

RESOLUTION NO. 25-17

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA MEMORIALIZING THE CONDITIONAL APPROVAL AND ACCEPTANCE OF THAT CERTAIN UTILITY EASEMENT LOCATED ON POLK COUNTY PARCEL IDENTIFICATION NUMBER 272827-835500-000392; AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL NECESSARY FURTHER ACTIONS TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR THE INCORPORATION OF FACTUAL 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, on December 18, 2024, marketable fee simple title to the real property, which the Polk County Property Appraiser identifies as Parcel Number 272827-835500-000392 (the "Property"), was vested in Signature Homes & Land Development of FL, LLC, by virtue of the certain Warranty Deed recorded in the Official Records Book 13381, Page(s) 1061-1062, Public Records of Polk County, Florida; and

WHEREAS, a copy of the Polk County Property Appraiser Parcel Details for the Property is attached hereto as **Exhibit "A"** and made a part hereof by reference; and

WHEREAS, on December 19, 2024, marketable fee simple title to the Property (see **Exhibit “A”**) was vested in **Aracelis Marquez Ruiz** (hereafter the “Owner” or “Applicant”) by virtue of the certain Warranty Deed recorded in the Official Records Book 13381, Page(s) 1064-1065, Public Records of Polk County, Florida; and

WHEREAS, on December 24, 2019, at a duly noticed public meeting, the Town Commission of the Town of Dundee (the “Town Commission”) adopted *Town of Dundee Resolution No. 19-21* which approved with conditions that certain plat entitled *Vista Del Lago Phase II-Replat* (the “Development”) recorded in Plat Book 176, page 15, public records of Polk County, Florida; and

WHEREAS, on January 28, 2020, at a duly noticed public meeting, the Town Commission adopted *Town of Dundee Resolution No. 20-05* which accepted the infrastructure and improvements relating to the acceptance of all water and wastewater, roads/streets and related rights-of-way infrastructure for the Development; and

WHEREAS, pursuant to *Section 7.02.00 of the Town of Dundee Land Development Code* (“LDC”), the Owner submitted an application for approval of a *site development plan* (the “Application”) in order to construct a single-family residence on the Property; and

WHEREAS, upon receipt and review of the Application, the Town determined that the sixty (60) foot stormwater drainage/retention easement (the “Vista II Easement”) was not recorded for the Development; and

WHEREAS, Town staff and Town consultants confirmed that all utility improvements located within the Development, as identified by the that certain plat entitled *Vista Del Lago Phase II-Replat* were completed to the standards set forth by the Town, passed all necessary and required tests, received the necessary and required certifications, and the utility system(s) are operational pursuant to Town standards; and

WHEREAS, pursuant to the LDC, Town staff and Town consultants confirmed that the Vista II Easement and stormwater drainage infrastructure were insufficient to serve its intended purpose and rendered the Property (see **Exhibit “A”**) undevelopable; and

WHEREAS, at the request of the Owner, the Town reevaluated the technical specifications and requirements which are set forth in the LDC and applicable code(s) related to stormwater drainage for the Development and Property; and

WHEREAS, the Owner and Town prepared a description sketch (the “Scenic Highway Design”) for the Property (see **Exhibit “A”**) providing an alternative stormwater drainage design and easement location which included, but was not limited to, adequate and operational stormwater drainage, readily available connectivity to the Town’s water and wastewater utility systems, and adequate developable area on and/or for the Property; and

WHEREAS, a copy of the Scenic Highway Design is attached hereto as **Exhibit “B”** and made a part hereof by reference; and

WHEREAS, Owner submitted an applicant-initiated request for the Town to prepare a utility easement (the “Easement”) reserving unto the Town the right and authority to access those portions of the Property (see **Exhibit “A”**) more specifically identified and depicted in the Scenic Highway Design (see **Exhibit “B”**); and

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

WHEREAS, Owner requests that the Easement (see **Exhibit “C”**) be approved and accepted by the Town Call conditions and/or requirements being satisfactorily completed which include, but are not limited to, the recordation of a fully-executed Easement in the Public Records of Polk County, Florida, and the entry into a Hold Harmless, Release, and Indemnification Agreement between the Owner and Town; and

WHEREAS, the Easement (see **Exhibit “C”**) was reviewed by Town staff and Town consultants and, pursuant to said review, determined to meet the requirements of applicable provisions of the LDC and Town of Dundee Code of Ordinances; and

WHEREAS, on May 27, 2025, pursuant to Florida law, applicable provisions of the Town of Dundee Code of Ordinances and Land Development Code, the Owner requested and that the Town Commission review and conditionally approve and accept the Easement (see **Exhibit “C”**); and

