

PRE-ANNEXATION AGREEMENT

This Agreement is made this _____ day of _____, 2019 by and between the CITY OF VENICE, FLORIDA, a municipal corporation (hereinafter referred to as "City") and MARY H. McMULLEN, JOSEPH W. HURT and RANDALL C. HURT, jointly and severally, Trustees of the Shackett Creek Trust, u/a/d November 25, 2002 (hereinafter referred to as "Owner"),

WHEREAS, the Owner owns a parcel of land comprising approximately two hundred and fourteen (214) acres located in Sarasota County, Florida which is more particularly described by the legal description and map attached hereto as Exhibit "A" (hereinafter referred to as the "Subject Property"); and

WHEREAS, the Owner has filed an annexation petition pursuant to Section 171.044, Florida Statutes, seeking to voluntarily annex and include the Subject Property within the corporate limits of the City; and

WHEREAS, this Agreement is a contract between the parties and shall not be construed as a development order or any form of development approval; and

WHEREAS, the City has determined that in the event the Subject Property is annexed into the City, it would best serve the public interest that it be annexed subject to the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the terms, conditions, and mutual covenants contained herein, the City and Owner agree as follows:

1. INTRODUCTORY CLAUSES. The above Whereas clauses are ratified and confirmed as true and correct.
2. CONDITION PRECEDENT. This Agreement shall not be binding or enforceable by either party unless and until the City duly adopts an ordinance annexing the Subject Property into the corporate limits of the City.
3. COMPREHENSIVE PLAN AND ZONING. The Subject Property currently has a Sarasota County Future Land Use designation of Rural and a Sarasota County zoning designation of Open Use Estate ("OUE"). The Owner shall petition the City to redesignate the Subject Property to a City Future Land Use category and rezone the Subject Property to a district or districts under the City Zoning Code concurrent with the City's consideration and adoption of an ordinance annexing the property into the corporate limits of the City. No development orders shall be granted until the Subject Property is so redesignated and rezoned. With the exception of the matters set forth in Paragraph 4 hereof, following annexation, the Subject Property shall be

subject to all codes, laws, ordinances, and regulations in force within the City.

4. PERMITTED USE OF SUBJECT PROPERTY. The Subject Property is currently being utilized as and for all current permitted agricultural and recreational uses under the Sarasota County OUE zoning district, including but not limited to farming, raising cattle, horses and other equine activities, honey bees and other general agricultural uses, hunting, fishing and target shooting. Upon the annexation of the Subject Property, such uses shall be deemed to be permitted uses for the Subject Property, as such term is defined in the City Code of Ordinances, until such time as the Subject Property is developed/redeveloped under the City Zoning Code, and subject to the restriction that no target shooting activities shall be commercial in nature.
5. CONCURRENCY EVALUATION NOT MADE: NO RELIANCE OR, VESTED RIGHT. Nothing contained in this Agreement and no review of the impacts of the proposed development of the Subject Property upon public facilities and services which has occurred in the process of reviewing this annexation or in negotiating this Agreement shall be considered a determination that adequate public facilities will be available concurrent with the impacts of development of the Subject Property. The Owner acknowledges and agrees that any such review of the impacts of development of the Subject Property shall offer no basis upon which the Owner may rely or upon which the Owner can assert that a vested property right has been created. It is specifically understood and agreed that a determination that adequate public facilities and services are available concurrent with the impacts of any proposed development must be made before any development order is granted in connection with the City's rezoning of the Subject Property.
6. EXPANSION OF WATER AND SEWER UTILITY INFRASTRUCTURE. At the time of development of the Subject Property, the Owner, or its successors and assigns, shall design, construct, and pay for installing, extending, sizing and upsizing all offsite and onsite potable water, reclaimed water, and wastewater utility pipelines, and lift-stations necessary to serve the full buildout of the project. All such work shall be performed in accordance with plans and specifications approved through the City's construction permitting process and in accordance with the current version of the City standard details. Fire flows shall be determined by the Fire Chief in coordination with the Utilities Director and City Engineer. Owner, or its successors and assigns, shall convey all potable water, reclaimed water, and wastewater pipelines and lift stations to the City or its designee together with such easements as may be required for access to and maintenance of said pipelines and appurtenances. Utilities conveyed to the City shall be accepted for maintenance in accordance with all applicable state and local codes and policies which shall be applied to both onsite and offsite utility improvements.

