

Prepared by:

CONSERVATION EASEMENT

THIS DECLARATION AND DEDICATION OF CONSERVATION EASEMENT, (hereinafter the “Declaration” or “Conservation Easement”) is made this _____ day of _____, 2021, by the City of Dunedin, a municipal corporation of the State of Florida, as the property owner and grantor (hereinafter the “City”) and Pinellas County, Florida, as grantee and holder of the conservation easement (hereinafter the “County”). As used herein, the term "City" or “County” shall include all their respective heirs, successors, and assigns.

WITNESSETH:

WHEREAS, the City recently acquired certain real property in fee simple located at 1900 Virginia Avenue, Dunedin, Florida which is more fully described in Exhibit “A” attached hereto and made a part hereof (hereinafter the "Property"); and

WHEREAS, the City acquired the Property for preservation of open space and public water access, species and habitat protection, and to provide resource-based recreation opportunities; and

WHEREAS, pursuant to that Interlocal Funding Agreement executed by the parties contemporaneously herewith, the County is contributing three million five hundred thousand dollars (\$3,500,000.00) toward the ten-million-dollar (\$10,000,000.00) purchase price of the Property for the primary purpose of conserving approximately eighteen (18) acres of the Property containing rare Sand Pine Scrub and Rosemary Bald plant species (hereinafter the “County Contribution”); and

WHEREAS, the City and County have and will likely continue to apply if not initially successful to Florida Communities Trust for a Florida Forever Grant in the amount of up to two million four hundred thousand dollars (\$2,400,000.00) to reimburse the City and County for a portion of their respective acquisition costs (hereinafter the “FCT Grant”); and

WHEREAS, the FCT Grant requires the property to be utilized for certain environmental, educational, and recreational purposes and requires the construction of certain improvements in furtherance thereof; and

WHEREAS, the City, in furtherance of the FCT Grant and in consideration of the County Contribution, and other good and valuable consideration, agrees to place restrictions, covenants, conditions, and easements over approximately eighteen (18) acres of the Property

being more particularly described on Exhibit “B” as the “Sand Pine Scrub Area” and “Rosemary Bald Area”, (the Sand Pine Scrub Area and Rosemary Bald Area hereinafter collectively referred to as the “Conservation Easement Area”) pursuant to and in accordance with the provisions of Section 704.06, Florida Statutes, the FCT Grant, and the terms outlined herein.

NOW THEREFORE, the City hereby unconditionally and irrevocably declares and covenants with the County that the Property and Conservation Easement Area shall be held and subject to the restrictions and conditions set forth herein, which shall constitute a perpetual servitude on the Property and be binding on all parties that have or shall have any right, title or interest in the Property, pursuant to the following terms:

ARTICLE I. INTENT; AUTHORITY

It is the purpose of this Declaration, and it is the City’s intent, to place restrictions, covenants, and conditions on the Conservation Easement Area to conserve the Conservation Easement Area in its predominantly natural condition.

The City states that it is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Declaration; and that the City has good right and lawful authority to make this Declaration.

ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

The Conservation Easement Area shall be maintained in its scenic and open condition and restricted from any development or use that would impair or interfere with the purposes of this Declaration. The portions of the Property and facilities thereon that are to be enhanced, created, or restored pursuant to the FCT Grant shall be constructed, retained, and maintained in the enhanced, created, or restored conditions required by the FCT Grant. Except for activities that are permitted or required by the FCT Grant (or any modification thereto), any activity on or use of the Conservation Easement Area inconsistent with the purpose of this Declaration is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited within or on the Conservation Easement Area consistent with Section 704.06, Florida Statutes:

i. Construction of any structures or placement of improvements of any kind that will have a negative impact on the Conservation Easement Area as determined by the County; construction or installation of structures that will not have a negative impact, which may include boardwalks, natural walking paths, educational kiosks, and like improvements may be allowed within the Sand Pine Area of the Conservation Easement Area with the written consent of the County;

ii. Public entry or use for any purpose other than for passive recreation associated with the approved installation of boardwalks or other such structures;

iii. Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;

- iv. Removing, destroying or trimming trees, shrubs, or other vegetation, except:
 - a) The removal of dead trees and shrubs or leaning trees that could cause damage property is authorized;
 - b) The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized.
- v. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;
- vi. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance;
- vii. Surface use except for purposes that permit the land or water area to remain predominantly in its natural or enhanced condition and
- viii. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

Notwithstanding the above, public entry or use within the Rosemary Bald Area of the Conservation Easement Area is prohibited. The County shall have the right but not the obligation to fence the Rosemary Bald Area at its discretion, with the type and location of the fencing to be determined by the County. If the County elects to fence said area, it will be done in a manner that does not negatively impact the Conservation Easement Area and still allows public viewing of the Rosemary Bald Area.

