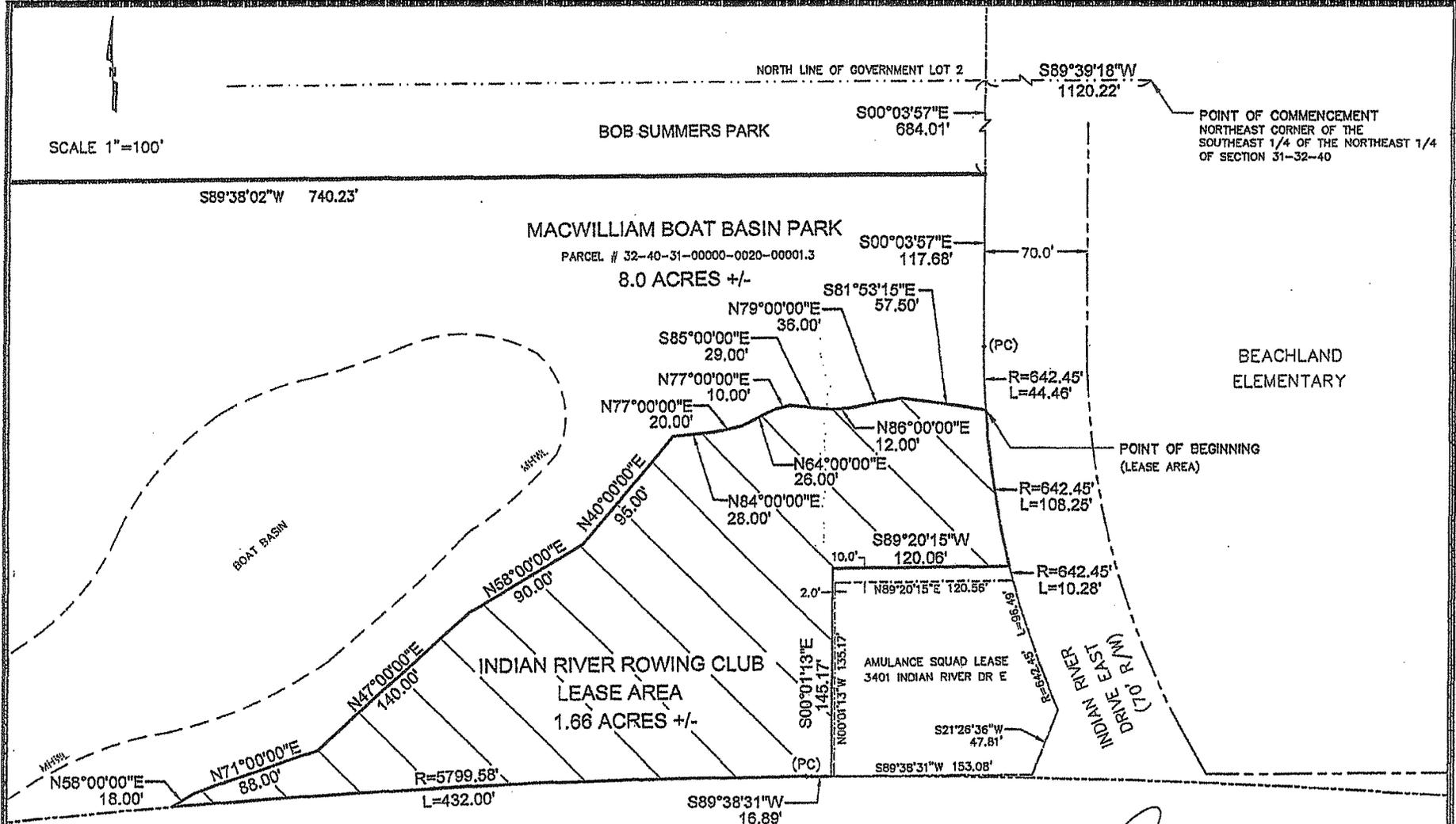
Said lease area containing 72,123 square feet or 1.66 acres more or less.



