

This Lease was prepared by:
Brad Richardson,
Bureau of Public Land Administration
Division of State Lands
Department of Environmental Protection, MS 130
3900 Commonwealth Boulevard,
Tallahassee, Florida 32399-3000
AID# 32546

OAL1
[2.0 acres +/-]

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA**

LEASE AGREEMENT

Lease Number 4799

THIS LEASE AGREEMENT, made and entered into this _____ day of _____ 20__, by and between the **BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA**, hereinafter referred to as "LESSOR", and **CITY OF CLEARWATER, FLORIDA**, hereinafter referred to as "LESSEE."

LESSOR, for and in consideration of mutual covenants and agreements hereinafter contained, does hereby lease to said LESSEE the lands described in paragraph 2 below, together with the improvements thereon, and subject to the following terms and conditions:

1. **DELEGATIONS OF AUTHORITY**: LESSOR'S responsibilities and obligations herein shall be exercised by the Division of State Lands, State of Florida Department of Environmental Protection.
2. **DESCRIPTION OF PREMISES**: The property subject to this lease contains approximately 2.0 acres, is situated in the County of Pinellas, State of Florida and is more particularly described in Exhibit "A" attached hereto and hereinafter called the "leased premises".
3. **TERM**: The term of this lease shall be for a period of 50 years commencing on July 24, 2017, and ending on July 23, 2067 unless sooner terminated pursuant to the provisions of this lease.
4. **PURPOSE**: LESSEE shall manage the leased premises only for the establishment and operation of trail support activities, including but not limited to, a welcome center, parking, and restrooms, along with other related uses necessary for the accomplishment of this purpose as designated in the Land Use Plan required by paragraph 8 of this lease.

5. **QUIET ENJOYMENT AND RIGHT OF USE:** LESSEE shall have the right of ingress and egress to, from and upon the leased premises for all purposes necessary to the full quiet enjoyment by said LESSEE of the rights conveyed herein.
6. **UNAUTHORIZED USE:** LESSEE shall, through its agents and employees, prevent the unauthorized use of the leased premises or any use thereof not in conformity with this lease.
7. **ASSIGNMENT:** This lease shall not be assigned in whole or in part without the prior written consent of LESSOR, which consent shall not be unreasonably withheld. Any assignment made either in whole or in part without the prior written consent of LESSOR shall be void and without legal effect.
8. **LAND USE PLAN:** LESSEE shall prepare and submit a Land Use Plan for the leased premises, in accordance with Section 253.034, Florida Statutes. The Land Use Plan shall be submitted to LESSOR for approval through the Division of State Lands, State of Florida Department of Environmental Protection. The leased premises shall not be developed or physically altered in any way other than what is necessary for security and maintenance of the leased premises without the prior written approval of LESSOR until the Land Use Plan is approved. LESSEE shall provide LESSOR with an opportunity to participate in all phases of preparing and developing the Land Use Plan for the leased premises. The Land Use Plan shall be submitted to LESSOR in draft form for review and comments within ten months of the effective date of this lease. LESSEE shall give LESSOR reasonable notice of the application for and receipt of any state, federal or local permits as well as any public hearings or meetings relating to the development or use of the leased premises. LESSEE shall not proceed with development of said leased premises including, but not limited to, funding, permit application, design or building contracts, until the Land Use Plan required herein has been submitted and approved. Any financial commitments made by LESSEE which are not in compliance with the terms of this lease shall be done at LESSEE'S own risk. The Land Use Plan shall emphasize the original management concept as approved by LESSOR on the effective date of this lease which established the primary public purpose for which the leased premises are to be managed. The approved Land Use Plan shall provide the basic guidance for all management activities and shall be reviewed jointly by LESSEE and LESSOR. LESSEE shall not use or alter the leased premises except as provided for in the approved Land Use Plan without the prior written approval of LESSOR. The Land Use Plan prepared under this lease shall identify management strategies for exotic species, if present. The introduction of exotic species is prohibited, except when specifically authorized by the approved Land Use Plan. In accordance with Section 253.034, Florida Statutes, the LESSEE shall submit a Land Use Plan update at the end of the fifth year from the execution date of this lease to establish all short-term goals

developed under the Land Use Plan have been met in accordance with Section 253.034 (5) (i), Florida Statutes. The LESSEE shall submit an updated Land Use Plan at least every ten (10) years from the execution date of the lease.