No later than thirty (30) days before commencing any activities within the Conservation Easement Area, the City shall notify the County in writing of its intent to commence such activities. All such activities may only be completed upon consent of the County, which may be granted by the County's Administrator.

ARTICLE III. PUBLIC ACCESS TO JERRY LAKE

The City shall not construct any structures or place any improvements on the Property in a manner which would permanently preclude or substantially inhibit public access to those portions of the Property bordering Jerry Lake as shown on Exhibit "C."

ARTICLE IV. ACCESS, ENFORCEMENT AND REMEDIES

A. Access. The City hereby grants site access to the County or its successors and assigns, with any necessary equipment or vehicles, for the purpose of determining compliance with this Declaration. In addition to the County's right to monitor activities on the Property and enforce the terms herein, the City hereby grants the County the right to access the Conservation Easement Area to conduct limited non-invasive biological research thereon.

B. Enforcement. The terms and conditions of this Declaration may be enforced by the County and its assigns at law or equity, at the County's reasonable discretion, to prevent the occurrence of any of the prohibited activities set forth herein.

C. Remedies. In the event of noncompliance with the terms of this Declaration, the County may require the restoration of such areas or features of the Property that may be damaged by any activity or use that is inconsistent with this Declaration. Any forbearance on behalf of the County to exercise its rights in the event of the failure of the City to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of the County's rights hereunder in the event of any subsequent failure of the City to comply. The County shall not be obligated to the City, or to any other person or entity, to enforce the provisions of this Declaration.

ARTICLE V. DURATION, TERMINATION, MODIFICATION

A. Duration. It is the intention of the City that the restrictions contained in this Declaration shall run with the land and with the title to the Property in perpetuity, and shall apply to and be binding upon and inure to the benefit of the successors and assigns of the City and to any and all parties hereafter having any right, title or interest in the Property or any part thereof.

B. Termination or Modification. This Declaration shall not be terminated or modified without the express written consent of the County. Any agreed upon termination or modification shall be recorded in the public records of Pinellas County, Florida.

ARTICLE VI. MISCELLANEOUS

A. Owner's Rights. The City, its successors and assigns, reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and that are not inconsistent with the FCT Grant (or any modification thereto) or other restrictions on use of the Property as recreation/open space, or the intent and purposes of this Declaration.

B. Taxes. The City shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Property and shall furnish the County with satisfactory evidence of payment upon request.

C. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Declaration.

D. Severability. If any provision of this Declaration or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Declaration shall not be affected thereby, as long as the purpose of the Declaration is preserved.

E. Terms and Restrictions. The City shall insert the terms and restrictions of this Declaration in any subsequent deed or other legal instrument by which the City divests itself of any interest in the Property.

F. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successors-in-interest.

G. Recording. The City shall record this instrument in the official records of Pinellas County, Florida within thirty (30) days of full and proper execution and shall re-record it at any time as may be required to preserve the Declaration. The City shall pay all recording costs and taxes necessary to record this Declaration in the public records, as applicable.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Declaration the day and year last written below.

Witnesses:

THE CITY OF DUNEDIN

By: _____

By: _____
(Signature)

Name: _____
(Print)

Name: _____
(Print)

By: _____

Title: _____

Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this day of 2021, by _____.

(Seal)



By: _____
Signature of Notary Public

Print Name: _____

Personally Known _____
OR Produced Identification _____
Type of Identification Produced _____

PINELLAS COUNTY, FLORIDA
by and through its Board of County Commissioners

ATTEST:
Ken Burke, Clerk of Court

By: _____
Deputy Clerk

By: _____
(Signature)

Name: _____

Name: _____
Dave Eggers, Chair

Date: _____

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EXHIBIT A

[LEGAL DESCRIPTION OF PROPERTY]

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EXHIBIT "B"

[DESCRIPTION OF THE CONSERVATION EASEMENT AREA]

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EXHIBIT “C”

(Description of Jerry Lake shoreline)

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