

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("Agreement"), made and entered into this the ~~21st~~ day of November, 2017, with an effective date of 20th day of November, 2017 ("Effective Date") by and between the TOWN OF SUNSET BEACH, a North Carolina municipal corporation ("Town"); and, SUNSET BEACH & TWIN LAKES, INC., a North Carolina corporation ("Twin Lakes"), SUNSET BEACH WEST, L.L.C., a North Carolina Limited Liability Company (sometimes referred to herein as "SBW"), DINAH E. GORE, a widow ("Mrs. Gore"), and THE ESTATE OF EDWARD M. GORE, SR. by and through its Co-Executors, DINAH E. GORE and GREGORY GORE ("Estate") (hereinafter, SBW, Twin Lakes, Mrs. Gore, and the Estate shall be collectively referred to herein, "Defendants"). (The Town and Defendants shall be referred to collectively herein as the "Parties").

WITNESSETH:

WHEREAS, the Town is a municipal corporation and body politic organized and existing under the laws of the State of North Carolina in Brunswick County;

WHEREAS, SBW is a North Carolina limited liability company organized and existing under the laws of the State of North Carolina with its principal office located in Supply, Brunswick County, North Carolina;

WHEREAS, Twin Lakes is a North Carolina corporation organized and existing under the laws of the State of North Carolina with its principal office located in Sunset Beach, Brunswick County, North Carolina;

WHEREAS, Mrs. Gore is a citizen and resident of Sunset Beach, Brunswick County, North Carolina and is a co-executor of the Estate;

WHEREAS, Gregory Gore is a citizen and resident of Calabash, Brunswick County, North Carolina and is a co-executor of the Estate;

WHEREAS, Edward M. Gore, Sr., deceased (hereinafter "Mr. Gore") was a citizen and resident of Brunswick County, North Carolina who died on July 16, 2014 and Mr. Gore's Estate is indexed and filed in Brunswick County file number 14-E-908.

WHEREAS, a dispute has arisen between the Parties to this Agreement, as is more specifically set forth in the lawsuit currently pending in Brunswick County Civil Superior Court bearing file number 16-CVS-1072 (hereinafter "Lawsuit");

WHEREAS, in the Lawsuit, the Town contends, *inter alia*, it is the fee simple owner of land of approximately 35 acres located at the general western end of the Town's municipal boundaries, as more particularly described in that certain deed conveyed by Twin Lakes to the Town dated 28 February 1987 and recorded 3 March 1987 in Book 683 at Page 528 (hereinafter, "Property") in the Brunswick County Registry ("Registry");

WHEREAS, SBW desires to develop portions of the Property as a residential subdivision;

WHEREAS, Defendants deny the material allegations of the Town in the Lawsuit and contend, *inter alia*, that SBW and/or the other Defendants are the owner(s) of the Property;

WHEREAS, during the course of the Lawsuit, information has arisen by virtue of, *inter alia*, the plat map of record in the Registry in Map Cabinet book 84 at Page 4 ("Street End Map") that one or more of the Defendants are asserting fee simple title ownership of that area of land depicted on the Street End Map as all of "Tract 1, 0.21 acres, 9,284 square feet" (hereinafter, "Tract 1");

WHEREAS, the Town disputes the Defendants' claim of ownership of Tract 1 and the Town further asserts it, or the State, is the owner of the Tract 1 parcel in that it is a dedicated public street;

WHEREAS, related to the Lawsuit are two pending third-party administrative hearing requests and challenges involving SBW's desired subdivision development on portions of the Property, which are indexed under North Carolina Office of Administrative Hearings file numbers 16-EHR-07974 and 16-EHR-08032 (collectively, "OAH Actions");

WHEREAS, Defendants informed the Town of its recent discussions with members of the North Carolina General Assembly about the possibility of the State of North Carolina ("State") purchasing all of the Property for permanent and perpetual conservation in which all of the Property would remain and be preserved in its natural and undisturbed, vegetative condition without hiking/walking trails and/or walkways, and structures or buildings of any kind including without limitation wooden decks, mats, or bathrooms, and adding the Property to an adjacent conservation tract of real property commonly known and referred to as Bird Island;

WHEREAS, the Parties desire that the State purchase all of the Property for permanent and perpetual conservation and preservation in its natural and undisturbed, vegetative condition for all of the Town's and State's citizens' benefit, and desire to

resolve, settle, and compromise all claims and disputes that relate to the Lawsuit as hereinafter provided and subject to the terms hereinafter set forth.

