**ABOVE SPACE FOR RECORDING INFORMATION ONLY**

Prepared by:

Text

Description automatically generated

One West Park Avenue

Savannah, Georgia 31401

ATTN: Robert B. Brannen, Jr.

(912) 644-5721

File No: 20986-1

NATURE TRAIL

EASEMENT AGREEMENT

**THIS NATURE TRAIL EASEMENT AGREEMENT** (the “Agreement”) is made as of the \_\_\_ day of December, 2021, by and between **THE MAYOR AND ALDERMEN OF THE** **CITY OF SAVANNAH** (the “City”), and **SIMCOE AT CANAL TOWNS, LLC**, a Georgia limited liability company (“Simcoe”), whose address is P.O. Box 771, Richmond Hill, Georgia 31324.

**RECITALS:**

**WHEREAS,** the City is the owner of the portion of the 107’ right of way of the Savannah Ogeechee Canal (the “Canal Parcel”) described on **Exhibit “A”**, attached hereto and made a part hereof by this reference; and

**WHEREAS,** Simcoe is the owner of certain real property known as 19.752 Acres and 17.141 Acres, Tract 12, The Southwest Quadrant of a Portion of Savannah Quarters, City of Pooler, Chatham County, Georgia, and more particularly described on **Exhibit “B”**, attached hereto and made a part hereof by this reference, and located on both sides of the Canal Parcel (hereinafter referred to as the “Simcoe Property”); and

**WHEREAS,** the City has cleared a road and installed a sanitary sewer line (the “Utility”) within and along the eastern edge of the Canal Parcel; and

**WHEREAS,** Simcoe desires to construct a nature trail over and across a portion of the Canal Parcel in the location described on **Exhibit “C”**, attached hereto and made a part hereof by this reference (the “Nature Trail Easement Area”); and

**WHEREAS**, Simcoe desires to construct a bridge across the Canal Parcel, and maintain the Canal Parcel and a nature trail for the use and enjoyment of the public, including its residents; and

**WHEREAS**, Simcoe and the City desire to confirm their agreement regarding the Canal Parcel and the Nature Trail Easement Area;

**NOW THEREFORE** for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the City and Simcoe agree as follows:

1. Nature Trail Easement. The City, as the owner of the Nature Trail Easement Area hereby conveys to Simcoe, as the owner of the Simcoe Property, a perpetual non-exclusive easement over and across the Nature Trail Easement Area for the specific purpose of installing, operating, maintaining and utilizing a public nature trail, together with the right of reasonable and necessary ingress and egress to and from the Nature Trail Easement Area in connection with the exercise of the rights granted herein, subject to the terms hereof. Nothing contained herein shall be construed to create public access rights across the Simcoe Property.

2. Maintenance Easement. The City, as the owner of the Canal Parcel hereby conveys to Simcoe, as the owner of the Simcoe Property, a perpetual non-exclusive easement over and across the Canal Parcel for the specific purpose of maintaining the Canal Parcel, subject to the terms hereof.

3. Bridge Easement. The City, as the owner of the Canal Parcel hereby conveys to Simcoe, as the owner of the Simcoe Property, a perpetual exclusive easement over and across the Canal Parcel for the specific purpose of installing, operating, maintaining, and utilizing a wooden bridge connecting the two tracts in the Simcoe Property and providing utility lines between the two tracts in the Simcoe Property pursuant to plans and specifications, and in the exact location to be approved by the City.

4. Reservation of Rights. The City hereby reserves and retains all other property rights in and to the Canal Parcel, including the Nature Trail Easement Area, including, but not limited to the right to install and maintain the Utility and the roadway containing the Utility, and the right to install and maintain other utilities within the Canal Parcel from time to time in the City’s sole discretion.

5. Trail Construction and Maintenance. Simcoe shall bear all costs of constructing, repairing, maintaining, and replacing a nature trail in the Nature Trail Easement Area in accordance with plans and specifications reasonably acceptable to the City (the “Nature Trail”). The Nature Trail shall be approximately ten feet (10’) wide and shall consist of compacted decomposed granite, or other materials acceptable to the City. The Nature Trail shall be constructed in conjunction with the Bridge, as defined below, during the first phase of the development requiring the construction of the Bridge.

6. Canal Maintenance. Simcoe and its successors and assigns shall maintain the portion of the Canal Parcel adjacent to the Nature Trail Easement Area at its sole cost and expense. Such maintenance shall be limited to removal of trash and debris, control of weeds and vegetation, and removal of fallen trees within the Canal Parcel. Except as otherwise provided herein, Simcoe shall not perform any excavation work, or make material changes to the Canal Parcel without the City’s prior written consent.

7. Bridge Construction. Simcoe shall have the right to remove the existing road crossing on the Canal Parcel and replace it with a wooden bridge connecting the two tracts comprising the Simcoe Property in accordance with plans and specifications reasonably acceptable to the City (the “Bridge”), at Simcoe’s sole cost and expense. The Bridge shall be constructed during the first phase of the development requiring the construction of the Bridge for access between the tracts. Simcoe shall also have the right to run utility lines connecting the tracts under the Bridge structure but shall install said utilities so as not to interfere with the Utility or other utilities installed by the City within the Canal Parcel.

