

ORDINANCE 15-28

AN ORDINANCE APPROVING AND AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF DUNEDIN AND AV FLORIDA HOLDINGS LLC; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City of Dunedin and AV Florida Holdings, LLC have entered into and concluded negotiations of a Development Agreement pertaining to and setting forth the terms and conditions for the development of certain parcels located at 2641 Michael Place, Dunedin, Florida; and

WHEREAS, the Local Planning Agency of the City of Dunedin, Florida, has duly considered the terms and conditions of the Development Agreement, and has recommended that the same be approved; and

WHEREAS, due and proper public hearings on the said Development Agreement having been completed pursuant to Section 104-33.7.2 of the City's Land Development Code and Florida Statute 163.3225; and

WHEREAS, the City Commission wishes to authorize the Mayor of the City to sign the said Development Agreement with AV Florida Holdings, LLC; now, therefore,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1: That the Mayor is authorized to execute the Development Agreement between the City of Dunedin and AV Florida Holdings, LLC, as attached hereto and incorporated by reference herein.

Section 2: This Ordinance shall become effective upon final passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY
OF DUNEDIN, FLORIDA, THIS 3rd day of December , 2015.


Julie Ward Bujalski
Mayor

ATTEST:


Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: August 20, 2015

READ SECOND TIME AND ADOPTED: December 3, 2015

**This Document Prepared By
And After Recording Return To:**

**Jeffrey C. Shannon, Esq.
Buchanan Ingersoll & Rooney PC
501 East Kennedy Blvd., Suite 1700
Tampa, Florida 33602**

~~KEN BURKE, CLERK OF COURT
AND COMPTROLLER PINELLAS COUNTY, FL
INST# 2015359795 12/11/2015 at 12:16 PM
OFF REC BK: 19016 PG: 1828-1845
DocType:AGM RECORDING: \$154.50~~

KEN BURKE, CLERK OF COURT
AND COMPTROLLER PINELLAS COUNTY, FL
INST# 2015373301 12/28/2015 at 08:56 AM
OFF REC BK: 19031 PG: 2048-2065
DocType:AGM RECORDING: \$154.50

**CITY OF DUNEDIN
DEVELOPMENT AGREEMENT
FOR HOTEL**

THIS CITY OF DUNEDIN DEVELOPMENT AGREEMENT FOR HOTEL (the “**Agreement**”) is made this 28th day of December, 2015, by and between AV Florida Holdings, LLC, a Florida limited liability company (or its related entity which will develop the Property) (“**Developer**”), and the **CITY OF DUNEDIN, FLORIDA**, a municipal corporation under the laws of the State of Florida (the “**City**”).

WITNESSETH:

WHEREAS, AV FLORIDA HOTEL LLC is the owner of the land described in **Exhibit “A”** attached hereto and by this reference made a part hereof (the “**Property**”), which Property totals approximately 2.43 acres in area and is located at the northeast corner of Causeway Boulevard and Michael Place;

WHEREAS, on May 22, 2015, Developer submitted an application to: (a) amend the land use designation applicable to the Property from “RLM” (residential low medium) to “RFM” (resorts facilities medium); and (b) rezone the Property to zoning category “TF,” in accordance with the City’s Land Development Code contained within the City’s Code of Ordinances (the “**Code**”); to allow for construction of up to a 66,500 square foot (up to 90-room) hotel and up to a 4,000 square foot restaurant on the Property, together with minimal meeting space for guest use, pool, lobby and parking spaces, generally conforming to the architectural elevation dimensions shown on the approved site plan pursuant to the Final Design Review, as depicted on **Exhibit “B”** attached hereto and by this reference made a part hereof (collectively, the “**Project**”);

WHEREAS, the land use designation for the Property is “Resort Facilities Medium” or “RFM,” which allows a density of up to 60 units per acre when the provisions of Future Land Use Element Policy R-1, “Alternative Lodging Density”, are met;

