

RESOLUTION NO. 2006- 335

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE CHAIRMAN TO EXECUTE A CONSERVATION EASEMENT OVER 44.85 ACRES (40.95 ACRES OF WETLANDS AND 3.9 ACRES OF UPLANDS) ON SPENGLER ISLAND TO MITIGATE FOR FUTURE COUNTY PROJECTS.

RECITALS

WHEREAS, the U.S. Army Corps of Engineers ("Corps") and St. Johns Water Management District permitting requires mitigation for certain projects where wetlands are impacted; and

WHEREAS, the opportunity has arisen to conserve 44.85 acres on Spengler as noted in the attached Conservation Easement, Exhibit "A"; and

WHEREAS, execution of the Conservation Easement would be in the best interest of the County and better serve the health, safety and welfare of the citizens of the community.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

**Section 1.** The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

**Section 2.** The County Administrator is authorized to execute the Conservation Easement for the aforementioned 44.85 acres on Spengler Island to mitigate impacts of future County projects.

**Section 3.** The Clerk is instructed to record the Conservation Easement in the public records of St. Johns County.

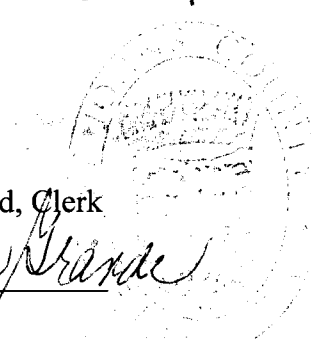
**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 3<sup>rd</sup> day of October, 2006.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: James E. Bryant  
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

By: Patricia Reynolds  
Deputy Clerk



## **Exhibit "A" to the Resolution**

Prepared by:  
Michael D. Hunt  
Deputy County Attorney  
4020 Lewis Speedway  
St. Augustine, FL 32084

Return recorded original to:  
Office of General Counsel  
St. Johns River Water Management District  
4049 Reid Street  
Palatka, FL. 32177

### **CONSERVATION EASEMENT**

**THIS CONSERVATION EASEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2006, by **ST. JOHNS COUNTY**, a political subdivision of the State of Florida, having an address at 4020 Lewis Speedway, St. Augustine, Florida 32095 ("Grantor") in favor of the **ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**, a public body existing under Chapter 373, Florida Statutes, having a mailing address at 4049 Reid Street, Palatka, Florida 32177 ("Grantee").

#### **WITNESSETH:**

**WHEREAS**, Grantor solely owns, in fee simple, certain real property in St. Johns County, Florida, more particularly described in Exhibit "A" attached hereto and incorporated by this reference, ("the Property");

**WHEREAS**, St. Johns River Water Management District ("District") Permit No. 40-109-95348-1 and the U.S. Army Corps of Engineers ("Corps") Permit No. SAJ-2003-9593-MRE (hereinafter referred to as the "Permits") authorize certain activities which affect waters in or of the State of Florida and water of the United States; and

**WHEREAS**, Grantor grants this conservation easement over 44.85 acres (40.95 acres of wetlands and 3.9 acres of uplands) as a condition of the Corps Permit, solely to offset adverse impacts to natural resources, fish and wildlife, and wetland functions; and

**WHEREAS**, District Permit No. 40-109-95348-1 and Corps Permit No. SAJ-2003-9593-MRE, authorizes restoration, enhancement and preservation activities and Grantor intends to use the conservation easement and associated restoration, enhancement, preservation and management activities described in the Permits as mitigation for saltmarsh impacts for future County projects located in the same drainage basin (9) as the Property.

**NOW THEREFORE**, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the provisions of Section 704.06, Florida Statutes, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the

extent hereinafter set forth (the "Conservation Easement"). Grantor fully warrants title to said Property, and will warrant and defend the same against the lawful claims of all persons whomsoever.

1. Purpose: The purpose of this Conservation Easement is to assure that the Property will be retained forever in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property.

2. Prohibited Uses: Any activity on or use of the Property inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- a) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.
- b) Dumping or placing soil or other substance or material as landfill or dumping or placing trash, waste or unsightly or offensive materials.
- c) Removing or destroying trees, shrubs, or other vegetation.
- d) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
- e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- g) Acts or uses detrimental to such retention of land or water areas.
- h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

3. Reserved Rights: Grantor reserves unto itself, and its successors and assigns all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property, that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement. The Grantor will implement the restoration and enhancement activities outlined in the Permits.

4. Rights of Grantee: To accomplish the purposes stated herein, Grantor conveys the following rights to Grantee and the "Corps":

- a) To enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement.
- b) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Property that may be damaged by any activity inconsistent with this Conservation Easement.

5. Grantee's Discretion: Grantee may enforce the terms of this Conservation Easement at its discretion, but if Grantor breaches any term of this Conservation Easement and Grantee does not exercise its rights under this Conservation Easement, Grantee's

forbearance shall not be construed to be a waiver by Grantee of such term, or of any subsequent breach of the same, or any other term of this Conservation Easement, or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

6. Grantee's Liability: Grantor will assume all liability for any injury or damage to the person or property of third parties which may occur on the Property arising from Grantor's ownership of the Property. Neither Grantors, nor any person or entity claiming by or through Grantors, shall hold Grantee liable for any damage or injury to person or personal property, which may occur on the Property.

7. Acts Beyond Grantor's Control: Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property or to persons resulting from such causes.

8. Recordation: Grantor shall record this Conservation Easement in timely fashion in the Official Records of St. Johns County, Florida, and shall record it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

9. Successors: The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, Grantor has executed this Conservation Easement on the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS  
ST. JOHNS COUNTY, FLORIDA**

By: \_\_\_\_\_  
James E. Bryant  
Chairman

**ATTEST:** Cheryl Strickland, Clerk

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Print Name