NOW THEREFORE, in consideration of the foregoing recitals, the public health, safety and welfare of the Town's and State's citizens, and the mutual covenants and agreements of the Parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. All of the foregoing "WITNESSETH" recitals are hereby fully incorporated herein by reference and made a binding part of the terms of this Agreement.

2. Purchase of the Property by the State. The Parties agree to transfer whatever interest they may have in all of the Property to the State by deed, upon confirmation from the State that, *inter alia*, it has acquired the necessary funding for purchase of all of the Property, that the State will permanently and perpetually set aside and restrict all of the Property as conservation land similar to that of Bird Island that shall never be developed and will always remain and be preserved in its natural and undisturbed, vegetative condition without hiking/walking trails and/or walkways, and structures or buildings of any kind including without limitation wooden decks, mats, or bathrooms, and upon the closing of the sale and transfer of the Property to the State.

3. Purchase Funds. The funding from the State for the purchase of all of the Property shall be paid to SBW, and the Town agrees that unless the Town is specifically requested by any one or more of the Defendants, it will not communicate with any representative of the State regarding the sale of the Property. Additionally, the Town agrees that it will not receive any portion of the funding for its conveyance to the State of whatever interest it may have in the Property.

4. Inactive Status. The Parties agree to appear in Brunswick County Civil Superior Court on 8 December 2017 to jointly request that the Court place the Parties' Lawsuit on inactive status to give the State adequate time to acquire the funding to purchase all of the Property.

5. Voluntary Dismissal without Prejudice. If the Court denies the Parties' request to place the Lawsuit on inactive status, then the Town and Defendants agree to file voluntary dismissals without prejudice of all of their claims in the Lawsuit within fifteen (15) days of the date on which Judge Lewis informs counsel of such denial, to give the State adequate time to acquire the funding to purchase the Property. In the event the Parties must file dismissals of the Lawsuit as contemplated herein, the Parties all agree that this Agreement shall toll any and all statutes of limitation as of the filing date of the dismissals and that said dismissals shall not be used for and/or against either Party's respective positions in the Lawsuit and/or any future litigation that is pursued in the event the State does not ultimately purchase and acquire the Property.

6. OAH Actions. While the Parties' Lawsuit is on inactive status, or during all of the period of time following the Parties' voluntarily dismissals without prejudice, if

applicable, Defendants, as well as the Town (if necessary), shall continue to update the Court in the OAH Actions and request that the Stay in each of those actions remain in place. In any event, Defendants shall not take or pursue any steps and efforts toward developing the Property while the Lawsuit is on inactive status, or during the period of time following the Parties' voluntarily dismissals without prejudice, if applicable.

7. Stipulation of Dismissal with Prejudice. After the State acquires the funding to purchase all of the Property and the State agrees that it will permanently and perpetually set aside and restrict all of the Property as conservation land similar to that of Bird Island that shall never be developed and will always remain and be preserved in its natural and undisturbed, vegetative condition without hiking/walking trails and/or walkways, and structures or buildings of any kind including without limitation wooden decks, mats, or bathrooms, and upon the closing of the sale and transfer of the Property to the State, the Parties shall execute their respective deeds transferring their interest in the Property to the State, and the Parties shall file a Stipulation of Dismissal in the Lawsuit with prejudice.

8. Ownership of Tract 1. Contemporaneous with the State's acquisition and closing on its purchase of all of the Property and agreement to the land conservation restrictions summarized herein, Defendants shall also transfer and convey by deed to the Town or the State (as shall be specified by the Town and State), at no cost whatsoever to the Town or the State, any and all of their purported rights, title and interest in and to Tract 1 as shown and depicted on the aforementioned Street End Map.

