

This Instrument prepared by:  
Herbert W.A. Thiele, Esq., County Attorney  
Leon County Attorney's Office  
301 South Monroe Street, Suite 217  
Tallahassee, Florida 32301

## **DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**THIS DECLARATION**, made on the date hereinafter set forth by **LEON COUNTY**, a political subdivision of the State of Florida, whose post office address is 301 South Monroe Street, Room 217, Tallahassee, Florida 32301 (hereinafter referred to as the County or the Declarant);

### **WITNESSETH:**

**WHEREAS**, the County is the owner of a certain 79.15-acre vacant property located on the south side of Tower Road, identified as Parcel ID 2536208530000, and legally described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the Tower Road Property); and

**WHEREAS**, the Board of Trustees of the Internal Improvement Trust Fund, c/o State of Florida, Division of Natural Resources (hereinafter referred to as the State) is the owner of the 1,546.47-acre vacant property that adjoins the south boundary of the Tower Road Property, identified as Parcel ID 2201209010000 (hereinafter referred to as the State Property); and

**WHEREAS**, the State at various times throughout the year conducts prescribed burning on the State Property; and

**WHEREAS**, in order to minimize the likelihood of any damage to occupied buildings on the Tower Road Property resulting from the prescribed burning on the State Property, the State has requested that the County create a 100-foot buffer area along the south boundary of the Tower Road Property within which no occupied buildings could be constructed or placed without the consent of the State.

**NOW, THEREFORE**, Declarant hereby declares that the Tower Road Property shall be held, sold, and conveyed subject to the following restrictions, covenants, and conditions, all of which shall run with the Tower Road Property and which shall be binding on all parties having any right title or interest in the Tower Road Property, or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of the Owner and the Beneficiary as defined hereinbelow (hereinafter the Declaration).

### **ARTICLE I**

#### **Definitions**

Section 1. "Tower Road Property" shall mean and refer to that certain 79.15-acre property hereinbefore described in Exhibit "A" and identified as Parcel ID 2536208530000.



**Section 2.** "Declarant" shall mean and refer to Leon County, a political subdivision of the State of Florida.

**Section 3.** "Owner" shall mean and refer to Leon County, a political subdivision of the state of Florida, and its successors and assigns to the fee simple title to the Tower Road Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 4.** "State Property" shall mean and refer to that certain 1,546.47-acre property, identified as Parcel ID 2201209010000, adjoining the south boundary of the Tower Road Property and shall include any subpart or lot created in any future apportionment or subdivision of the State Property to the extent such subpart or lot adjoins the south boundary of the Tower Road Property.

**Section 5.** "Beneficiary" shall mean and refer to the Board of Trustees of the Internal Improvement Trust Fund, c/o State of Florida, Division of Natural Resources or any other state, federal, or public agency as successors and assigns to the fee simple title of the State Property, including contract sellers, but excluding any private individuals or entities and those having such interest merely as security for the performance of an obligation.

**Section 6.** The term "occupied building" shall mean any building that serves as a primary residence, meeting place, or place of business that does not have a lengthy cessation of occupancy.

**Section 7.** The term "prescribed burning" shall mean the controlled application of fire, following a prescription, to vegetative fuels, under specified environmental conditions, and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and accomplish planned fire or land management objectives.

## **ARTICLE II** **Establishment of 100-foot Buffer Area**

There shall be established and reserved with this Declaration a buffer area comprising the south 100 feet of the Tower Road Property (hereinafter referred to as the 100-foot Buffer Area) within which shall be prohibited the construction or placement of any occupied buildings. This prohibition is limited solely to the construction or placement of occupied buildings within the 100-foot Buffer Area and is not intended to preclude the use of the 100-foot Buffer Area for any other purposes including, but not limited to, satisfaction of permitting requirements for building setbacks, parking and/or all uses permitted in a standard setback, stormwater management, mitigation, green space, open space, and landscaping.

## **ARTICLE III** **Termination of Declaration**

This Declaration shall terminate and be of no further force and effect upon the occurrence of any of the following events:



- A. the State Property is conveyed to any private individual or entity;
- B. the Beneficiary causes the construction or placement of any occupied building in the area on the State Property lying within 300 feet of the south boundary of the Tower Road Property; or
- C. the Beneficiary permanently ceases prescribed burning activity in the area of the State Property lying within 300 feet of the south boundary of the Tower Road Property.

#### ARTICLE IV General Provisions

**Section 1. Enforcement.** Any Owner or Beneficiary shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner or Beneficiary to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions, which provisions shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall inure to the benefit of the Declarant, Owner, and State and shall run with and bind the land in perpetuity or until otherwise terminated as provided herein. Any amendments hereto shall not be valid without the written consent of the Owner and the Beneficiary.

**IN WITNESS WHEREOF,** the Declarant has caused this Declaration of Covenants, Conditions, and Restrictions to be executed in its name by its respective authorized representatives, the day and year aforesaid.



ATTEST: Bob Inzer, Clerk of Circuit Court

By: John Stott  
Deputy Clerk

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LEON COUNTY, a political subdivision of  
the State of Florida

By: Cliff Thaell  
Cliff Thaell, Chairman  
Board of County Commissioners  
Date: 1/1/05

Approved as to Form:  
By: Asst. County Attorney Daniel J. Rigo  
Asst. County Attorney

**LEGAL DESCRIPTION**

The East Half (E 1/2) of the Southeast Quarter (SE 1/4) of Section 36, Township 2 North, Range 2 West, Leon County Florida, less and except the North thirty feet (30') as deeded to Leon County for roadway purposes, recorded in Deed Book 267, Page 155, Public Records of Leon County, Florida.

MORE PARTICULARLY DESCRIBED as follows: Beginning at a concrete monument marking the Southeast corner of Section 36, Township 2 north, Range 2 West, Leon County, Florida; thence South 89 degrees 08 minutes 36 seconds West 1320.06 feet along the southerly boundary line of said Section to an existing terra cotta monument; thence North 00 degrees 56 minutes 11 seconds West 2610.43 feet to an existing concrete monument lying on the southerly right-of-way boundary of a County road known as Tower Road (60-foot right-of-way); thence North 88 degrees 56 minutes 46 seconds East along the southerly right-of-way boundary of said County road 1319.11 feet to an existing concrete monument lying on the easterly boundary line of said Section 36; thence South 00 degrees 57 minutes 26 seconds East (bearing base) along said easterly boundary line 2614.98 feet to the POINT OF BEGINNING.

**EXHIBIT A**  
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