9. **EASEMENTS:** All easements of any nature including, but not limited to, utility easements are required to be granted by LESSOR. LESSEE is not authorized to grant any easements of any nature and any easement granted by LESSEE shall be void and without legal effect.

10. **SUBLEASES:** This lease is for the purposes specified herein and subleases of any nature are prohibited, without the prior written approval of LESSOR. Any sublease not approved in writing by LESSOR shall be void and without legal effect.

11. **RIGHT OF INSPECTION:** LESSOR or its duly authorized agents, representatives or employees shall have the right to reasonably inspect the leased premises and the works and operations of LESSEE in any matter pertaining to this lease.

12. **PLACEMENT AND REMOVAL OF IMPROVEMENTS:** All buildings, structures and improvements shall be constructed at the expense of LESSEE in accordance with plans prepared by professional designers and shall require the prior written approval of LESSOR as to purpose, location and design. Further, no trees other than non-native species shall be removed or major land alterations done by LESSEE without the prior written approval of LESSOR. Removable equipment and removable improvements placed on the leased premises by LESSEE which do not become a permanent part of the leased premises will remain the property of LESSEE and may be removed by LESSEE before or upon termination of this lease.

13. **INSURANCE REQUIREMENTS:** During the term of this lease LESSEE shall procure and maintain policies of fire, extended risk, and liability insurance coverage. The extended risk and fire insurance coverage shall be in an amount equal to the full insurable replacement value of any improvements or fixtures located on the leased premises. The liability insurance coverage shall be in amounts not less than \$200,000 per person and \$300,000 per incident or occurrence for personal injury, death, and property damage on the leased premises. During the term of this lease, if Section 768.28, Florida Statutes, or its successor statute is subsequently amended to increase the amount of the liability coverages specified herein, LESSEE shall immediately obtain liability coverage for the increased amounts. Such policies of insurance shall name LESSOR and the State of Florida as additional insureds. LESSEE shall submit written evidence of having procured all insurance policies required herein prior to the effective date of this lease and shall submit annually thereafter, written evidence of maintaining such insurance policies to the Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, Mail Station 130, 3800 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. LESSEE shall purchase all policies of insurance from a financially-responsible insurer duly authorized to do business in the State of Florida. In lieu of

purchasing insurance, LESSEE may elect to self-insure these coverages. Any certificate of self-insurance shall be issued or approved by the Chief Financial Officer, State of Florida. The certificate of self-insurance shall provide for casualty and liability coverage. LESSEE shall immediately notify LESSOR and the insurer of any erection or removal of any building or other improvement on the leased premises and any changes affecting the value of any improvements and shall request the insurer to make adequate changes in the coverage to reflect the changes in value. LESSEE shall be financially responsible for any loss due to failure to obtain adequate insurance coverage and the failure to maintain such policies or certificate in the amounts set forth shall constitute a breach of this lease.

14. LIABILITY: LESSEE shall assist in the investigation of injury or damage claims either for or against LESSOR or the State of Florida pertaining to LESSEE'S respective areas of responsibility under this lease or arising out of LESSEE'S respective management programs or activities and shall contact LESSOR regarding the legal action deemed appropriate to remedy such damage or claims. LESSEE is responsible for, and, to the extent allowed by law, shall indemnify, protect, defend, save and hold harmless LESSOR and the State of Florida, its officers, agents and employees from any and all damages, claims, costs, expense, including attorney's fees, demands, lawsuits, causes of action or liability of any kind or nature arising out of all personal injury and property damage attributable to the negligent acts or omissions of LESSEE, and its officers, employees, and agents. Nothing herein shall be construed as a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims. In the event LESSEE subcontracts any part or all of the work performed in the leased premises, the LESSEE shall require each and every subcontractor to identify the LESSOR as an additional insured on all insurance policies required by the LESSEE. Any contract awarded by LESSEE for work in the leased premises shall include a provision whereby the LESSEE'S subcontractor agrees to indemnify, pay on behalf, and hold the LESSOR harmless for all injuries and damages arising in connection with the LESSEE'S subcontract.