WHEREAS, the Florida Local Government Development Agreement Act, Sections 163.3220 – 163.3243, Florida Statutes (the “**Act**”), and Section 104-33 et. seq., City’s Code of Ordinances, authorizes the city commission to enter into development agreements with developers to encourage a stronger commitment to comprehensive and capital facilities planning, to ensure the provision of adequate public facilities for development, to encourage the efficient

use of resources, to reduce the economic cost of development and to provide certainty to developers in the approval of development and assurances that they may proceed in accordance with existing laws and policies, subject to the conditions of such development agreements;

WHEREAS, such development agreements strengthen the public planning process, encourage sound capital improvement planning and financing, assist in ensuring that there are adequate capital facilities for the development, encourage private participation in comprehensive planning and reduce the cost of development;

WHEREAS, the Project will comply with: the provisions of the approved site plan, as revised and approved by the City Commission, and all applicable land development regulations in effect at the time of application for building permits and in accordance with this Agreement;

WHEREAS, the construction and operation of the Project will be of significant benefit to the citizens of the City by improving and revitalizing the Property;

WHEREAS, the City has conducted such public hearings as are required by and in accordance with Florida Statutes Section 163.3225, Land Development Code § 104.33.7.2, and any other applicable law;

WHEREAS, the City has determined that, as of the Effective Date (as hereinafter defined), the proposed project is consistent with the City's Comprehensive Plan and Land Development Regulations;

WHEREAS, at a duly noticed and convened public meeting on December 3, 2015, the City Commission approved this Agreement and authorized and directed its execution by the appropriate officials of the City;

WHEREAS, approval of this Agreement is in the interests of the City in furtherance of the City's goals of enhancing the viability of the resort community; and

WHEREAS, Developer has approved this Agreement and has duly authorized its representative to execute this Agreement on Developer's behalf.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. **RECITALS.**

The foregoing recitals are true and correct and are incorporated herein by reference as fully enforceable agreements and representations by the parties hereto.

2. **AUTHORITY.**

This Agreement is authorized by (a) Section 163.3220, et.seq., Fla. Stat.(2015) , the terms of which as of the Effective Date are incorporated herein by this reference and made a part of this Agreement and Section 104-33, et.seq., City's Code of Ordinances. Words used in this

Agreement without definition that are defined in the Act shall have the same meaning in this Agreement as in the Act.

3. **EFFECTIVE DATE.**

This Agreement shall be effective on the date (the “**Effective Date**”) which is the later of:

- a. Proper recordation in the public records of Pinellas County, Florida within fourteen(14) days after the City approves the execution of this Agreement; and
- b. After the time tolled during any appeals or litigation and appeal challenging this Agreement or challenging other matters affecting the purpose, content, or the right of the Developer or City to develop the Property as contemplated hereby.

4. **PROPERTY SUBJECT TO THIS AGREEMENT.** The Property described in **Exhibit ”A”** is subject to this Agreement.

- a. Developer has applied to change the (i) land use designation for the Property to “Resort Facilities Medium” or “RFM;” and (ii) zoning category for the Property to “TF”.
- b. The Property is, or will be upon Developer’s closing on its contractual rights to acquire the Property, owned in fee simple by Developer.
- c. The Property is generally located at the northeast corner of Causeway Boulevard and Michael Place, as further described in **Exhibit “A”**.

5. **SCOPE OF PROJECT.**

The Property shall be developed in conformance with approved site plan pursuant to the Final Design Review, as depicted on **Exhibit “B”** attached hereto and by this reference made a part hereof, as may be modified by the requirements of other state and county governmental agencies having jurisdiction over the development of the Property. Except as may be authorized by the parties hereto, any material deviation from the commitments made by the parties herein shall require an amendment to this Agreement; provided however, any re-allocation between the number of rooms within the hotel space and the square footage within the restaurant space, as potentially contemplated by this Agreement, should not require such an amendment.

