

RESOLUTION NO. 25-19

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, VACATING, CLOSING, AND ABANDONING CERTAIN PORTIONS OF UNIMPROVED AND UNMAINTAINED RIGHTS-OF-WAY; PROVIDING FOR THE INCORPORATION OF RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR RECORDATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, pursuant to Florida law, the interest acquired in land by a municipal corporation for street purposes is held in trust for the benefit of all the public, regardless of whether the municipal corporation owns the fee or has merely an interest therein; and

WHEREAS, the Town has the authority to vacate streets within its corporate boundaries under the common law, which provides that the power to vacate city streets and/or roads is vested in the municipality if it is in the public interest. *City of Temple Terrace v. Tozier*, 903 So. 2d 970 (Fla. 2d DCA 2005); *Loeffler v. Roe*, 69 So. 2d 331 (Fla. 1953); and

WHEREAS, the Florida Attorney General concluded in *Op. Att'y Gen. Fla. 78-125* that the Town also has the authority to vacate streets within its corporate boundaries under the common law when the street and/or right-of-way is no longer required for public use and convenience; and

WHEREAS, on May 29, 1911, that certain subdivision plat entitled *Florida Highlands Company's Subdivision* (the "Dundee Plat") was recorded in Plat Book 1C, Page 87, Public Records of Polk County, Florida; and

WHEREAS, on May 9, 2000, the Town Commission of the Town of Dundee (the "Town Commission"), at a duly noticed public meeting, approved *Town of Dundee Resolution No. 00-07* (the "Resolution") which formally accepted all streets, alleys, easements, rights of way, and other public areas dedicated by virtue of the Dundee Plat; and

WHEREAS, copies of the Dundee Plat and Resolution are attached hereto as **Composite Exhibit "A"** and made a part hereof by reference; and

WHEREAS, on February 10, 2025, **THELMA C. RALEY, INC.** (hereafter referred to as either the "Owner" or "Applicant"), an active Florida corporation, submitted its *Town of Dundee Vacation of Right-of-Way Application* (the "Application") requesting that the Town vacate those certain unpaved, unimproved, and unmaintained rights-of-way which were dedicated by the Dundee Plat (see **Composite Exhibit "A"**); and

WHEREAS, the Applicant is the marketable fee simple title owner of the real property, which the Polk County Property Appraiser identifies as Parcel Numbers 272833-852500-000010, 272823-852500-000130, 272828-847020-000060, and 272828-847020-000010 (the "Property");

WHEREAS, copies of the Polk County Property Appraiser Parcel Details for the Property and Polk County Property Appraiser Aerial Depiction of the Property are attached hereto as **Composite Exhibit "B"** and made a part hereof by reference; and

WHEREAS, the Dundee Plat (see **Composite Exhibit "A"**) dedicated certain streets, alleys, and avenues which are located on the Property for the use of the general public; and

WHEREAS, the Property remains unimproved and/or undeveloped; and

WHEREAS, the Applicant has requested that the Town Commission forever vacate, abandon, renounce, and disclaim certain publicly dedicated rights-of-way (the "Dedications") which are the subject of the Dundee Plat (see **Composite Exhibit "A"**) and located on the Property; and

WHEREAS, copies of the Town of Dundee Description Sketches and Boundary Survey of and/or for the Dedications are attached hereto as **Composite Exhibit "C"** and made a part hereof by reference; and

WHEREAS, no portion of the Dedications (see **Composite Exhibit "C"**) to be vacated constitutes or was acquired for a state or federal highway, nor will the vacation of the Dedications deprive any person, firm, corporation or other entity of its legal right of ingress and/or egress to any real property abutting and/or adjacent to the Property; and

WHEREAS, pursuant to *Section 177.101(4) of the Florida Statutes*, all applicable state, county, and municipal taxes have been paid; and

WHEREAS, the Town of Dundee, other affected agencies, and applicable public utility companies have reviewed the Application and provided responses (the "Agency Responses") stating that there are *no objection(s)* to the requested vacation(s); and

WHEREAS, pursuant to applicable Florida law, a *Notice of Intent to Seek Vacation of Right-of-Way Within the Town of Dundee* (the “Notice”) was duly published in the Winter Haven Sun on May 8, 2025, and May 21, 2025, for the purpose of hearing objections to the Applicant’s request to vacate the underlying, platted, unpaved, and unimproved Dedications (see **Composite Exhibits “A” and “C”**); and

WHEREAS, a copy of the Notice is attached hereto as **Exhibit “D”** and made a part hereof by reference; and

WHEREAS, all conditions precedent and necessary to vacate the Dedications (see **Composite Exhibits “A” and “C”**) have been met and the minimum technical requirements of the Town of Dundee Land Development Code (the “LDC”) and pertinent Florida Statutes have been satisfied; and

WHEREAS, on **June 10, 2025**, at a duly noticed public hearing, the Town Commission found that, based on competent substantial evidence, the Dedications (see **Composite Exhibits “A” and “C”**) are not reasonably and materially beneficial to the adjoining land owners and/or the general public; and

WHEREAS, on **June 10, 2025**, at a duly noticed public hearing, the Town Commission found that no injury will result from the Town’s vacation and/or abandonment of the Dedications (see **Composite Exhibits “A” and “C”**); and