8. Hold Harmless. Simcoe agrees to hold harmless City or any authorized utility, public or private, from any damage to the Nature Trail during the course of installation, operation, maintenance, replacement, or removal activities of the Utility or any other utilities performed by or on behalf of City. Simcoe shall bear the costs of repairing any damage to the Nature Trail following any of the above-described activities, but the City shall take reasonable steps to avoid damage to the Nature Trail if reasonably possible without additional costs to the City.

9. Prohibition Against Liens. Simcoe shall not permit any mechanics', materialmen's or other liens to be filed against the Canal Parcel or any part thereof for work or materials furnished to Simcoe in connection with the Nature Trail or the Bridge, and Simcoe agrees to indemnify, defend and hold the City harmless from and against the same.

10. Easement Running with Land. This easement and the rights granted herein shall run with the Canal Parcel and the Simcoe Property and shall be binding upon the City and Simcoe and its successors and assigns as the owner of the Simcoe Parcel.

11. Association. Upon conveyance to a property owners association of the common areas in the development Simcoe intends to construct on the Simcoe Property, Simcoe, or its successors and/or assigns as the owner of the Simcoe Property, shall have the right to unilaterally assign all of its rights, duties and obligations hereunder to said property owners association, in which case Simcoe shall have no further duties and obligations hereunder.

12. Amendments. The parties to this Agreement shall only amend this Agreement by a writing executed by the City and Simcoe, or its successors and/or assigns, and recorded in the Chatham County, Georgia records. In the event that the Simcoe Property is subdivided into building lots and conveyed to individual property owners, said individual property owners shall not be required parties to any amendment. Rather, Simcoe, or its successors and/or assigns, as the developer of the Simcoe Property, or any “Declarant” under a master declaration of covenants for the Simcoe Property may sign said amendment during said Declarant control period, and, thereafter, the property owners association created pursuant to said declaration of covenants may sign any such amendment.

13. Miscellaneous. This easement shall be governed by and construed in accordance with the laws of the State of Georgia. This easement shall not be construed strictly for or against either Simcoe or the City. This easement may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument.

[SIGNATURES COMMENCE ON FOLLLOWING PAGE]

**IN WITNESS WHEREOF**, the undersigned have executed this instrument as of the date first above written.

|  |  |
| --- | --- |
| Signed, sealed and delivered  this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2021  in the presence of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Unofficial Witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Notary Public  My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_  [Notarial Seal] | **THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH**  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Attest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

|  |  |
| --- | --- |
| Signed, sealed and delivered  this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2021  in the presence of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Unofficial Witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Notary Public  My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_  [Notarial Seal] | **SIMCOE AT CANAL TOWNS, LLC**,  a Georgia limited liability company  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**EXHIBIT A**

Legal Description of Canal Parcel

All that certain lot, tract or parcel of land situate, lying and being known as the **Savannah Ogeechee Canal 107’ Right of Way**, as shown on that plat entitled “A Subdivision of a 36.893 Acres Portion of Tract 12, Southwest Quadrant, Savannah Quarters, 7th and 8th G.M. District, City of Pooler, Chatham County, State of Georgia”, prepared by Terry Mack Coleman, G.R.L.S. No. 2486 of Kern-Coleman & Co., LLC, dated January 22, 2007, and recorded in Subdivision Map Book 38-S, page 8, Chatham County, Georgia records, said plat being incorporated herein and made a part hereof by this reference (the “Plat”).

**EXHIBIT “B”**

Legal Description of Simcoe Property

All that certain lot, tract or parcel of land situate, lying and being in the southwest quadrant of Savannah Quarters, Chatham County, Georgia, and shown as **17.141 ACRES AND** **19.752 ACRES, TRACT 12, THE SOUTHWEST QUADRANT OF A PORTION OF SAVANNAH QUARTERS**, on that plat entitled “A Subdivision of a 36.893 Acres Portion of Tract 12, Southwest Quadrant, Savannah Quarters, 7th and 8th G.M. District, City of Pooler, Chatham County, State of Georgia”, prepared by Terry Mack Coleman, G.R.L.S. No. 2486 of Kern-Coleman & Co., LLC, dated January 22, 2007, and recorded in Subdivision Map Book 38-S, page 8, Chatham County, Georgia records, said plat being incorporated herein and made a part hereof by this reference (the “Plat”).

Said property specifically excludes the 107’ right of way of the Savannah Ogeechee Canal, as shown on the above-referenced Plat.

A portion of said property is the same property conveyed to Lanyard Holdings, LLC by limited warranty deed from Southwest Quarter Holdings LLC, dated September 3, 2008, and recorded in Deed Book 345-Z, page 339, Chatham County, Georgia records.

A portion of said property is the same property conveyed to Lanyard Holdings, LLC by limited warranty deed from Southwest Quarter Holdings LLC, dated March 7, 2007, and recorded in Deed Book 323G, page 647, Chatham County, Georgia records.

**EXHIBIT “C”**

Plat of Nature Trail Easement Area

(attached)

4869-1354-0869, v. 1