David R. Gay, PSM #5973



SCALE 1"=100'



THIS SKETCH IS NOT A SURVEY

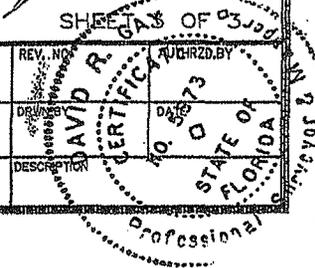
CITY OF VERO BEACH  
 DEPARTMENT OF PUBLIC WORKS  
 SURVEY DIVISION

MERRILL BARBER BRIDGE  
 STATE ROAD 60  
 (140' R/W)

SKETCH OF PROPERTY DESCRIPTION  
 INDIAN RIVER ROWING CLUB LEASE AREA  
 MACWILLIAM BOAT BASIN PARK

*David Gay* 9/29/15  
 DAVID GAY, PSM #5973 DATE

EXHIBIT "A"		
CITY PROJECT NO. 2015-19		
DATE	DRWN BY	CHKD BY
09/2015	DG	MKF



**EXHIBIT "B"**  
**PROPERTY DESCRIPTION**  
**LEASE OF CITY PROPERTY – INDIAN RIVER ROWING CLUB**  
**MACWILLIAM BOAT BASIN PARK**  
**Parcel #32-40-31-00000-0020-00001.3**

Situated in the State of Florida, County of Indian River, City of Vero Beach, being part of Government Lot 2, Section 31, Township 32 South, Range 40 East, being a part of MacWilliam Boat Basin Park and being more particularly bounded and described as follows:

Commencing at the northeast corner of the southeast quarter of the northeast quarter of said Section 31-32-40;

Thence South 89°39'18" West along the north line of Government Lot 2 for a distance of 1120.22 feet to an intersection with the west right of way of Indian River Drive East;

Thence South 00°03'57" East along the west right of way of Indian River Drive East for a distance of 684.01 feet to the northeast corner of MacWilliam Boat Basin Park;

Thence continue South 00°03'57" East along the west right of way of Indian River Drive East for a distance of 117.68 feet;

Thence South 89°56'03" West for a distance of 203.00 feet;

Thence South 45°02'00" West for a distance of 185.00 feet to the Point of Beginning of the Indian River Rowing Club Dock Lease Area;

Thence from the Point of Beginning, continue South 45°02'00" West for a distance of 120.00 feet;

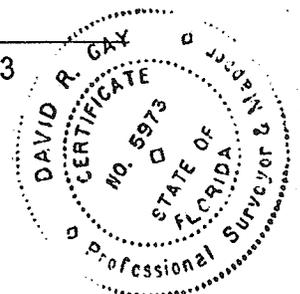
Thence North 44°58'00" West for a distance of 42.00 feet;