WHEREAS, the Town Commission of the Town of Dundee, Florida, found and determined that (i) the vacation of the Dedications (see **Composite Exhibits “A” and “C”**) preserves, enhances and encourages the most appropriate use of land consistent with the public interest; and (ii) the subject rights-of-way are not needed for a public purpose; and

WHEREAS, on **June 10, 2025**, the Town Commission of the Town of Dundee, Florida, held a duly noticed public hearing in order to consider this **Resolution No. 25-19** vacating, closing, and abandoning certain unplatted and unmaintained rights-of-way and found that the approval of this **Resolution No. 25-19** preserves, enhances, and encourages the most appropriate use of land consistent with the public interest; and

WHEREAS, on **June 10, 2025**, at a duly noticed public hearing, the Town Commission of the Town of Dundee, Florida, finds that the passage of this **Resolution No. 25-19** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the Town of Dundee 2030 Comprehensive Plan policies and objectives; and this **Resolution No. 25-19** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:

Section 1. Incorporation of Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this **Resolution No. 25-19**, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting

the adoption of this **Resolution No. 25-19**. The above factual recitals are hereby incorporated herein and serve as a factual and material basis for the passage of this **Resolution No. 25-19**.

Section 2. Vacation.

The Town Commission of the Town of Dundee (the "Town Commission") hereby vacates, closes, abandons and disclaims any right and/or interest of the Town in and/or to the Dedications (see **Composite Exhibits "A" and "C"**).

Pursuant to *Section 255.22, Florida Statutes (2024)*, and applicable Florida law, the Town vacates, closes, abandons and disclaims any right and/or interest which is in favor of the Town of Dundee, Florida, in and/or to the Dedications (see **Composite Exhibits "A" and "C"**). This **Resolution No. 25-19** does not vacate, close, abandon and/or disclaim any right and/or interest which is held by and/or under the jurisdiction of another agency and/or third-party.

Section 3. Purpose; Authorization.

This **Resolution No. 25-19** serves only that purpose expressly stated in *Section 2, above*. Nothing herein shall be construed or interpreted as a representation of the rights or interests accruing to or existing in the Applicant and/or any third party to the real property and lands described and/or identified in this **Resolution No. 25-19**.

The Town Manager, or his/her designee, is hereby authorized to take any and all necessary further action(s) to effectuate the intent of this **Resolution No. 25-19** which includes, but shall not be limited to, negotiating and executing any documentation necessary and incidental to the abandonment, closing, and/or vacation of the rights-of-way which are the subject of the *Town of Dundee Vacation of Right-of-Way Application* submitted by **THELMA C. RALEY, INC.** (hereafter referred to as either the "Owner" or "Applicant").

Section 4. Easements.

Unless specifically identified herein, any easement(s) of record affecting the real property shall not be terminated by the passage and adoption of this **Resolution No. 25-19**.

Section 5. Copy to Polk County.

A copy of this **Resolution No. 25-19** shall be furnished to the Polk County Board of County Commissioners in accordance with *Section 177.101(4) of the Florida Statutes*.

Section 6. Conflicts.

All resolutions in conflict with this **Resolution No. 25-19** are repealed to the extent necessary to give this **Resolution No. 25-19** full force and effect.

Section 7. Severability.

The provisions of this **Resolution No. 25-19** are severable. If any section, subsection, sentence, clause, phrase of this **Resolution No. 25-19**, or the application thereof shall be held

invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this **Resolution No. 25-19**, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this **Resolution No. 25-19** for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this **Resolution No. 25-19** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Resolution No. 25-19** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Resolution No. 25-19**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Resolution No. 25-19**, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 8. Administrative Correction of Scrivener's Errors.

It is the intention of the Town Commission that sections of this **Resolution No. 25-19** may be renumbered or re-lettered and the word "resolution" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and sections of this **Resolution No. 25-19** may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 9. Recordation.

The Town Clerk shall be responsible for recording this **Resolution No. 25-19**, as adopted, with the Clerk of the Circuit Court in and for the Tenth Judicial Circuit of Polk County, Florida, for inclusion in the public records of Polk County, Florida.

Section 10. Effective Date.

This **Resolution No. 25-19** shall become effective when a certified copy of this **Resolution No. 25-19** has been filed in the offices of the Clerk of the Circuit Court in and for the Tenth Judicial Circuit of Polk County, Florida, and duly recorded in the public records of Polk County, Florida. The Town Clerk shall record the proof of publication of notice of public hearing, this **Resolution No. 25-19** as adopted, and the proof of publication of the notice of the adoption of this **Resolution No. 25-19** with the Clerk of the Circuit Court in and for the Tenth Judicial Circuit of Polk County, Florida, for inclusion in the public records of Polk County, Florida.

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READ, PASSED AND ADOPTED at a duly called meeting of the Town Commission of the Town of Dundee, Florida, assembled on the 10th day of June, 2025.

TOWN OF DUNDEE

Samuel Pennant, Mayor

ATTEST WITH SEAL:

Erica Anderson, Town Clerk

Approved as to form:

Frederick J. Murphy, Jr., Town Attorney