

EXHIBIT "A" TO DEED FROM
MACARTHUR FOUNDATION TO COUNTY OF SARASOTA

RESTRICTIONS

There is hereby imposed upon the lands described in the attached Deed and reserved unto the Grantor, its successors and assigns, a conservation easement which shall constitute a perpetual restriction, easement, covenant and condition pursuant to and as contemplated by Section 704.06, Florida Statutes, for the purpose of retaining said lands predominantly in their natural, scenic, open, or wooded condition and retaining such area as suitable habitat for fish, plants and wildlife, as well as maintaining existing land uses (which include, but are not limited to, livestock grazing and silviculture), and which prohibits each of the following:

A. Construction or placing of buildings, signs, billboards or other advertising, or other structures on or above the ground.

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

C. Removal or destruction of trees, shrubs, or other vegetation, except as dictated by good conservation, silviculture and environmental practices.

D. Excavation, dredging, or removal of loam, peat, gravel, soil, phosphate, or other material substance in such manner as to affect the surface.

E. Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.

F. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

G. Acts or uses detrimental to such retention of land or water areas.

The aforesaid restrictions shall not be deemed to prohibit, restrict or impede Grantee's rights to use said lands for park purposes (with uses similar to those presently permitted at Myakka State Park), silviculture, livestock grazing, drainage of surface water, or for water supply purposes including wells, pumping stations, transmission pipes, reservoirs and related facilities, including access roads, buildings or other structures necessary, desirable and actually needed and used for one or more of the aforesaid permitted uses; nor shall the aforesaid covenant to be deemed to restrict or prohibit any other right or privilege granted elsewhere in the Deed to which these Restrictions are attached or the Judgment and Amendments thereto as referred to in Paragraph 13 of the aforesaid Deed with respect to the lands described including the right of Grantee to grant easements for access roads and utility lines.

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704.06 Conservation easements; creation; acquisition; enforcement.—

(1) As used in this section, “conservation easement” means a right or interest in real property which is appropriate to **retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife**; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses and which prohibits or limits any or all of the following:

- (a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.
- (b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.
- (c) Removal or destruction of trees, shrubs, or other vegetation.
- (d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.
- (e) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (g) Acts or uses detrimental to such retention of land or water areas.
- (h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

(2) **Conservation easements are perpetual**, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking. Such easements may be acquired in the same manner as other interests in property are acquired, except by condemnation or by other exercise of the power of eminent domain, and shall not be unassignable to other governmental bodies or agencies, charitable organizations, or trusts authorized to acquire such easements, for lack of benefit to a dominant estate.

(3) Conservation easements may be acquired by any governmental body or agency or by a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving sites or properties of historical, architectural, archaeological, or cultural significance.

(4) Conservation easements shall run with the land and be binding on all subsequent owners of the servient estate. Notwithstanding the provisions of s. [197.552](#), all provisions of a conservation easement shall survive and are enforceable after the issuance of a tax deed. No conservation easement shall be unenforceable on account of lack of privity of contract or lack of benefit to particular land or on account of the benefit being assignable. **Conservation easements may be enforced by injunction** or proceeding in equity or at law, and shall entitle the holder to enter the land in a reasonable manner and at reasonable times to assure compliance. A conservation easement may be released by the holder of the easement to the holder of the fee even though the holder of the fee may not be a governmental body or a charitable corporation or trust.

(5) All conservation easements shall be recorded and indexed in the same manner as any other instrument affecting the title to real property.

(6) The provisions of this section shall not be construed to imply that any restriction, easement, covenant, or condition which does not have the benefit of this section shall, on account of any provision hereof, be unenforceable.

(7) Recording of the conservation easement shall be notice to the property appraiser and tax collector of the county of the conveyance of the conservation easement.

(8) **Conservation easements may provide for a third-party right of enforcement.** As used in this section, third-party right of enforcement means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, or charitable corporation or trust as described in subsection (3), which although eligible to be a holder, is not a holder.

(9) An action affecting a conservation easement may be brought by:

- (a) An owner of an interest in the real property burdened by the easement;
- (b) A holder of the easement;
- (c) A person having a third-party right of enforcement; or
- (d) A person authorized by another law.

(10) The ownership or attempted enforcement of rights held by the holder of an easement does not subject the holder to any liability for any damage or injury that may be suffered by any person on the property or as a result of the condition of the property encumbered by a conservation easement.

(11) Nothing in this section or other provisions of law shall be construed to prohibit or limit the owner of land, or the owner of a conservation easement over land, to voluntarily negotiate the sale or utilization of such lands or easement for the construction and operation of linear facilities, including electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances, nor shall this section prohibit the use of eminent domain for said purposes as established by law. In any legal proceeding to condemn land for the purpose of construction and operation of a linear facility as described above, the court shall consider the public benefit provided by the conservation easement and linear facilities in determining which lands may be taken and the compensation paid.

(12) An owner of property encumbered by a conservation easement must abide by the requirements of chapter 712 or any other similar law or rule to preserve the conservation easement in perpetuity.