7. ADDITIONAL REQUIREMENTS.

- A. Owner is required to provide, at its cost, all access to the site including roadways, utilities and common area improvements as approved by the Utilities Director and City Engineer.
- B. Internal roadways and stormwater facilities shall be designed and constructed at the expense of Owner. Internal roadways and stormwater facilities shall be privately owned and maintained.
- C. At the time of development of the Subject Property in connection with the City's rezoning, Owner shall dedicate, at no cost, one (1) 40'x40' potable water well site on the Subject Property to the City along with all easements reasonably necessary to access, construct, and maintain the well site and transmission lines.
- D. Owner shall comply with all applicable requirements of the Amended and Restated Joint Planning and Interlocal Service Boundary Agreement between the City and Sarasota County, as amended.

8. WATER AND SEWER UTILITY CHARGES. Owner, or its successors and assigns, shall pay all water and sewer utility rates, fees, and charges, including any capital charges such as water plant capacity charges and sewer plant capacity charges, as determined by the City Code of Ordinances in effect at the time a building permit is issued for improvements that will be connected to the City's water and sewer utility systems.

9. IMPACT FEES. The City collects fire and law enforcement impacts fees as well as certain impact fees enacted by Sarasota County within the City. As applicable, development of the Subject Property shall be subject to such impact fees and may also become subject to additional impact fees adopted by Sarasota County or the City in the future.

10. ATTORNEY FEE REIMBURSEMENT. The Owner shall reimburse the City all monies paid by the City to the City Attorney for services rendered concerning this annexation and all related matters.

11. INDEMNITY. It is agreed that if the City shall accept and include the Owner's lands for inclusion within its corporate limits pursuant to the petition for annexation, the Owner shall and will indemnify and save the City harmless from all costs, including reasonable attorney's fees, that may be incurred by it in defending any and all litigation involving the validity of such annexation proceeding.

The Owner further covenants and agrees to and with the City that if the contemplated annexation shall ultimately be held invalid by court proceedings or excluded from the City limits by future

legislation, then if and to the extent that the City shall continue to supply water, sewer and other utility services to the Subject Property, it shall be entitled to charge at such rates as may be prescribed from time to time by the City for comparable services outside the corporate limits.

The Owner further covenants and agrees, jointly and severally, to waive any claim for a refund of ad valorem taxes levied by and paid to the City on the Subject Property for any periods subsequent to the acceptance by the City of the Owner's petition for annexation and prior to the establishment of the invalidity thereof in the manner aforesaid.

12. DEFAULT. Upon the breach by either party of any term or condition of this Agreement, and upon the failure to cure same after thirty (30) days written notice from either party, then the non-defaulting party shall have the right to enforce same or to perform any such term or condition and recover the costs of same from the defaulting party. All suits or actions at law arising from the provisions, performance, or breach of this Agreement shall be brought, for State Court jurisdiction, in the Circuit Court for Sarasota County, Florida, South County Division, and for Federal Court jurisdiction, in the Middle Federal District Court of Florida, and no other jurisdictions.
13. ATTORNEY'S FEES. In the event of any default pursuant to the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorney's fees and costs from the other party, whether the same be incurred for negotiation, trial or appellate proceedings.
14. BINDING ON SUCCESSORS. The covenants contained herein shall run with the Subject Property and shall inure to the benefit of and be binding upon the respective successors, heirs, legal representatives and assigns of the parties to this Agreement.
15. ENTIRE AGREEMENT. This document constitutes the entire agreement of the parties and cannot be changed or modified except by instrument in writing duly approved by both parties,
16. CONSTRUCTION OF AGREEMENT. All parties to this Agreement are deemed to have participated in its drafting. In the event of any ambiguity in the terms of this Agreement, the parties agree that such ambiguity shall be construed without regard to which of the parties drafted the provision in question.
17. INCORPORATION INTO ORDINANCE. This Agreement shall be incorporated into and shall become a part of the ordinance annexing the Subject Property into the City.
18. SEVERABILITY. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, any and all actions by the City in reliance upon this Agreement may be voidable as determined by the City after notice to the Owner and public hearing.

IN WITNESS WHEREOF, the City and the Owner set their hands and seals hereto on the

day and year first above written.