This Project shall consist of the following:

- a. Up to 66,500 square feet of space (with up to 90 rooms) within the hotel space, and up to 4,000 square feet of restaurant space. For the purposes of this Agreement “hotel” shall be the same as the definition of a “hotel” set forth in the Code, as amended from time to time.
- b. Five floors, with an aggregate height of no more than fifty(50) feet as measured from BFE elevation 13 feet.

c. minimum of 126 parking spaces, 20 of which will be covered and located under the hotel space; provided, however should the number of hotel rooms within the hotel space and the square footage within the restaurant space be re-allocated, Developer acknowledges that the City's parking requirements must be ultimately satisfied based upon the (i) final number of hotel rooms within the hotel space; and (ii) final total square footage within the restaurant space, as finally approved by the City.

6. **DEVELOPER'S OBLIGATIONS.**

a. The obligations under this Agreement shall be binding upon and the benefits of the Agreement shall inure to Developer, its successors in interest or assigns. At the time of development of the Property, Developer will submit such applications and documentation as are required by law and shall comply with the City's Code applicable at the time of permit review.

b. Developer shall construct the Project consistent with the Final Design Review and all required City approvals.

c. Developer shall (i) comply with all county and local hurricane evacuation plans and procedures to ensure the orderly evacuation of guests and visitors pursuant to the Pinellas County Code, Chapter 34, Article III; and (ii) execute, prior to commencement of construction, a mandatory evacuation/closure covenant, substantially in the form attached hereto as **Exhibit "C"**, stating that the accommodation use will close as soon as practicable after a hurricane watch that includes the City of Dunedin is posted by the National Hurricane Center.

d. Developer, or its successor in title, as appropriate, at its sole cost, shall design, construct and maintain, until acceptance by the City and conveyance by recordable instrument or bill of sale, as appropriate, to the City, all public infrastructure facilities and land necessary to serve the Project which are shown on the Final Design Review, provided that said public infrastructure facilities have received construction plan approval and that all applicable review procedures have been complied with fully, inspected and accepted by the City. Public infrastructure facilities shall include those facilities to be located in rights of way or easement areas conveyed to the City, as shown on the approved engineering construction drawings and shall include, but not be limited to, the following:

7. **PUBLIC FACILITIES.**

a. Potable water is available from the City. Developer shall be responsible for all necessary main extensions and applicable connection fees.

b. Sewer service is currently provided by the City. Developer shall be responsible for all necessary main extensions and applicable connection fees.

c. Fire protection shall be provided by the City.

d. Drainage facilities for the Property will be provided by Developer at Developer's sole expense.

e. All improvements associated with the public facilities identified herein shall be completed prior to the issuance of any certificate of occupancy.

8. **THE CITY'S OBLIGATIONS.**

a. The City shall diligently and in good faith process any permits, applications or other approvals necessary for the construction of the Project and the improvements described herein.

b. The City shall provide those public utilities referenced herein.

9. **REQUIRED LOCAL GOVERNMENT APPROVALS.** The required local government development approvals for development of the Property include, without limitation, the following:

a. The City's site plan approvals and associated utility licenses, access, and right-of-way utilization permits;

b. The City's construction plan approval(s);

c. All permits and/or approvals from SWFWMD;

d. All permits and/or approvals from FDEP;

e. The City's building permit(s); and

f. The City's certificate(s) of occupancy.

10. **FINDING OF CONSISTENCY.** The City finds that development of the Property is consistent with the terms of this Agreement and is consistent with the City's Comprehensive Plan and the Code.