WHEREAS, on May 27, 2025, the Town Commission, at a duly noticed public meeting, held a public hearing to consider the Easement (see **Exhibit “C”**) for approval, acceptance, and recording; and

WHEREAS, on May 27, 2025, the Town Commission found that the conditional approval and acceptance of the Easement (see **Exhibit “C”**) preserves, enhances and encourages the most appropriate use of land consistent with the public interest, the Town of Dundee 2030 Comprehensive Plan policies and objectives, and the Town of Dundee Land Development Code; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this **Resolution No. 25-17** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest; and this **Resolution No. 25-17** 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. 25-17**, 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. 25-17**. The above factual recitals are hereby incorporated herein and serve as a factual and material basis for the passage of this **Resolution No. 25-17**.

Section 2. Acceptance.

The owner/applicant, **Aracelis Marquez Ruiz**, is the owner of the real property and/or lands more specifically described in **Exhibit "A"** which is attached hereto and incorporated herein by reference. The Owner has provided the Easement, which is attached hereto as **Exhibit "C"** and incorporated herein, which is required for the Property and the installation and construction of necessary improvements and utility infrastructure in favor of the Town of Dundee, Florida, in order to ensure the completion of adequate and operational utility service(s) and utility infrastructure.

The Easement (see **Exhibit "C"**), as more specifically identified and depicted in the Scenic Highway Design attached hereto as **Exhibit "B"** and incorporated herein by reference, was presented to the Town Commission on May 27, 2025. The Town Commission, having reviewed the Easement, conditionally approves and accepts the Easement and authorizes the Mayor and Town Clerk to sign the copy of the Easement to be recorded.

Section 3. Conditions.

Approval of the Easement (see **Exhibit "C"**) is conditioned, as follows:

(a) The Town of Dundee shall record, at the Owner's sole cost and expense, a fully-executed original copy of the Easement (see **Exhibit "C"**).

(b) No Certificates of Occupancy ("CO") for any structures constructed on the Property (see **Exhibit "A"**) will be issued until the Owner and Town negotiate and enter into a *Hold Harmless, Release, and Indemnification Agreement* as related to the relocation of the *Vista II Easement*; available connectivity to the Town's water and wastewater utility system(s); and the designated authority, right(s), and obligation(s) reserved unto and binding on both the Town and Owner arising out of the Town's approval and acceptance of the Easement (see **Exhibit "C"**) and this **Resolution No. 25-17**.

(c) All surface and/or storm water systems for the Property (see **Exhibit "A"**), as shown on the Scenic Highway Sketch (see **Exhibit "B"**), shall be the sole responsibility of the Owner; and the Owner shall have the sole responsibility for the maintenance, repair, and liability for the entire surface and/or storm water systems,

including all collection, transmission, and piping components. It is the express intention of the Town of Dundee that it shall not accept said surface and/or storm water systems.

Section 4. Authorization.

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. 25-17** and the approval and acceptance of the Easement (see **Exhibit "C"**) on and/or for the Property (see **Exhibit "A"**) which includes, but shall not be limited to, negotiating and executing any documentation necessary and incidental to the acceptance and approval of the Easement.

Section 5. Administrative Correction of Scrivener's Errors.

It is the intention of the Town Commission that sections of this **Resolution No. 25-17** 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. 25-17** 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 6. Conflicts.

All resolutions in conflict with this **Resolution No. 25-17** are repealed to the extent necessary to give this **Resolution No. 25-17** full force and effect.

Section 7. Severability.

The provisions of this **Resolution No. 25-17** are severable. If any section, subsection, sentence, clause, phrase of this **Resolution No. 25-17**, 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. 25-17**, 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. 25-17** 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. 25-17** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Resolution No. 25-17** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Resolution No. 25-17**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Resolution No. 25-17**, 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. Recordation.

The Town Clerk shall be responsible for recording the Easement (see **Exhibit “C”**) and this **Resolution No. 25-17**, 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 9. Effective Date.

This **Resolution No. 25-17** shall take effect immediately upon passage by the Town Commission of the Town of Dundee, Florida.

[Remainder of page intentionally blank]

READ, PASSED AND ADOPTED at a duly called meeting of the Town Commission of the Town of Dundee, Florida, assembled on the 27th day of May, 2025.

TOWN OF DUNDEE

Samuel Pennant, Mayor

ATTEST WITH SEAL:

Erica Anderson, Town Clerk

Approved as to form:

Frederick J. Murphy, Jr., Town Attorney