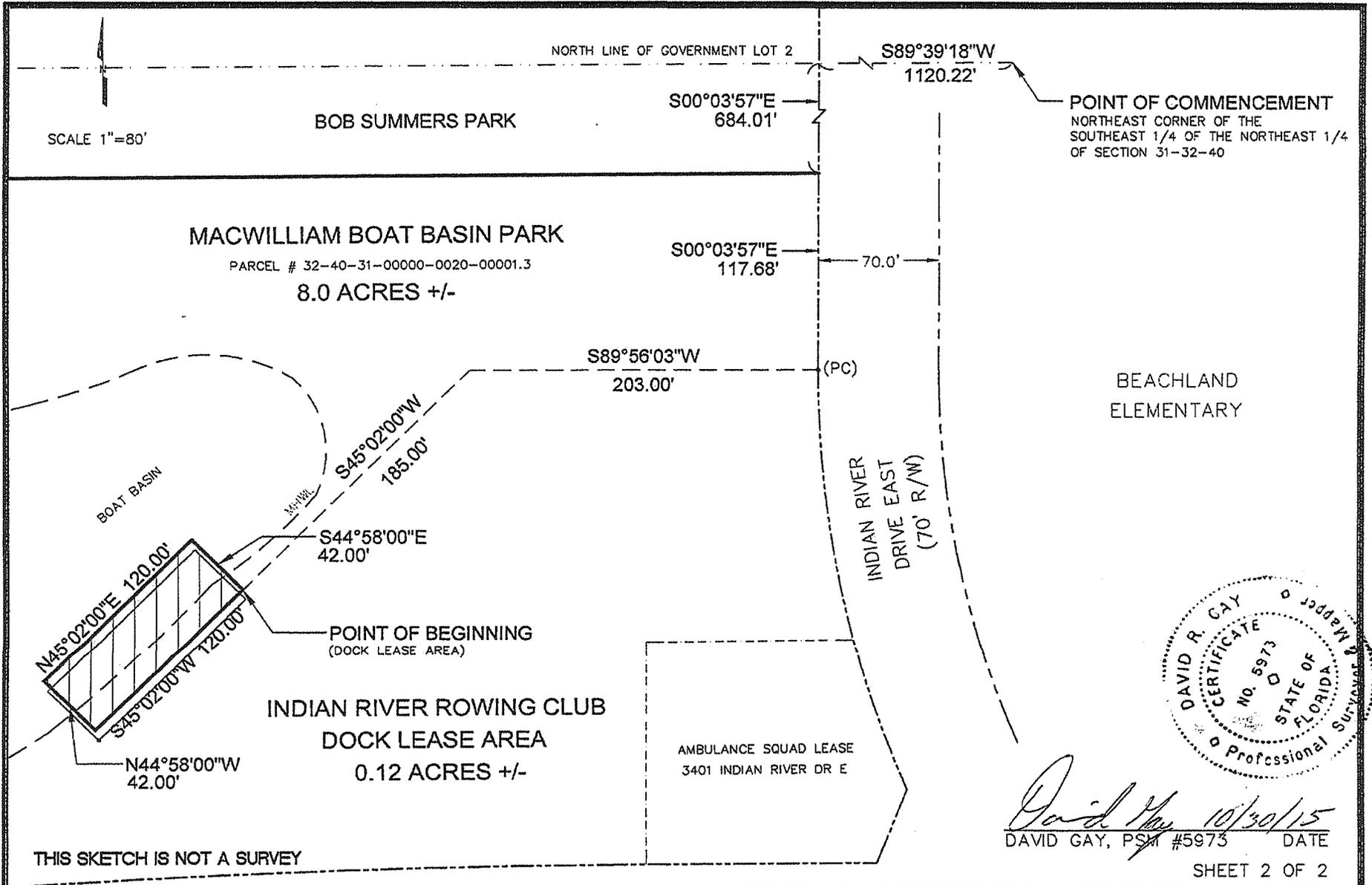
Thence North 45°02'00" East for a distance of 120.00 feet;

Thence South 44°58'00" East for a distance of 42.00 feet to the Point of Beginning;

Said lease area containing 5,040 square feet or 0.12 acres more or less.