CITY OF VENICE, FLORIDA

ATTEST:

John W. Holic, Mayor

Lori Stelzer, City Clerk

Approved By City Council

Date: _____

APPROVED AS TO FORM:

City Attorney

OWNER

WITNESSES:

Print Name: _____

MARY H. McMULLEN , Trustee

Print Name: _____

JOSEPH W. HURT, Trustee

RANDALL C. HURT, Trustee

EXHIBIT "A"

SUBJECT PROPERTY LEGAL DESCRIPTION

PARCEL 1:

The NW 1/4 of the NE 1/4 and the North 1/2 of the NW 1/4 of Section 28, Township 38 South, Range 19 East, LESS 1-75 right of way described as:

BEGIN on the West line of said Section 28, at a point S. 0°09'22" E., 598.21 feet from the NW corner thereof, thence run S. 39°47'50" E, 607.25 feet, to the beginning of a curve concave to the Southwesterly, having a radius of 23,036.31 feet; thence run Southeasterly along said curve 358.40 feet, through a central angle of 0°53'29" to the end of said curve; thence N. 89°45'25" W., 617.96 feet to the West line of said Section 28; thence N. 0°09'22" E., 741.04 feet along said West line to the POINT OF BEGINNING.

PARCEL 2:

The NE 1/4 of NE 1/4 of Section 28, Township 38 South, Range 19 East, LESS the South 60 feet (except for the East 30 feet of said South 60 feet) thereof LESS portion thereof taken by Sarasota County in Eminent Domain (Case No. 88-5219-CA-01, Parcel 04-HR) described as: (Fee Simple) Commence at the Northeast corner of Section 28, Township 38 South, Range 19 East, Sarasota County, Florida, which is certified to the Florida Department of Natural Resources by Corner Record Document No. 18855; thence run S 89°45'40" W., along the North line of said Section 28 for a distance of 30.00 feet to the POINT OF BEGINNING; thence continue S. 89°45'40" W, along said line for a distance of 10.00 feet; thence run S. 00°03'02" W., along a line 40.00 feet West of and parallel with the East line of said Section 28 for a distance of 1323.66 feet; thence run S. 89°20'04" E. along the South line of the properties described in O.R.B. 1872, Page 2609, of the Public Records of Sarasota County, Florida, for a distance of 10.00 feet; thence run N. 00°03'02" E, for a distance of 1323.58 feet to the POINT OF BEGINNING.

(Perpetual Drainage Easement)

That part of O.R.B. 1350, Page 1589, of the Public Records of Sarasota County, Florida, described as follows:

Commence at the Northeast corner of Section 28, Township 38 South, Range 19 East, Sarasota County, Florida, ,which is certified to the Florida Department of Natural Resources by Corner Record Document No. 18855; thence run S 00°03'02" W., along the East line of said Section 28 for a distance of 475.41 feet; thence run N 89°56'58" W., for a distance of 40.00 feet to the POINT OF

BEGINNING; thence continue N 89°56'58" W., for a distance of 95.00 feet; thence to S. 00°03'02" W., for a distance of 193.00 feet; thence run S. 89°56'58" E., for a distance of 95.00 feet; thence run N. 00°03'02" E., along a line 40.00 feet West of and parallel with said Section line for a distance of 193.00 feet to the POINT OF BEGINNING.

Begin at the Northeast corner of South 1/2 of the North 1/2 of Section 28, Township 38 South, Range 19 East, for Point of Beginning; thence N. 89°31'23" W, along North line of said tract, 4731.59 feet to Easterly right-of-way of 1-75; thence Southeasterly along said right-of-way, 24.79 feet; thence S. 89°44'56" E., 720.04 feet; thence S. 89°44'30" E., 1342.05 feet; thence S. 89°45'49" E., 1326.78 feet; thence S. 89°45'59" E., 1327.01 feet to the Point of Beginning. Subject to road right-of-way along Easterly side.

The above parcel consists of 1 acre, more or less, which lies West of the West line of the SE 1/4 of the NE 1/4 of Section 28, Township 38 South, Range 19 East, and a 0.1 acre parcel, more or less, lying East of said line.

The South 60 feet of the NE 1/4 of the NE 1/4 of Section 28, Township 38 South, Range 19 East, LESS the East 40 feet thereof.

Together with easements appurtenant described in Official Records Book 1350, Pages 1591 and 1592, Public Records of Sarasota County, Florida, and all other such easements appurtenant thereto.