9. Mutual Releases. In the event that the State purchases all of the Property as contemplated herein, each and all of the Parties, in consideration of the terms and provisions contained in this Agreement, the sufficiency of which is hereby acknowledged, do hereby fully release, remise, acquit and forever discharge all Parties to this Agreement and their respective representatives, agents, servants, successors, heirs, administrators, executors, insurers, affiliates, owners, officers, directors, members, managers and assigns from any and all claims, actions, causes of action, demands, damages (actual, compensatory, punitive, statutory or otherwise), costs, judgments, expenses, liabilities, attorneys' fees and legal costs or any compensation whatsoever, in anyway related to matters contained herein, past, present, or future, as well as any and all claims, demands, actions or causes of action or suits of law or in equity of whatever kind or nature, whether based upon alleged tort or alleged contract, vicarious liability, or any other legal or equitable theory of recovery, which are now known or should have been known at the time of the signing of this Agreement, which are suspected to exist or reasonably should have been suspected to exist at the time of the signing of this Agreement, which are anticipated or reasonably should have been anticipated at the time of the signing of this Agreement, and which have arisen or are now arising, in connection with the Property or the Lawsuit.

10. Resumption of Lawsuit. In the event that the State does not purchase all of the Property as contemplated herein, the obligations of each of the Parties to this Agreement shall be terminated immediately, including Defendants' obligation to convey

a deed to the Town for Tract 1 as set forth in Section 8 above, and the Parties agree to remove the case from inactive status to active and resume litigation of the Lawsuit.

11. Miscellaneous.

A. The Parties agree to prepare and execute any additional documents or resolutions necessary to fully implement the terms of this Agreement.

B. This Agreement is the result of a compromised settlement of disputes among the Parties. The Parties agree that this Agreement is not, and shall not be construed as, an admission of or concession of liability, non-liability, responsibility, or wrongdoing by any Party to this Agreement. All actions taken and statements made by any Party, or by their representatives, relating to this Agreement or participation in this Agreement, including its development and implementation, shall be without prejudice or value as precedent beyond the scope of this Agreement, and shall not be used as a standard by which any other matter may be judged.

C. Nothing herein shall be construed or intended to be an amendment to the Town's ordinances and/or UDO.

D. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

E. This Agreement shall be construed in accordance with the laws of the State of North Carolina, including, without limitation, its interpretation, construction, performance, and enforcement. Any claims or actions regarding or arising out of this Agreement must be brought exclusively in a state court of competent jurisdiction sitting in Brunswick County, North Carolina and each Party submits to the jurisdiction of such courts for the purposes of all legal actions and proceedings arising out of or relating to this Agreement.

F. The undersigned have read this Agreement, and acknowledge that they have had the advice of their respective legal counsel and that no promise or representation of any kind, other than as contained herein, has been made by the Parties or anyone acting for or on behalf of them. The Parties to this Agreement have relied fully and completely on their own judgment and the advice of their attorneys in executing this Agreement. Therefore, the language of this Agreement shall not be presumptively construed in favor of or against any of the Parties hereto.

G. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns.

H. It is expressly understood and agreed that this is a full, final and complete Agreement of all of the Parties and, except for matters referenced herein, constitutes a full, final and complete agreement, and that there are no other terms and conditions not set forth herewith.

I. A finding of invalidity as to any provision or section of this Agreement shall only void such provision or section and no other. This Agreement shall be construed as if the invalid provision or section thereof were not contained in this Agreement.

J. No term or condition of this Agreement shall be deemed to have been waived, except by written instrument of the Party charged with such waiver. No such waiver shall be deemed a continuing waiver unless specifically stated therein, and each such waiver shall operate only as to the specific term and condition waived.

K. No amendment or variation of the terms or provisions of this Agreement shall be valid unless made in writing and signed by each of the Parties hereto.

L. Each of the Parties shall bear their own respective costs and expenses incurred and associated with this Agreement, including their own respective attorneys' fees, costs and expenses.

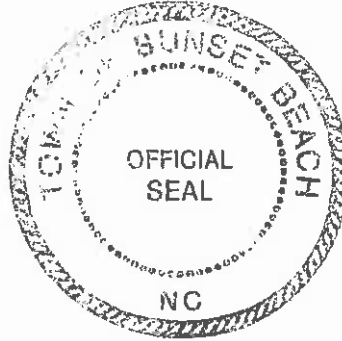
IN WITNESS WHEREOF, Town has caused this Agreement to be executed in its name by its Honorable Mayor, attested to by its Town Clerk and Seal affixed hereto, all by authority duly given by the Town Council of the Town of Sunset Beach, and the undersigned remaining Parties to this Agreement have executed it on behalf of themselves, individually, and/or through their respective, duly authorized officers upon duly passed corporate resolutions as of the day and year first above written.

