

RESOLUTION NO. 2009- 160

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 APPROXIMATELY 0.23 ACRES AT NEASE BEACHFRONT PARK TO MITIGATE FOR SECONDARY WETLAND IMPACTS DUE TO CONSTRUCTION OF THE PARK

RECITALS

WHEREAS, the construction associated with Nease Beachfront Park resulted in secondary wetland impacts; and

WHEREAS, the St. Johns River Water Management District required a conservation easement as a condition of permit # 40-109-119692-1 to offset said impacts; and

WHEREAS, the attached Conservation Easement, Exhibit "A", preserves 0.23 acres of upland buffer at Nease Beachfront Park.

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 Chairman is authorized to execute the Conservation Easement for the aforementioned 0.23 acres at Nease Beachfront Park to mitigate impacts associated with construction of the park.

Section 3. The Clerk is instructed to record the Conservation Easement in the public records of St. Johns County and mail the original Conservation Easement to the St. Johns River Water Management District and a certified copy of this Resolution shall be forwarded forthwith to St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, FL 32178.

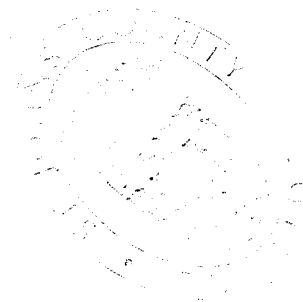
PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 2nd day of June 2009.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Cyndi Stevenson
Cyndi Stevenson
Chair

ATTEST: Cheryl Strickland, Clerk

By: Patricia DeGrande
Deputy Clerk



Conservation Easement

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 _____, 2009, 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 here to and incorporated by this reference, (“the Property”);

WHEREAS, Grantor grants this conservation easement as a condition of permit # 40-109-119692-1 issued by Grantee, to off-set direct and indirect impacts to natural resources, fish and wildlife, and wetland functions; and

WHEREAS, Grantor desires to preserve the Property in its natural condition in perpetuity;

WHEREAS, Grantor has acquired the property with partial funding from the Florida Communities Trust (FCT), and the Property is subject to certain limitations provided in the FCT Grant Award Agreement a/k/a the Declaration of Restrictive Covenants (as recorded in OR Book 2841, Page 891 in St. Johns County)(the “Agreement,”) and

WHEREAS, as part and condition of the FCT funding, the County provided and FCT approved a Management Plan for the project site, and together with the Agreement, the terms of which are hereby incorporated herein by reference; and

WHEREAS, Grantor intends that the conservation and recreation values of the

Property be preserved and enhanced in accordance with the Management Plan, as it may be amended from time to time only after review and approval by FCT and Grantee; and

WHEREAS, All activities by the Grantor and Grantee shall be consistent with the Agreement and Management Plan.

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. Grantor further reserves the right to construct and maintain an elevated boardwalk, which will cross the Property. The boardwalk will permit the land and water area to remain predominantly in its natural condition, would have a maximum width of six feet, 1/2-inch board spacing, and would be a minimum of five feet above the wetland surface. To maintain the integrity of the canopy in the upland buffer area, construction of the structure would not result in the removal

of any trees larger than four-inch-diameter at breast height (DBH). Lighting will not be associated with this structure.

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

- 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.

ST. JOHNS COUNTY, a political subdivision of the State of Florida, by its Board of County Commissioners

By: _____
Cyndi Stevenson
Chair

ATTEST: Cheryl Strickland, Clerk

By: _____
Deputy Clerk

Print Name

REVIEWED AND APPROVED: Ken Reecy, Community Program Manager
Florida Communities Trust

By: _____

Print Name

Exhibit A 1 of 2

25 FOOT CONSERVATION EASEMENT

A TRACT OF LAND IN GOVERNMENT LOT 1, OF SECTION 5, TOWNSHIP 7 SOUTH, RANGE 30 EAST, DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 318 FEET TO ITS INTERSECTION WITH THE WEST LINE OF STATE ROAD A1A (COASTAL HIGHWAY) AS SHOWN ON MAP OF SURFSIDE RECORDED IN PLAT BOOK 4, PAGE 32 PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA; THENCE NORTH, ALONG THE WEST LINE OF SAID STATE ROAD, PARALLEL TO AND 33 FEET FROM THE CENTER THEREOF, A DISTANCE OF 407.50 FEET TO THE NORTH LINE OF LANDS DESCRIBED IN O.R. BOOK 230 PAGE 586 OF SAID PUBLIC RECORDS; THENCE SOUTH 73 DEGREES 34 MINUTES 29 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 256.74 FEET TO THE POINT OF BEGINNING; THENCE THE FOLLOWING NINE COURSES: (1) NORTH 21 DEGREES 49 MINUTES 34 SECONDS EAST A DISTANCE OF 24.34 FEET; (2) NORTH 26 DEGREES 02 MINUTES 00 SECONDS EAST A DISTANCE OF 45.10 FEET; (3) NORTH 06 DEGREES 11 MINUTES 53 SECONDS WEST A DISTANCE OF 29.62 FEET; (4) NORTH 19 DEGREES 25 MINUTES 11 SECONDS EAST A DISTANCE OF 47.89 FEET; (5) NORTH 05 DEGREES 08 MINUTES 06 SECONDS WEST A DISTANCE OF 59.51 FEET; (6) NORTH 36 DEGREES 58 MINUTES 23 SECONDS EAST A DISTANCE OF 13.03 FEET; (7) NORTH 05 DEGREES 42 MINUTES 06 EAST A DISTANCE 61.37 FEET; (8) NORTH 01 DEGREES 05 MINUTES 49 SECONDS EAST A DISTANCE OF 63.19 FEET (9) NORTH 19 DEGREES 49 MINUTES 57 SECONDS WEST A DISTANCE OF 46.49 FEET TO THE SOUTH LINE OF LANDS DESCRIBED IN O.R. BOOK 905 PAGE 747 OF SAID PUBLIC RECORDS; THENCE SOUTH 73 DEGREES 34 MINUTES 29 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 25.04 FEET; THENCE THE FOLLOWING NINE COURSES: (1) SOUTH 19 DEGREES 49 MINUTES 57 SECONDS EAST A DISTANCE OF 43.36 FEET; (2) SOUTH 01 DEGREES 05 MINUTES 49 SECONDS WEST A DISTANCE OF 57.56 FEET; (3) SOUTH 05 DEGREES 42 MINUTES 06 SECONDS WEST A DISTANCE OF 53.36 FEET; (4) SOUTH 36 DEGREES 58 MINUTES 23 SECONDS WEST A DISTANCE OF 15.66 FEET; (5) SOUTH 05 DEGREES 08 MINUTES 06 SECONDS EAST A DISTANCE OF 63.70 FEET; (6) SOUTH 19 DEGREES 25 MINUTES 11 SECONDS WEST A DISTANCE OF 48.14 FEET; (7) SOUTH 06 DEGREES 11 MINUTES 53 SECONDS EAST A DISTANCE OF 28.08 FEET; (8) SOUTH 26 DEGREES 02 MINUTES WEST A DISTANCE OF 38.80 FEET; (9) SOUTH 21 DEGREES 49 MINUTES 34 SECONDS WEST A DISTANCE OF 44.97 FEET TO THE AFOREMENTIONED NORTH LINE OF LANDS DESCRIBED IN O.R. BOOK 230, PAGE 586; THENCE NORTH 73 DEGREES 34 MINUTES 29 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 31.83 FEET TO THE POINT OF BEGINNING. CONTAINING 9802 SQUARE FEET, MORE OR LESS.

Exhibit A 2 of 2