11. **CITY IMPACT FEE CREDITS.**

The City has computed and will grant certain impact fee credits for the Project to Developer consistent with City's ordinances and reflecting previous uses on the Property, which entitle Developer to certain impact fee credits. The impact fee credits to be granted to Developer are:

12. **ASSIGNMENT.**

a. Developer may sell, convey, assign or otherwise dispose of any or all of its right, title, interest and obligations in and to the Project, or any part thereof, at any time; provided, however, that (i) in the event that, as a part of such sale, conveyance, assignment, or other disposition, Developer intends to assign to its grantee (the

“assignee”), its rights and obligations under this Agreement, such assignment can only occur with the prior written consent of the City, and (ii) such assignee, to the extent of the sale, conveyance, assignment or other disposition by Developer to the assignee, shall be bound by the terms of this Agreement the same as Developer for such part of the Project as is subject to such sale, conveyance, assignment or other disposition.

b. If the assignee of Developer’s right, title, interest and obligations in and to the Project, or any part thereof assumes all of Developer’s obligations hereunder for the Project, or that part subject to such sale, conveyance, assignment or other disposition, then Developer shall be released from all such obligations hereunder which have been so assumed by the assignee, and the City agrees to execute an instrument evidencing such release, which shall be in recordable form.

c. An assignment of the Project, or any part thereof, by Developer to any corporation, limited partnership, limited liability company, general partnership, or joint venture, in which Developer (or an entity under common control with Developer) has either the controlling interest or through a joint venture or other arrangement shares equal management rights and maintains such controlling interest or equal management rights shall not be deemed an assignment or transfer subject to any restriction on or approvals of assignments or transfers imposed by this Agreement, provided, however, that notice of such assignment shall be given by Developer to the City not less than thirty (30) days prior to such assignment being effective and the assignee shall be bound by the terms of this Agreement to the same extent as would the Developer in the absence of such assignment.

13. **MISCELLANEOUS.** The City hereby covenants and agrees as follows with respect to the existing and future development of the Project:

a. **Concurrency.** The City and Developer agree that all concurrency management standards related public facilities impacted by and required to accommodate the Project (both existing and proposed development), including, without limitation, sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools, and transportation facilities, will be in place and will be sufficient to accommodate the impacts of development, pursuant to Chapter 163, Section 163.3180, Florida Statutes, and the applicable service plan provider plan and regulations.

b. **Vested Rights.** Pursuant to the provisions of the Florida Local Government Development Agreement Act, Sections 163.3220 - 163.3243, Florida Statutes, the development entitlements, obligations of the City, and other provisions and restrictions provided for in this Agreement shall be deemed to constitute vested property rights that shall run with and inure to the benefit of the property-owner and their successors and assignors and shall not be limited, abridged, modified or eliminated, notwithstanding any future City ordinance, regulation or policy, nor any subsequent change in any state or local law which other wise might apply, so long as those issues have been directly addressed by this Agreement.

c. **Statutory Development Agreement Requirements.** Pursuant to the requirements of the Florida Local Government Development Agreement Act, Sections

163.3220 - 163.3243, Florida Statutes, the following statements and representations are made: (i) no reservation or dedication of land for public purposes is required or necessary by the City, provided however nothing herein shall prevent other regulatory agencies from requiring a reservation or dedication of land through their permitting processes; (ii) all local development permits required by City Code or other law(s) shall be obtained, regardless of whether this Agreement addresses the particular permit or requirement; and (iii) all conditions, terms, restrictions, and other requirements determined to be necessary by the City for the public health, safety or welfare are provided for herein.

d. Binding Effect. The rights, obligations and liabilities of this Agreement shall be binding upon, and shall inure to the benefit of, and burden the respective heirs, personal representatives, legal successors and assigns of all parties to this Agreement. Upon an assignment of this Agreement or the conveyance of any of the parcels hereunder, the assignor/grantor shall be deemed released from all rights, obligations and liabilities hereunder, and the assignee/grantee shall be deemed to have assumed all rights, obligations and liabilities hereunder.