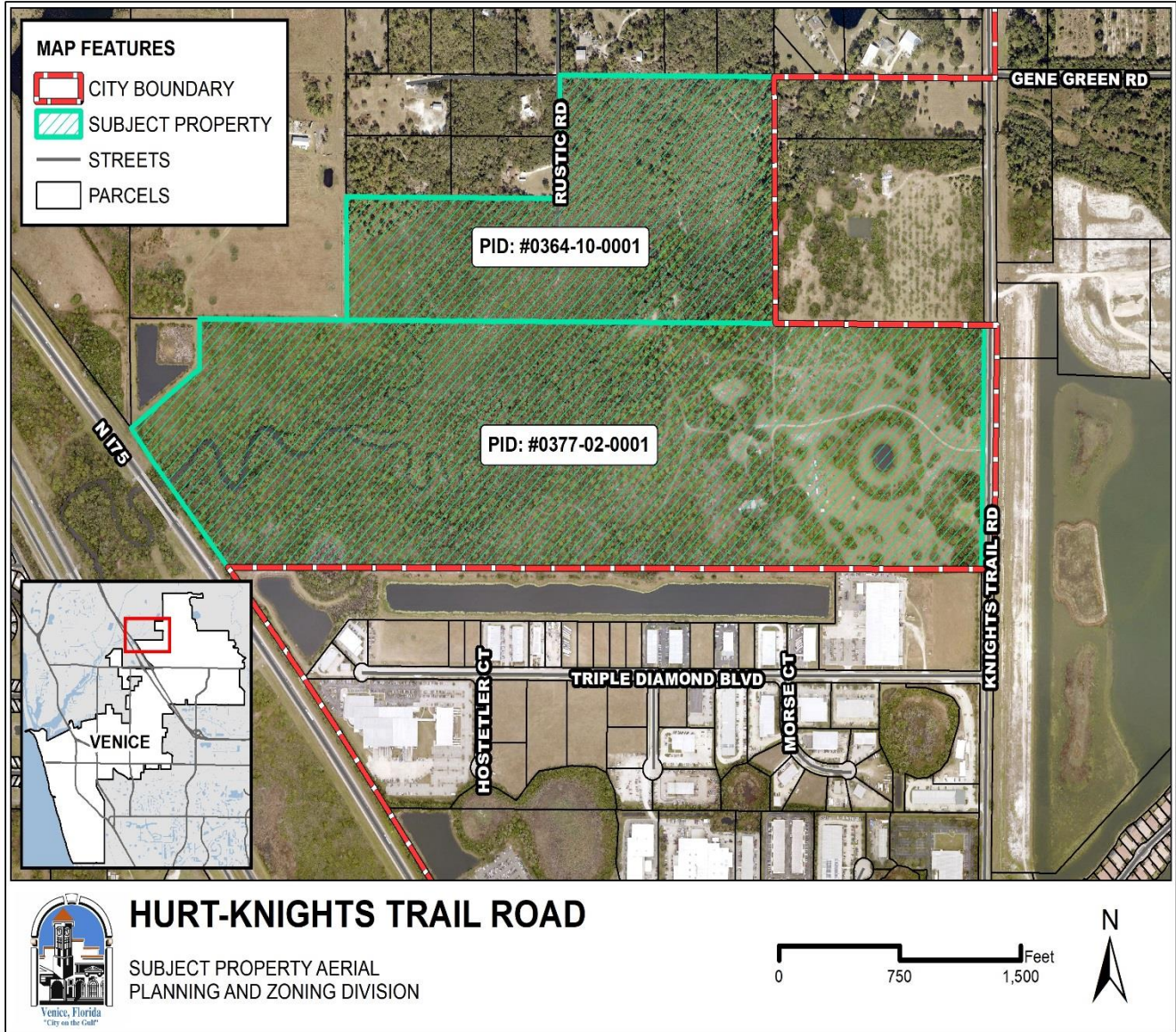
PARCEL 3:

The SW 1/4 of the SE 1/4 of Section 21, Township 38 South, Range 19 East; the South 1/2 of the SE 1/4 of the SW 1/4 of Section 21, Township 38 South, Range 19 East.

TOGETHER WITH a perpetual non-exclusive access easement for ingress and egress and for drainage and utilities over the East 30 feet of the North 3/4 of the East 1/2 of the SW 1/4 and over the South 30 feet of the East 1/2 of the NW1/4 and over the South 30 feet of the NE 1/4 of said Section 21, Township 38 South, Range 19 East.

ALSO TOGETHER WITH a non-exclusive perpetual easement for public access, drainage and utilities over and across those certain easements described in Official Records Book 1317, Page 931, of the Public Records of SARASOTA County, Florida.

LOCATION MAP



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