  
David R. Gay, PSM #5973

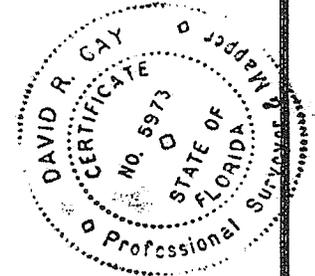




THIS SKETCH IS NOT A SURVEY

*David R. Gay* 10/30/15  
DAVID GAY, PSM #5973 DATE

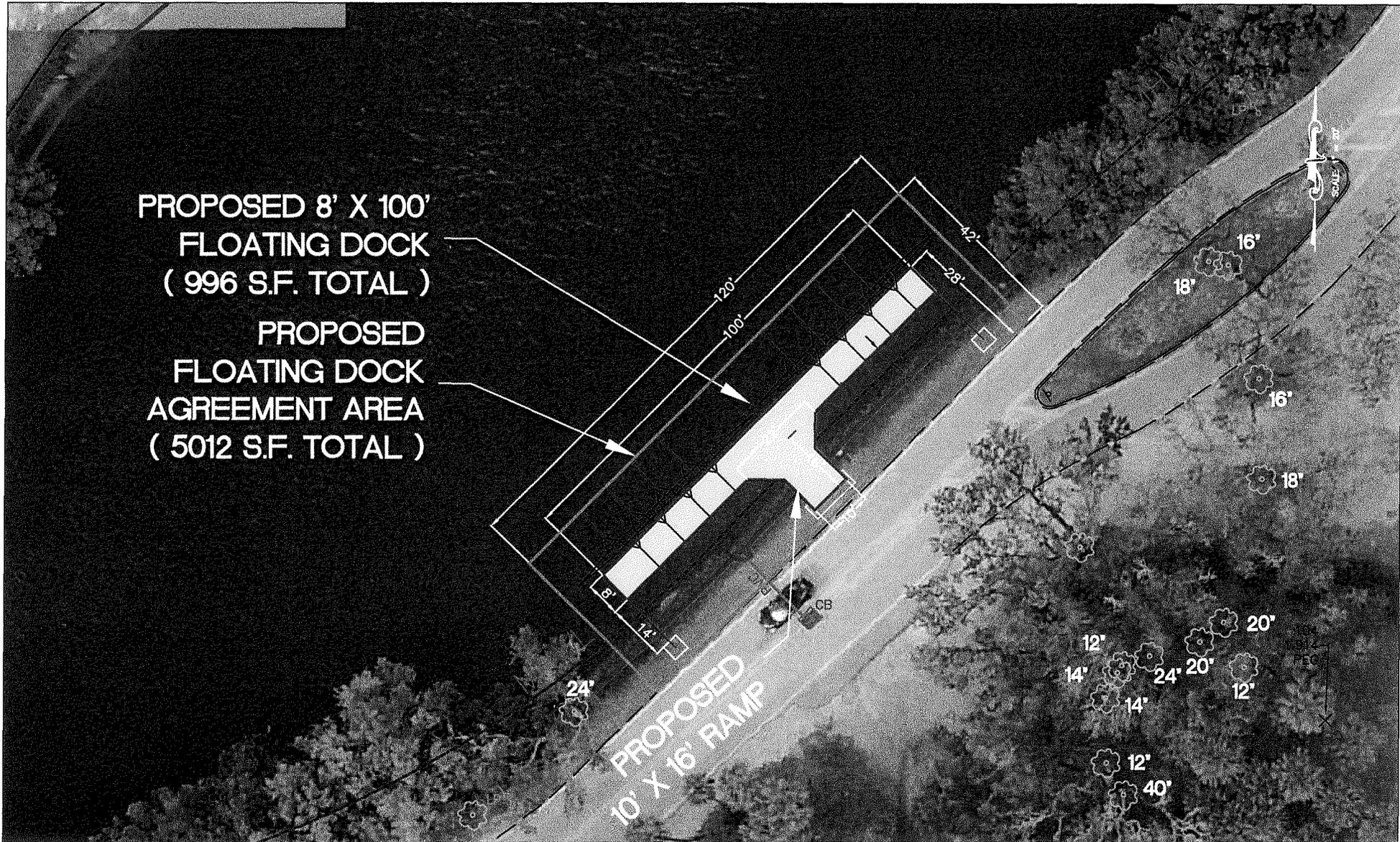
SHEET 2 OF 2



CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS SURVEY DIVISION	SKETCH OF PROPERTY DESCRIPTION INDIAN RIVER ROWING CLUB DOCK LEASE AREA MACWILLIAM BOAT BASIN PARK	EXHIBIT "B"		REV. NO.	AUTHRZD. BY
		CITY PROJECT NO. 2015-19		DRWN. BY	DATE
		DATE 10/2015	DRWN BY DG	CHKD BY MKF	DESCRIPTION

PROPOSED 8' X 100'  
 FLOATING DOCK  
 ( 996 S.F. TOTAL )

PROPOSED  
 FLOATING DOCK  
 AGREEMENT AREA  
 ( 5012 S.F. TOTAL )



APPROVED	X
DRAWN BY	X
DATE	10-27-2015

REVISION

CITY OF VERO BEACH  
 MACWILLIAM BOAT BASIN PARK

PROPOSED FLOATING DOCK FOR  
 INDIAN RIVER ROWING CLUB

DWG. NO.	
SHEET 1 OF 1	