e. Applicable Law; Jurisdiction; Venue. This Agreement, and the rights and obligations of the parties hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Pinellas County, Florida. If any provision of this Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

f. Attorneys' Fees. In the event it becomes necessary for any party to enforce its rights under the terms of this Agreement, then in that event the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, including all trial and appellate litigation.

g. Joint Preparation. Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one party than the other.

h. Exhibits. All exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference.

i. Captions or Paragraph Headings. Captions and paragraph headings contained in this Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement nor the intent of any provision hereof.

j. Counterparts. This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and same Agreement.

k. Duration. This Agreement shall remain in effect for ten (10) years from the Effective Date or until the completion of the Project or lapse by operation of law, whichever occurs first.

l. Amendment. This Agreement may be amended only by mutual written consent of the parties.

m. Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

n. Notices. Notices and communications required or desired to be given under this Agreement shall be given to the parties by hand delivery, by nationally recognized overnight courier service such as Federal Express, or by certified mail, return receipt requested, addressed as follows (copies as provided below shall be required for proper notice to be given):

For the City:

City of Dunedin
542 Main Street
Dunedin, FL. 34698
Attention: City Manager

With a Copy to:

City Attorney:
Thomas J. Trask, Esq.
Trask Daigneault LLP
Harbor Oaks Professional Center
1001 South Fort Harrison Avenue, Suite 201
Clearwater, FL 33756

For Developer:

AV Florida Holdings LLC (or its related entity which will develop the Property)
150 Marina Plaza
Dunedin, FL 34698

With a Copy to:

Jeffrey C. Shannon, Esq.
Buchanan Ingersoll & Rooney PC/Fowler White Boggs
501 E. Kennedy Blvd., Suite 1700
Tampa, Florida 33602

Properly addressed, postage prepaid, notices or communications shall be deemed delivered and received on the day of hand delivery, the next business day after deposit with an overnight courier

service for next day delivery, or on the third (3rd) day following deposit in the United States mail, certified mail, return receipt requested. The parties may change the addresses set forth above (including the addition of a mortgagee to receive copies of all notices), by notice in accordance with this Section.

o. Periodic Review. The City shall conduct periodic review of this Agreement in accordance with the provisions of Florida Statute Section 163.3235 to determine if there has been demonstrated good faith compliance with the terms hereof.

p. Execution, Recordation and Filing. This Agreement shall be executed by Developer and the City within five (5) working days after the approval by the City Commission. Within fourteen (14) days after the City executes this Agreement it shall be recorded by the City in the official records of Pinellas County, Florida. Within fourteen (14) days after this Agreement is recorded, the City shall submit a copy of it to the Florida Department of Community Affairs by certified mail, return receipt requested, as required by law.

q. Minor Non-Compliance. Developer will not be deemed to have failed to comply with the terms of this Agreement in the event such noncompliance, in the judgment of the City Manager, reasonably exercised, is of a minor or inconsequential nature.

r. Subsequently Adopted laws and Policies. Per Section 163.3233, Fla. Stat:

(1) The City's laws and policies governing the development of the Project on the Effective Date shall govern the development of the Property for the duration of this Agreement; and

(2) The City may apply subsequently adopted laws and policies to the Project only if the City has held a public hearing and determined:

(A) The subsequently adopted laws and policies are not in conflict with the laws and policies governing this Agreement and do not prevent development of the land uses, intensities, or densities in this Agreement;

(B) The subsequently adopted laws and policies are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;

(C) The subsequently adopted laws and policies are specifically anticipated and provided for in this Agreement;

(D) The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or

(E) This Agreement is based on substantially inaccurate information supplied by the Developer.

s. Approvals. Whenever an approval or consent is required under or contemplated by this Agreement such approval or consent shall not be unreasonably withheld, delayed or conditioned. All such approvals and consents shall be requested and granted in writing.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Annexation Agreement on the day(s) and year set forth below.