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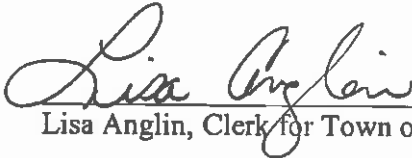
TOWN OF SUNSET BEACH

BY: 
THE HONORABLE ROBERT FORRESTER, Mayor

(AFFIX MUNICIPAL SEAL)



ATTEST:


Lisa Anglin, Clerk for Town of Sunset Beach

SUNSET BEACH & TWIN LAKES, INC., a North Carolina Corporation

Dinah E. Gore (SEAL)
By: DINAH E. GORE
Title: President

STATE OF North Carolina

COUNTY OF Brunswick

I, Christina Tiffany Beck, a Notary Public in and for the aforesaid State and County, do hereby certify that Dinah E. Gore, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of SUNSET BEACH & TWIN LAKES, INC. in his/her capacity as President of said entity. Witness my hand and notarial seal or stamp, this the 21st day of November 2017.

[Stamp-Seal]

Christina Tiffany Beck

Notary Public

CHRISTINA TIFFANY BECK
Notary Public
Brunswick Co., North Carolina
My Commission Expires Jan. 31, 2019

My Commission Expires:

01/31/2019

SUNSET BEACH WEST, L.L.C., a North Carolina
Limited Liability Company

Gregory S. Gore

(SEAL)

By: GREGORY S. GORE

Title: MEMBER MANAGER

STATE OF North Carolina

COUNTY OF Brunswick

I, Christina Tiffany Beck, a Notary Public in and for the
aforesaid State and County, do hereby certify that Gregory S. Gore,
personally appeared before me this day and acknowledged the due execution of the
foregoing instrument on behalf of SUNSET BEACH WEST, L.L.C. in his/her capacity as
Member (Manager) of said entity. Witness my hand and notarial seal or stamp, this
the 21st day of November 2017.

[Stamp-Seal]

Christina Tiffany Beck

Notary Public

My Commission Expires:

01/31/2019

CHRISTINA TIFFANY BECK
Notary Public
Brunswick Co., North Carolina
My Commission Expires Jan. 31, 2019

THE ESTATE OF EDWARD M. GORE, SR.

Gregory M. Gore (SEAL)
By: GREGORY GORE, Co-Executor

STATE OF North Carolina

COUNTY OF Brunswick

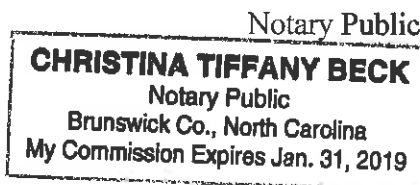
I, Christina Tiffany Beck, a Notary Public in and for the aforesaid State and County, do hereby certify that Gregory Gore, personally appeared before me this day and acknowledged the due execution of the foregoing instrument as a co-executor of The Estate of Edward M. Gore, Sr. Witness my hand and notarial seal or stamp, this the 21st day of November 2017.

[Stamp-Seal]

Christina Tiffany Beck

My Commission Expires:

01/31/2019



THE ESTATE OF EDWARD M. GORE, SR.

Dinah E. Gore (SEAL)
By: DINAH E. GORE, Co-Executor

STATE OF North Carolina

COUNTY OF Brunswick

I, Christina Tiffany Beck, a Notary Public in and for the aforesaid State and County, do hereby certify that Dinah E. Gore, personally appeared before me this day and acknowledged the due execution of the foregoing instrument as a co-executor of The Estate of Edward M. Gore, Sr. Witness my hand and notarial seal or stamp, this the 21st day of November 2017.

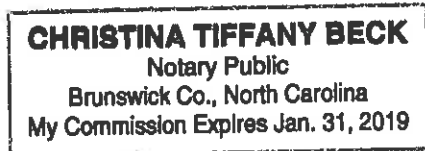
[Stamp-Seal]

Christina Tiffany Beck

Notary Public

My Commission Expires:

01/31/2019



Dinah E. Gore (SEAL)
DINAH E. GORE, Individually

STATE OF North Carolina

COUNTY OF Brunswick

I, Christina Tiffany Beck, a Notary Public in and for the aforesaid State and County, do hereby certify that Dinah E. Gore, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and notarial seal or stamp, this the 21st day of November 2017.

[Stamp-Seal]

Christina Tiffany Beck

My Commission Expires:

01/31/2019

