

RESOLUTION NO. 2002- 153

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A LICENSE AGREEMENT AUTHORIZING USE OF A PORTION OF THE ST. AUGUSTINE SOUTH PARK AREA FOR AN ENCROACHMENT OF CONCRETE PAD AND FENCE.

WHEREAS, Mark R. Wixom and Kenni Pratt Wixom have requested a license authorizing use of a portion of St. Augustine South Park area for a fence and concrete pad that surrounds their pool. The fence and concrete pad are encroaching into the St. Augustine South Park area approximately 5.1 feet along the rear 60 feet of the property; and

WHEREAS, the County has determined the licensed area is not presently necessary for exclusive County or public purposes and has agreed to grant the Wixom's temporary use of property as set forth in the License Agreement attached hereto as Exhibit "A", incorporated by reference and made a part hereof.

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

Section 1. The Board of County Commissioners of St. Johns County hereby approves the terms of the License Agreement and authorizes the County Administrator to execute said Agreement.

Section 2. The Clerk of the Courts of St. Johns County is instructed to record the original License Agreement in the Official Records of St. Johns County, Florida, and mail executed copies of this Resolution and the Agreement to Mr. & Mrs. Wixom.

PASSED AND ADOPTED, this 6th day of August, 2002.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA.**

BY: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

Patricia Alex Grande
Deputy Clerk

RENDITION DATE 8-12-02

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, made and executed this ____ day of _____, 2002, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32095, hereinafter referred to as the "County", and **MARK R. WIXOM AND KENNI PRATT WIXOM, HUSBAND AND WIFE**, hereinafter referred to as the "Licensee".

WHEREAS, the Licensee has requested this License authorizing use of a portion of a public park known as St. Augustine South Park for a fence surrounding a concrete pad that is encroaching on the park property approximately 5.1 feet. The fence and concrete pad surrounds the pool on the Licensees' property; and

WHEREAS, the park is more fully described as St. Augustine South Unit 22 Park Area Moultrie Creek and shown on map on attached Exhibit "A", incorporated by reference and made a part hereof, hereinafter the "Premises"; and

WHEREAS, in consideration of the respective agreements of the parties herein contained, the County does hereby license, without warranty, to the Licensee, the temporary use of the park property for the purpose mentioned above.

1. To use above described Premises for term of ten (10) years, commencing on the date first above written. Said time shall be extended in ten(10) year increments, automatically for a total of up to 50 years providing that neither party notifies the other in writing of intent not to accept such extension at least thirty(30) days prior to the end of any said ten (10) year period. The Licensee paying therefore a nominal fee of \$1.00 per year, payable annually.
2. Although the Licensee may enter and use the subject Premises for an existing fence surrounding a concrete pad around the Licensee pool, the Licensee shall not be in possession of the Premises. The County shall possess and otherwise control all aspects of use of the Premises. The license shall be non-exclusive and Licensee will allow the continuance of any use or access by the general public and the County which have become customary on the Premises. Moreover, Licensee agrees to allow the County to grant any easement it deems appropriate during the period of this license that burdens the same Premises, so long as such easement does not substantially prevent Licensees' intended use of the Premises for more than thirty (30) continuous days.
3. Licensee shall have the right to assign this license, with written consent of the County (which consent shall not be unreasonably denied), provided any assignment shall fully bind Assignee as a successor Licensee.

4. Licensee shall restore the Premises to its original condition upon destruction or termination or expiration of this license, or any renewals, thereof.
5. The Licensee shall make no improvements to the subject Premises, except routine maintenance without the written permission of the County. The Licensee shall make no improvements to, or maintain the property, or rely on the use of this Premises in any way which would make this License irrevocable. The Licensee specifically hereby waives any agreement or claim that this License is not irrevocable.
6. The Licensee shall not be permitted to make or suffer any waste or unlawful, improper or offensive use of Premises.
7. The County and its agents, servants, and employees shall have and hereby reserve their right and privilege, all reasonable times during the term of this license, to enter said Premises, to examine and inspect the same. The Licensee shall not cause or permit any use of the Premises for other than those uses specifically provided for in this license.
8. The Licensee, in consideration for the use of the Premises does hereby release and discharge and further will indemnify and save harmless the County from any and all claims for personal injuries or property damages during the existence of this license, arising in any manner by virtue of the use or occupancy of such premises by the Licensee, that the Licensee does hereby further agree to indemnify and save harmless the County from liability for damage, injury or death to any person or persons arising out of the use of said property, or from the lack of keeping same in good repair and order, or from the negligent operation of same, or for any other cause for any nature whatsoever, provided such damage, injury or death is not due to County's own negligence.
9. The Licensees' fence around concrete pad shall conform to and comply with all laws, orders and regulations of the federal, state, county and municipal governments and all of their departments and bureaus.
10. If the Licensee shall fail to comply with or abide by any of the other provisions or stipulations in this license on its part, and such default continues for sixty (60) days, the County may terminate this license and terminate the Licensee's use of said Premises after being notified by certified mail of Licensee's failure to comply with the terms of this license..
11. The waiver of County of any such breach hereof on the part of the Licensee, or any time or from time to time shall not be deemed, held, or construed as a waiver of any subsequent breach, or imply any further indulgence.
12. Notwithstanding any other provision of this license, the Licensee hereby releases any rights it has in regards to the coupling of this license with an interest, thus

hereby allowing the County to revoke this license on ninety (90) days written notice to the Licensee, for any reason whatsoever, without further liability between the parties except as expressly and specifically provided for in this license. The reasons for such cancellation may include, but are not limited to, increased public demand for use of the subject parking and/or disaster relief use of space. Upon such revocation, Licensee shall remove said fence around concrete pad within said ninety (90) day period, and

13. Licensee reserves the right to terminate this license by giving the County a ninety (90) day notice in writing.
14. The execution of this license Agreement shall not constitute a waiver by either party hereto of any right or claim of right to the subject lands or to use the subject lands.

IN WITNESS WHEREOF, the undersigned parties have executed this License Agreement on the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: _____
Ben W. Adams, Jr. County Administrator

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

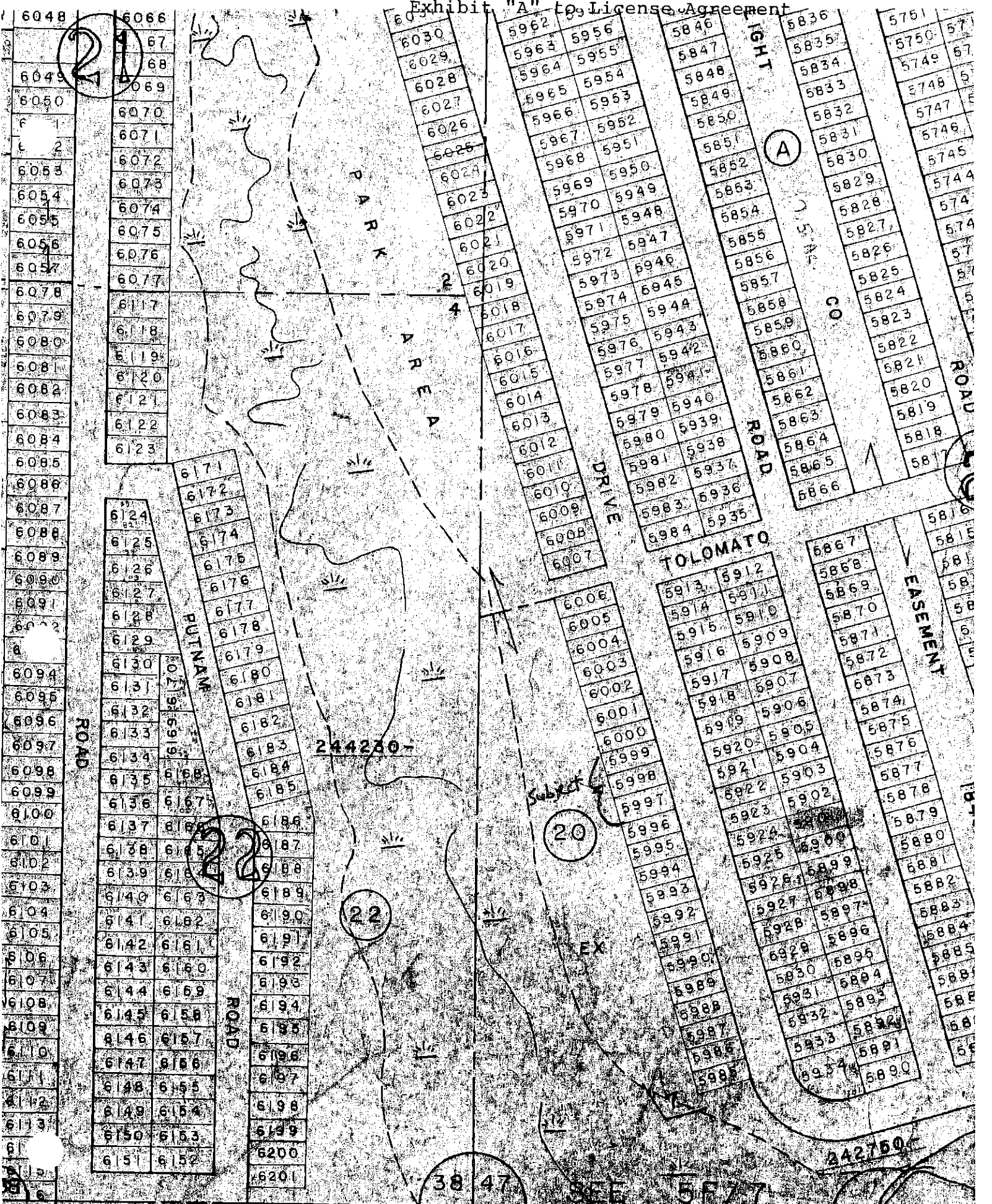
Witness

Mark R. Wixom

Witness

Kenni Pratt Wixom

Exhibit "A" to License Agreement



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