(SIGNATURES ON FOLLOWING PAGE)

STATE OF Florida
COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 21 day of 12, 2015 by Benedikt Fritzsche who is personally known to me OR produced FL Driver License FG 32-666-78-291 as identification.

[Signature]
(Signature of person taking acknowledgement)

Courtney Elizabeth Perryman
(Type or print name of Notary Public)

Commission Expires



DEVELOPER:

AV FLORIDA HOLDINGS LLC, a Florida limited liability company (or its related entity which will develop the Property)

By: [Signature]

Name: Benedikt Fritzsche

Title: _____

Date: 12/21/15

Development Agreement
Schedule of Exhibits

- Exhibit "A"** - Legal Description of Property
- Exhibit "B"** - Approved site plan for the Project per Final Design Review
- Exhibit "C"** - Form of Covenant Regarding Hurricane Evacuation

EXHIBIT "A"
(Legal Description of Property)

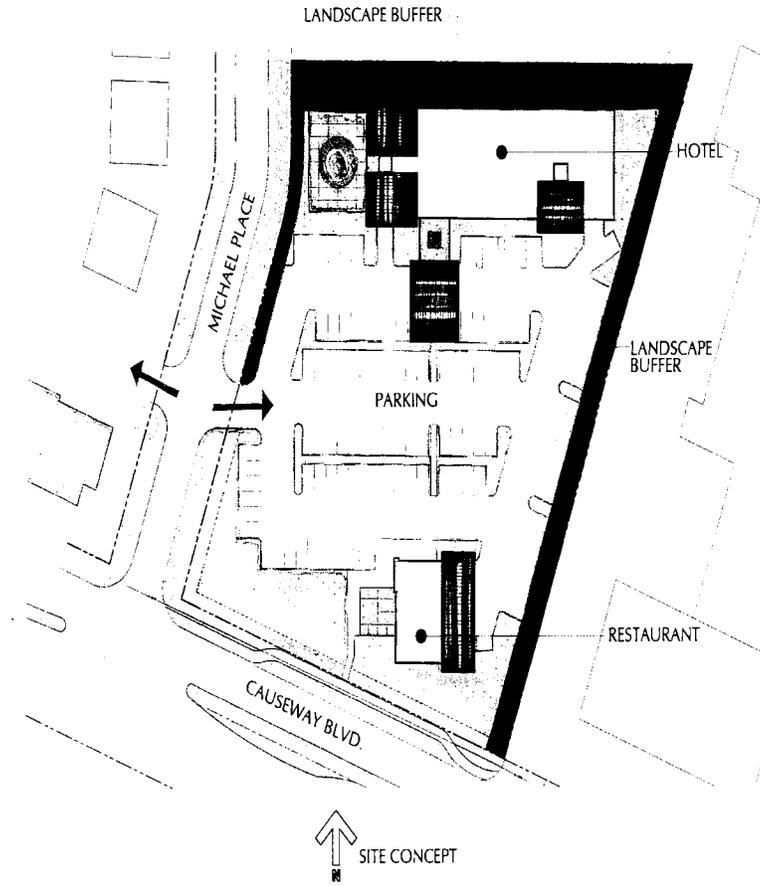
Parcel 1:

Form the Southwest corner of Tract "A" DUNEDIN CAUSEWAY CENTER as recorded in Plat Book 59, Pages 20, 21, 22, Public Records of Pinellas County, Florida, run along the North right-of-way line of Causeway Boulevard, North 69 degrees 09 minutes 17 seconds West, 266.25 feet; thence along the East line of Michael Place, North 20 degrees 50 minutes 43 seconds East, 158.05 feet, to a Point of Beginning; thence continue along said East line of Michael Place the following three courses: (1) North 20 degrees 50 minutes 43 seconds East, 71.42 feet (2) By a curve to the left, through an angle of 19 degrees 43 minutes 06 seconds with a radius of 140.00 feet, an arc of 48.18 feet (3) North 01 degrees 07 minutes 37 seconds East, 160.68 feet; thence North 72 degrees 53 minutes 26 seconds East, 423.11 feet; thence South 20 degrees 50 minutes 43 seconds West, 530.13 feet; thence North 69 degrees 09 minutes 17 seconds West, 271.25 feet to the point of Beginning. LESS AND EXCEPT that part described as ALL OF MACEDONIA CONDO. From the Southwest corner of Tract "A" DUNEDIN CAUSEWAY CENTER as recorded in Plat Book 59 Pages 20, 21, and 22, Public Records of Pinellas County, Florida; thence along the North right-of-way line of Causeway Boulevard, South 69 degrees 09 minutes 17 seconds East, 5.00 feet; thence North 20 degrees 50 minutes 43 seconds East, 433.15 feet to a Point of Beginning; thence North 88 degrees 52 minutes 23 seconds West, 315.81 feet to a Point on the East line of Michael Place; thence along the East line of Michael Place, North 01 degrees 07 minutes 37 seconds East, 107.58 feet; thence North 72 degrees 53 minutes 26 seconds East, 423.11 feet; thence South 20 degrees 50 minutes 43 seconds West, 255.04 feet to the Point of Beginning.

Parcel 2:

From the Southwest corner of Tract "A" DUNEDIN CASUSEWAY CENTER, as recorded in Plat Book 59, Pages 20, 21, and 22, Public Records of the Pinellas County, Florida, run along the North right-of-way line of Causeway Boulevard, North 69 degrees 09 minutes 17 seconds West, 266.25 feet; thence along the East line of Michael Place, North 20 degrees 50 minutes 43 seconds East, 158.06 feet; thence South 69 degrees 09 minutes 17 seconds East, 271.25 feet, thence South 20 degrees 50 minutes 43 seconds West, 158.06 feet; thence along the North right-of-way line of Causeway Boulevard, North 69 degrees 09 minutes 17 seconds West 5.00 feet to the Point of Beginning. LESS AND EXCEPT that part described as ALL OF MACEDONIA CONDO. From the Southwest corner of Tract "A" DUNEDIN CAUSEWAY CENTER as recorded in Plat Book 59, Pages 20, 21, and 22, Public Records of Pinellas County Florida; thence along the North right-of way line of Causeway Boulevard, South 69 degrees 09 minutes 17 seconds East, 5.00 feet; thence North 20 degrees 50 minutes 43 seconds East, 433.15 feet to a Point of Beginning; Thence North 88 degrees 52 minutes 23 seconds West 315.81 feet to a Point on the East line of Michael Place; thence along the East line of Michael Place, North 01 degrees 07 minutes 37 seconds East, 107.58 feet; thence North 72 degrees 53 minutes 26 seconds East, 423.111 feet; thence South 20 degrees 50 minutes 43 seconds West, 255.04 feet to the Point of Beginning.

EXHIBIT "B"
(Site Plan for Project)



DUNEDIN CAUSEWAY PROJECT
 PROPOSED HOTEL & RESTAURANT
 A PROJECT DEVELOPED BY AV FLORIDA HOLDINGS LLC



748 BROADWAY, SUITE 202
 DUNEDIN, FLORIDA 34641
 PHONE: 727-755-4441
 FL. CORP. #A0003287
 WWW.AUDESMTH.COM

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EXHIBIT “C”
(Form of Covenant regarding Hurricane Evacuation)

**COVENANT REGARDING HURRICANE EVACUATION
AND CLOSURE**

THIS COVENANT (“Covenant”) is made as of the ____ day of _____, 2015, by AV Florida Holdings LLC, a Florida limited liability company (or its related entity which will develop the Property), (“Developer”).

Developer is, or will be upon Developer’s closing on its contractual rights to acquire the property, the owner of fee simple title to the real property described in **Exhibit “A”** to this Development Agreement and made a part thereof (hereinafter, the “Property”).

