

UPON RECORDING RETURN TO:
Troutman Pepper Hamilton Sanders LLP
301 South College Avenue, Suite 3400
Charlotte, NC 28202
Attn: Stephanie E. Greer Fulcher

STATE OF GEORGIA

COUNTY OF HALL

HALL COUNTY, GEORGIA
DEED OF CONSERVATION AND TRAIL EASEMENT

THIS INDENTURE, made the 22nd day of April in the year two thousand and twenty-two (2022), between FLOWERY BRANCH APARTMENTS OWNER, LLC, a Delaware limited liability company, whose address is P.O. Box 1127, Isle of Palms, South Carolina 29451, as party or parties of the first part (hereinafter called "Grantor"), and HALL COUNTY, GEORGIA, a political subdivision of the State of Georgia, as party or parties of the second part (hereinafter called "Grantee") (the words "Grantor" and "Grantee" to include their respective successors and assigns where the context requires or permits).

WITNESSETH:

WHEREAS, Grantee herein participated in preparing a plan published by the Gainesville-Hall Metropolitan Planning Organization in February 2019 for the development of a series of trails, paths, and walkways throughout South Hall County, including portions of unincorporated Hall County, Georgia (hereinafter called the "South Hall Trail Study"); and

WHEREAS, Grantor is the owner of all that tract or parcel of land lying and being in Land Lot 97 of the 8th Land District of Hall County, Georgia, being more particularly depicted on the Survey contained in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter called the "Easement Property"); and

WHEREAS, Grantor desires to grant to Grantee a Conservation and Trail Easement in and to the Easement Property to permit the Easement Property to be utilized as a portion of the Grantee's public trail and park system; and

WHEREAS, Grantee is a governmental body empowered to hold an interest in real property under the laws of the State of Georgia; and

WHEREAS, Grantee is a “qualified organization” within the meaning of Section 170(h)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), as defined by Clause (v) of Section 170(b)(1)(A), and Section 170(c)(1); and

WHEREAS, Grantee is a qualified “holder” within the meaning of Official Code of Georgia Annotated Section 44-10-2(2)(A); and

WHEREAS, Grantee, by recording this Deed of Conservation and Trail Easement accepts the grant and dedication of the Easement Property under the terms hereinafter specified.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other valuable consideration, Grantor has donated, granted, remised, released, and conveyed, and by these presents does hereby donate, grant, remise, release, and convey unto Grantee a perpetual Conservation and Trail Easement in, to and through the Easement Property described in Exhibit “A,” subject to the following terms, conditions, restrictions, and reservations:

(a) The Easement Property shall be used for conservation and public recreation purposes and uses only, including, without limitation, walking, hiking, jogging, bicycle riding, bird watching, picnicking, nature studies, and environmental education activities. Members of the general public shall have free access and use of the Easement Property for the purposes herein specified, subject to the laws and ordinances of Grantee and Grantee’s plan for the South Hall Trail System; provided, this instrument shall not be construed to permit the County or the public at large to access any property of the Grantor other than the Easement Property; and provided further, this Conservation and Trail Easement is granted subject to all general utility, sewer, drainage, and other easements, restrictions, and encumbrances of record affecting the Easement Property now and in the future.

(b) Grantee shall have the right to construct and install within the Easement Property, trails or multi-use paths of either pervious or impervious surfaces, paths, and walkways, together with directional and instructive signs, trail markers, litter receptacles, gates, trail bridges, shelters, boardwalks, exercise stations, restroom facilities, utilities, lights, sewerage easements, vehicular access for construction and maintenance purposes, parking facilities, stream bank reclamation and any other modifications, in Grantee’s sole discretion, necessary to improve the environment and trail system, and other convenience facilities consistent with Grantee’s plan for the South Hall Trail System. Notwithstanding the foregoing, Grantor and Grantee acknowledge and agree that the Easement Property as currently described is an approximately 5.5-acre property, to the northwest of and commencing at the centerline of an unnamed creek, of which the parties hereto intend that the Grantee will use for the location of a trail, and that before Grantee commences any of the work or improvements in the Easement Property described above in this subsection (b), including without limitation the construction of any trail or multi-use path, Grantee shall have the Survey updated by a Surveyor reasonably satisfactory to Grantor, to provide a metes and bounds legal description of the approximately twenty-foot (20’) wide strip of land within the Easement Property to be utilized by Grantee for the location of a trail or multi-use path.

(c) Grantee shall have the sole right and responsibility to control, operate, and maintain any trail or multi-use path it constructs or shall cause to be constructed within the Easement

Property. To the extent allowed by law, Grantee agrees to hold Grantor harmless from liability for personal injury or property damage arising out of the use of the Easement Property for conservation and trail system purposes; provided, however, this paragraph shall not be construed as a waiver of Grantee's sovereign immunity or waiver of any defense to or any law limiting the liability of either Grantor or Grantee, including but not limited to Official Code of Georgia Annotated Title 51, Chapter 3, Article 2, and Title 44, Chapter 10, Articles 1 and 2, and the Georgia Constitution, and their respective subsections, and shall not be deemed to create rights upon which any third party may rely; and provided, further, Grantor shall not be held harmless from liability caused by the active conduct or instrumentalities of Grantor, its agents, invitees, or contractors; or by acts of Grantor, its agents, invitees, or contractors which violate the terms and conditions of this Conservation and Trail Easement or for the willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(d) Grantor and Grantee acknowledge and agree that Grantor retains and owns certain additional property comprising approximately 27 acres in Land Lots 96 and 97 of the 8th Land District of Hall County, Georgia, (hereinafter called the "Retained Property") located immediately southeast of and adjacent to the Easement Property. Together, the Easement Property and Retained Property constitute an approximately 32.5-acre tract of land referred to herein as the "Property." Both the Retained Property and Property are more particularly depicted on the Survey contained in Exhibit "A" attached hereto and incorporated herein by this reference. The full acreage of the Property shall be used for purposes of calculating the maximum density of residential development and maximum lot coverage that may occur on the Retained Property.

(e) For the benefit of Grantor and its successors and assigns and the Retained Property, as well as adjacent properties, Grantor hereby reserves the right to continue to use the Easement Property for all purposes not inconsistent with this Conservation and Trail Easement and Grantee's operation of any trail or multi-use path it constructs or shall cause to be constructed within the Easement Property, including but not limited to the construction of a gravity flow sanitary sewer line traversing the Easement Property in a generally northeast to southwest direction and the construction of trail and bridge connections to any multi-use path or trail on the Easement Property from the Retained Property.

(f) The general purpose of this Conservation and Trail Easement is to assure that in the future there is property that retains its present natural, scenic, aesthetic, watershed, wildlife, forest, and habitat condition, and is accessible to members of the general public for recreational and education purposes. Grantee shall have the right to cut trees, grade, and when necessary construct roads for construction and maintenance of the Easement Property. In all such activities Grantee will attempt to preserve the natural habitat of the Easement Property. Neither Grantor nor Grantee shall have the right to mine the surface or subsurface of the Easement Property in compliance with Code Section 170(h)(5)(B).

(g) The construction of the South Hall Trail System and any and all features thereof, including utilities, pathways, bridges, and other amenities shall be constructed by Grantee and, if constructed by Grantor, maintained by Grantee at no cost to Grantor.

(h) The Conservation and Trail Easement may be connected to contiguous portions of the South Hall Trail System that are located on property adjacent to the Easement Property.

(i) No representation is made by Grantee as to the tax implications to Grantor of this transaction.

(j) The covenants, terms, and conditions, and restrictions of this Conservation and Trail Easement shall be binding upon and shall inure to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns, and shall continue as an easement and servitude running with the Easement Property in perpetuity and enforceable against Grantor and all present and future owners, tenants, and other holders of any interest in the Easement Property.

(k) Nothing contained herein will result in a forfeiture or reversion of Grantor's title, in any respect, and any condition, restriction or other matter contained herein shall be construed as a covenant.

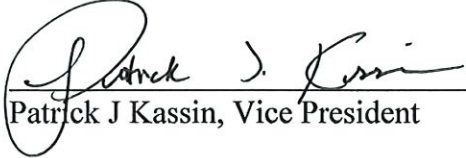
[Signatures follow on the next page.]

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed of Conservation and Trail Easement, the day and year above written.

Signed, sealed and delivered in the presence of:

GRANTOR

**FLOWERY BRANCH APARTMENTS
OWNER, LLC, a Delaware limited liability
company**


Patrick J Kassin, Vice President

ATTEST: _____

_____, Secretary

Witness




NOTARY PUBLIC

Wanda Sutton

Notary Public

Hall County, Georgia

My Commission Expires

May 7, 2022

GRANTEE

HALL COUNTY, GEORGIA

Richard Higgins, Chairman

ATTEST: _____
County Clerk

APPROVED AS TO FORM:

BY: _____
Van Stephens, County Attorney

DATE: _____



EXHIBIT A

DEPICTION OF PROPERTY, EASEMENT PROPERTY, AND RETAINED PROPERTY

[illegible]

CONSERVATION
EASEMENT EXHIBIT

0 75 150 300 450

SCALE: 1" = 150'
DATE: 7/27/2021
PROJECT: 18161.00A



| Parcel Line Table | | | Parcel Line Table | | |
|-------------------|--------|-------------|-------------------|--------|-------------|
| Line | Length | Direction | Line | Length | Direction |
| L1 | 21.37 | N30°30'15"W | L1 | 8.91 | N30°30'15"W |
| L2 | 22.07 | N47°44'47"E | L2 | 2.48 | N77°41'31"E |
| L3 | 22.07 | N47°44'47"E | L3 | 14.00 | S82°34'54"E |
| L4 | 26.37 | N02°41'30"E | L4 | 16.00 | N70°54'30"E |
| L5 | 21.50 | N47°44'47"E | L5 | 29.00 | N78°35'48"E |
| L6 | 18.01 | N77°41'31"E | L6 | 29.00 | N38°45'02"E |
| L7 | 20.87 | N77°41'31"E | L7 | 26.50 | N72°11'21"E |
| L8 | 20.87 | N77°41'31"E | L8 | 26.50 | N56°56'56"E |
| L9 | 15.26 | N47°44'47"E | L9 | 13.23 | N44°32'34"E |
| L10 | 11.11 | N47°44'47"E | L10 | 14.00 | N42°28'42"E |
| L11 | 11.11 | N47°44'47"E | L11 | 14.00 | N42°28'42"E |
| L12 | 15.26 | N47°44'47"E | L12 | 14.00 | N42°28'42"E |
| L13 | 15.26 | N47°44'47"E | L13 | 14.00 | N42°28'42"E |
| L14 | 15.26 | N47°44'47"E | L14 | 14.00 | N42°28'42"E |
| L15 | 15.26 | N47°44'47"E | L15 | 14.00 | N42°28'42"E |
| L16 | 15.26 | N47°44'47"E | L16 | 14.00 | N42°28'42"E |
| L17 | 15.26 | N47°44'47"E | L17 | 14.00 | N42°28'42"E |
| L18 | 15.26 | N47°44'47"E | L18 | 14.00 | N42°28'42"E |
| L19 | 15.26 | N47°44'47"E | L19 | 14.00 | N42°28'42"E |
| L20 | 15.26 | N47°44'47"E | L20 | 14.00 | N42°28'42"E |
| L21 | 15.26 | N47°44'47"E | L21 | 14.00 | N42°28'42"E |
| L22 | 15.26 | N47°44'47"E | L22 | 14.00 | N42°28'42"E |
| L23 | 15.26 | N47°44'47"E | L23 | 14.00 | N42°28'42"E |
| L24 | 15.26 | N47°44'47"E | L24 | 14.00 | N42°28'42"E |
| L25 | 15.26 | N47°44'47"E | L25 | 14.00 | N42°28'42"E |
| L26 | 15.26 | N47°44'47"E | L26 | 14.00 | N42°28'42"E |
| L27 | 15.26 | N47°44'47"E | L27 | 14.00 | N42°28'42"E |
| L28 | 15.26 | N47°44'47"E | L28 | 14.00 | N42°28'42"E |
| L29 | 15.26 | N47°44'47"E | L29 | 14.00 | N42°28'42"E |
| L30 | 15.26 | N47°44'47"E | L30 | 14.00 | N42°28'42"E |
| L31 | 15.26 | N47°44'47"E | L31 | 14.00 | N42°28'42"E |
| L32 | 15.26 | N47°44'47"E | L32 | 14.00 | N42°28'42"E |
| L33 | 15.26 | N47°44'47"E | L33 | 14.00 | N42°28'42"E |
| L34 | 15.26 | N47°44'47"E | L34 | 14.00 | N42°28'42"E |
| L35 | 15.26 | N47°44'47"E | L35 | 14.00 | N42°28'42"E |
| L36 | 15.26 | N47°44'47"E | L36 | 14.00 | N42°28'42"E |
| L37 | 15.26 | N47°44'47"E | L37 | 14.00 | N42°28'42"E |
| L38 | 15.26 | N47°44'47"E | L38 | 14.00 | N42°28'42"E |
| L39 | 15.26 | N47°44'47"E | L39 | 14.00 | N42°28'42"E |
| L40 | 15.26 | N47°44'47"E | L40 | 14.00 | N42°28'42"E |
| L41 | 15.26 | N47°44'47"E | L41 | 14.00 | N42°28'42"E |
| L42 | 15.26 | N47°44'47"E | L42 | 14.00 | N42°28'42"E |
| L43 | 15.26 | N47°44'47"E | L43 | 14.00 | N42°28'42"E |
| L44 | 15.26 | N47°44'47"E | L44 | 14.00 | N42°28'42"E |
| L45 | 15.26 | N47°44'47"E | L45 | 14.00 | N42°28'42"E |
| L46 | 15.26 | N47°44'47"E | L46 | 14.00 | N42°28'42"E |
| L47 | 15.26 | N47°44'47"E | L47 | 14.00 | N42°28'42"E |
| L48 | 15.26 | N47°44'47"E | L48 | 14.00 | N42°28'42"E |
| L49 | 15.26 | N47°44'47"E | L49 | 14.00 | N42°28'42"E |
| L50 | 15.26 | N47°44'47"E | L50 | 14.00 | N42°28'42"E |
| L51 | 15.26 | N47°44'47"E | L51 | 14.00 | N42°28'42"E |
| L52 | 15.26 | N47°44'47"E | L52 | 14.00 | N42°28'42"E |
| L53 | 15.26 | N47°44'47"E | L53 | 14.00 | N42°28'42"E |
| L54 | 15.26 | N47°44'47"E | L54 | | |