15. PAYMENT OF TAXES AND ASSESSMENTS: LESSEE shall assume full responsibility for and shall pay all taxes, assessments, liens or other similar liabilities that accrue to the leased premises or to the improvements thereon arising after this lease commences, including any and all ad valorem taxes and drainage and special assessments or personal property taxes of every kind and all construction or materialman's liens which may be hereafter lawfully assessed and levied against the leased premises subsequent to the effective date of this lease. In no event shall the LESSEE be held liable for such liabilities which arose prior to the effective date of this lease.

16. **NO WAIVER OF BREACH:** The failure of LESSOR to insist in any one or more instances upon strict performance of any one or more of the covenants, terms and conditions of this lease shall not be construed as a waiver of such covenants, terms or conditions, but the same shall continue in full force and effect, and no waiver of LESSOR of any of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by LESSOR.
17. **TIME:** Time is expressly declared to be of the essence of this lease.
18. **NON-DISCRIMINATION:** LESSEE shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the leased premises or upon lands adjacent to and used as an adjunct of the leased premises.
19. **UTILITY FEES:** LESSEE shall be responsible for the payment of all charges for the furnishing of gas, electricity, water and other public utilities to the leased premises and for having the utilities turned off when the leased premises are surrendered.
20. **MINERAL RIGHTS:** This lease does not cover petroleum or petroleum products or minerals and does not give the right to LESSEE to drill for or develop the same, and LESSOR specifically reserves the right to lease the leased premises for purpose of exploring and recovering oil and minerals by whatever means appropriate; provided, however, that LESSEE named herein shall be fully compensated for any and all damages that might result to the leasehold interest of said LESSEE by reason of such exploration and recovery operations.
21. **RIGHT OF AUDIT:** LESSEE shall make available to LESSOR all financial and other records relating to this lease, and LESSOR shall have the right to audit such records at any reasonable time during the term of this lease. This right shall be continuous until this lease expires or is terminated. This lease may be terminated by LESSOR should LESSEE fail to allow public access to all documents, papers, letters or other materials made or received in conjunction with this lease, pursuant to the provisions of Chapter 119, Florida Statutes.
22. **CONDITION OF PREMISES:** LESSOR assumes no liability or obligation to LESSEE with reference to the condition of the leased premises. The leased premises herein are leased by LESSOR to LESSEE in an "as is" condition, with LESSOR assuming no responsibility for the care, repair, maintenance or improvement of the leased premises for the benefit of LESSEE.
23. **COMPLIANCE WITH LAWS:** LESSEE agrees that this lease is contingent upon and subject to LESSEE obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

24. **NOTICE:** All notices given under this lease shall be in writing and shall be served by certified mail including, but not limited to, notice of any violation served pursuant to Section 253.04, Florida Statutes, to the last address of the party to whom notice is to be given, as designated by such party in writing. LESSOR and LESSEE hereby designate their address as follows:

LESSOR: State of Florida Department of
Environmental Protection
Division of State Lands
Bureau of Public Land Administration, MS 130
3800 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

LESSEE: City of Clearwater, Florida
3204 Gulf to Bay Boulevard
Clearwater, FL, 33759

25. **BREACH OF COVENANTS, TERMS, OR CONDITIONS:** Should LESSEE breach any of the covenants, terms, or conditions of this lease, LESSOR shall give written notice to LESSEE to remedy such breach within sixty days of such notice. In the event LESSEE fails to remedy the breach to the satisfaction of LESSOR within sixty days of receipt of written notice, LESSOR may either terminate this lease and recover from LESSEE all damages LESSOR may incur by reason of the breach including, but not limited to, the cost of recovering the leased premises or maintain this lease in full force and effect and exercise all rights and remedies herein conferred upon LESSOR.

26. **DAMAGE TO THE PREMISES:** (a) LESSEE shall not do, or suffer to be done, in, on or upon the leased premises or as affecting said leased premises or adjacent properties, any act which may result in damage or depreciation of value to the leased premises or adjacent properties, or any part thereof. (b) LESSEE shall not generate, store, produce, place, treat, release or discharge any contaminants, pollutants or pollution, including, but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the leased premises or any adjacent lands or waters in any manner not permitted by law. For the purposes of this lease, "hazardous substances" shall mean and include those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "pollution" shall mean those products or substances defined in Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of LESSEE'S failure to comply with this paragraph, LESSEE shall, at its sole cost and expense, promptly commence and diligently pursue any legally required closure, investigation,

assessment, cleanup, decontamination, remediation, restoration and monitoring of (1) the leased premises, and (2) all off-site ground and surface waters and lands affected by LESSEE'S such failure to comply, as may be necessary to bring the leased premises and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders, and decrees, and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. LESSEE'S obligations set forth in this paragraph shall survive the termination or expiration of this lease. This paragraph shall not be construed as a limitation upon LESSEE'S obligations as set forth in paragraph 14 of this lease, nor upon any other obligations or responsibilities of LESSEE as set forth herein. Nothing herein shall relieve LESSEE of any responsibility or liability prescribed by law for fines, penalties and damages levied by governmental agencies, and the cost of cleaning up any contamination caused directly or indirectly by LESSEE'S activities or facilities. Upon discovery of a release of a hazardous substance or pollutant, or any other violation of local, state, or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release, or discharge of any contaminant, LESSEE shall report such violation to all applicable governmental agencies having jurisdiction, and to LESSOR, all within the reporting periods of the applicable governmental agencies. This paragraph shall not be deemed to apply to any conditions existing prior to the effective date of this lease.

27. **ENVIRONMENTAL AUDIT:** At LESSOR'S discretion, LESSEE shall provide LESSOR with a current Phase I environmental site assessment conducted in accordance with the State of Florida Department of Environmental Protection, Division of State Lands' standards prior to termination of this lease, and if necessary a Phase II environmental site assessment.

28. **SURRENDER OF PREMISES:** Upon termination or expiration of this lease, LESSEE shall surrender the leased premises to LESSOR. In the event no further use of the leased premises or any part thereof is needed, LESSEE shall give written notification to the Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection ("Division"), Mail Station 130, 3800 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, at least six months prior to the release of any or all of the leased premises. Notification shall include a legal description, this lease number, and an explanation of the release. The release shall only be valid if approved by LESSOR through the execution of a release of lease instrument with the same formality as this lease. Upon release of all or any part of the leased premises or upon termination or expiration of this lease, all improvements, including both physical structures and modifications to the leased premises shall become the property of LESSOR, unless LESSOR gives written notice to LESSEE to remove any or all such improvements at the expense of LESSEE. The decision to retain any improvements upon termination or expiration of this lease shall be at LESSOR'S sole discretion. Prior to surrender of all or any part of the leased premises a representative of the Division shall

perform an on-site inspection and the keys to any building on the leased premises shall be turned over to the Division. If the improvements do not meet all conditions as set forth in paragraphs 19 and 36 herein, LESSEE shall pay all costs necessary to meet the prescribed conditions.

29. **BEST MANAGEMENT PRACTICES:** LESSEE shall implement applicable Best Management Practices for all activities conducted under this lease in compliance with paragraph 18-2.018(2)(h), Florida Administrative Code, which have been selected, developed, or approved by LESSOR, LESSEE or other land managing agencies for the protection and enhancement of the leased premises.

30. **PUBLIC LANDS ARTHROPOD CONTROL PLAN:** LESSEE shall identify and subsequently designate to the respective arthropod control district or districts within one year of the effective date of this lease all of the environmentally sensitive and biologically highly productive lands contained within the leased premises, in accordance with Section 388.4111, Florida Statutes and Chapter 5E-13, Florida Administrative Code, for the purpose of obtaining a public lands arthropod control plan for such lands.

31. **PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES:** Fee title to the leased premises is held by LESSOR. LESSEE shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property contained in the leased premises including, but not limited to, mortgages or construction liens against the leased premises or against any interest of LESSOR therein.

32. **PARTIAL INVALIDITY:** If any term, covenant, condition or provision of this lease shall be ruled by a court of competent jurisdiction, to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

33. **ARCHAEOLOGICAL AND HISTORIC SITES:** Execution of this lease in no way affects any of the parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archaeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the State of Florida Department of State, Division of Historical Resources. The Land Use Plan prepared pursuant to Chapter 18-2, Florida Administrative Code, shall be reviewed by the Division of Historical Resources to insure that adequate measures have been planned to locate, identify, protect and preserve the archaeological and historic sites and properties on the leased premises.

34. **SOVEREIGNTY SUBMERGED LANDS:** This lease does not authorize the use of any lands located waterward of the mean or ordinary high water line of any lake, river, stream, creek, bay, estuary, or other water body or the waters or the air space there above.

35. **ENTIRE UNDERSTANDING:** This lease sets forth the entire understanding between the parties and shall only be amended with the prior written approval of LESSOR.
36. **MAINTENANCE OF IMPROVEMENTS:** LESSEE shall maintain the real property contained within the leased premises and the improvements located thereon, in a state of good condition, working order and repair including, but not limited to, removing all trash or litter, maintaining all planned improvements as set forth in the approved Land Use Plan, and meeting all building and safety codes. LESSEE shall maintain any and all existing roads, canals, ditches, culverts, risers and the like in as good condition as the same may be on the effective date of this lease.
37. **GOVERNING LAW:** This lease shall be governed by and interpreted according to the laws of the State of Florida.
38. **SIGNS:** LESSEE shall ensure that the area is identified as being publicly owned and operated as a public facility in all signs, literature and advertising. If federal grants or funds are used by LESSEE for any project on the leased premises LESSEE shall erect signs identifying the leased premises as a federally assisted project.
39. **SECTION CAPTIONS:** Articles, subsections and other captions contained in this lease are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this lease or any provisions thereof.
40. **ADMINISTRATIVE FEE:** LESSEE shall pay LESSOR an annual administrative fee of \$300 pursuant to subsection 18-2.020(8), Florida Administrative Code. The initial annual administrative fee shall be payable within thirty days from the date of execution of this lease agreement and shall be prorated based on the number of months or fraction thereof remaining in the fiscal year of execution. For purposes of this lease agreement, the fiscal year shall be the period extending from July 1 to June 30. Each annual payment thereafter shall be due and payable on July 1 of each subsequent year.
41. **RIGHT OF TERMINATION:** Anything contained in this lease to the contrary notwithstanding, LESSOR shall have the right and option to terminate this lease, at will, for any reason whatsoever, by giving the LESSEE written notice of such election to terminate at least six (6) months prior to the effective date of such termination. LESSEE shall continue to honor its obligations under the lease until the effective date of the termination, including LESSEE's obligations concerning surrender of the leased premises.

[Remainder of page intentionally left blank; Signature page follows]

IN WITNESS WHEREOF, the parties have caused this lease to be executed on the day and year first above written.

WITNESSES:

**BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA**

Original Signature

(SEAL)

Print/Type Name of Witness

BY: _____

Cheryl C. McCall, Chief, Bureau of Public Land Administration,
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the
Board of Trustees of the Internal Improvement Trust Fund of the
State of Florida

Original Signature

Print/Type Name of Witness

“LESSOR”

**STATE OF FLORIDA
COUNTY OF LEON**

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Cheryl C. McCall, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

APPROVED SUBJECT TO PROPER EXECUTION:



DEP Attorney

06-05-2017

Date

Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires:

Commission/Serial No. _____

Countersigned:

CITY OF CLEARWATER, FLORIDA

George N. Cretekos
Mayor

By: _____
William B. Horne, II
City Manager

Approved as to form:

Attest:

Matthew M. Smith
Assistant City Attorney

Rosemarie Call
City Clerk

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by William B. Horne, II and Rosemarie Call, as City Manager and City Clerk, respectively, for and on behalf of the City of Clearwater, Florida. They are personally known to me.

Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires: _____

Commission/Serial No. _____

EXHIBIT "A"

The following lands located in Pinellas County, Florida:

Beginning at the SW corner of the SE1/4 of NW 1/4 of Section 16, Township 29 South, Range 16, East, said corner being the SW corner of US Lot No. 2 and also being the point of intersection of the centerlines of the Haines Road and Gulf of Bay Boulevard; run thence North 3° West, 50 feet; thence North 87° East along the North right of way line of the Gulf to Bay Boulevard, 1320.5 feet to point of beginning, said point of beginning being the line dividing US Lots 2 and 3; run thence North 3° West and at right angles to the Gulf to Bay Boulevard, 200 feet; thence North 87° East and parallel with the Gulf to Bay Boulevard, extending 463 feet to the shore line of the Old Tampa Bay; thence southwesterly along the shore line of Old Tampa Bay to point of beginning, said parcel being a part of US Lot No. 3, Section 16, Township 29 South, Range 16 East.

BSM: 
DATE: March 2, 2017