Per the terms of this Development Agreement, Developer shall be entitled to develop up to 66,500 square feet as a Hotel (as defined in the City’s Land Development Code contained within the City’s Code of Ordinances (the “**Code**”)) with up to 90 hotel rooms and up to 4,000 square feet of restaurant space, subject to Developer’s compliance with the requirements and obligations of the Development Agreement. Those obligations include the requirement that Developer comply with all county and local hurricane evacuation plans and procedures to ensure the orderly evacuation of guests and visitors per Chapter 34, Article II of the Pinellas County Code, and that it execute a mandatory evacuation/closure covenant, stating that the accommodation use will close as soon as practical after the National Hurricane Center posts a hurricane watch that includes the City of Dunedin

THEREFORE, in consideration of the covenants and restrictions herein set forth and to be observed and performed, and in further consideration of the approval of the entitlements for a Hotel on the Property, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Developer hereby declares, covenants and agrees as follows:

Benefit and Enforcement. These covenants and restrictions are made for the benefit of the residents of the City and shall be enforceable on behalf of said residents by the City Council of the City.

Covenant of Closure/Evacuation

Evacuation Plan. Pursuant to Section 34-65, Pinellas County Code of Ordinances, within 90 days of the issuance of a certificate of occupancy for the Hotel, Developer shall submit to the City of Dunedin an evacuation plan describing the methods for informing staff and guests of the threat of approaching hurricanes and the procedures to be followed during evacuation. Upon approval of the plan by the City, copies of the evacuation plan shall be made available to all guests, and given to each guest during hurricane season.

Closure of Improvements and Evacuation. The Hotel developed on the Property shall be closed as soon as practicable upon the issuance of a hurricane watch by the National Hurricane Center, which hurricane watch includes the City of Dunedin, and all Hotel guests, visitors and employees other than emergency and security personnel required to protect the resort, shall be evacuated from the Hotel as soon as practicable

following the issuance of said hurricane watch. In the event that the National Hurricane Center shall modify the terminology employed to warn of the approach of hurricane force winds, the closure and evacuation provisions of this Covenant shall be governed by the level of warning employed by the National Hurricane Center which precedes the issuance of a forecast of probable landfall in order to ensure that the guests, visitors and employees will be evacuated in advance of the issuance of a forecast of probable landfall.

Effective Date. This Covenant shall become effective upon issuance of all building permits required to build the project ("Project") and Developer's commencement of construction of the Project, as evidence by a Notice of Commencement for the Project.

Governing Law. This Covenant shall be construed in accordance with and governed by the laws of the State of Florida.

Recording. This Covenant shall be recorded in the chain of title of the Property with the Clerk of the Courts of Pinellas County, Florida.

Attorneys' Fees. Developer shall reimburse the City for any expenses, including reasonable attorneys' fees, which are incurred by the City in the event that the City determines that it is necessary and appropriate to seek judicial enforcement of this Covenant and the City obtains relief, whether by agreement of the parties or through order of a court of competent jurisdiction,

Severability. If any provision, or part thereof, of this Covenant or the application of this Covenant to any person or circumstance will be or is declared to any extent to be invalid or unenforceable, the remainder of this Covenant, or the application of such provision or portion thereof to any person or circumstance, shall not be affected thereby, and each and every other provision of this Covenant shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, Developer has caused this Covenant to be executed this ____ day of _____, 2015.

In the Presence of:

AV FLORIDA HOLDINGS, LLC

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

CITY OF DUNEDIN, FLORIDA

By: _____
Julie Ward-Bujalski, Mayor

Attest:

_____, City Clerk

Approved as to Form:

By: _____
Thomas J. Trask, City Attorney

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____, as _____ of AV FLORIDA HOLDINGS, LLC, who is [] personally known to me or has [] produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires:

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____, as Mayor of the City of Dunedin, Florida, who is [] personally known to me or has [] produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires: