

RESOLUTION NO. 2020- 60

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF AN ESCROW AGREEMENT IN CONNECTION WITH THE ST. JOHNS COUNTY, FLORIDA COASTAL STORM RISK MANAGEMENT PROJECT (SOUTH PONTE VEDRA BEACH AND VILANO BEACH REACHES) PROJECT AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE TO EXECUTE THE AGREEMENTS ON BEHALF OF THE COUNTY.**

**RECITALS**

**WHEREAS**, St. Johns County and the Department of Army have entered into a Project Partnership Agreement for the St. Johns County, Florida Coastal Storm Risk Management Project (South Ponte Vedra Beach and Vilano Beach Reaches) (the "Project") whereby St. Johns County has agreed to be the Local Sponsor for the Project, which provides for beach and dune nourishment with the South Ponte Beach and Vilano Beach reaches; and

**WHEREAS**, certain Property Owners of vacant land ("Property Owners") within the Project have executed the Permanent Beach Storm Damage Reduction Easements required for the Project pursuant to which the Property Owners granted St. Johns County certain rights with respect to the property, including the right to deposit sand on the property; and

**WHEREAS**, the Property Owners are eligible for a one time offer to have additional sand placed on their property landward of the Perpetual Easement at the Property Owners' cost in connection with the Project; and

**WHEREAS**, the U.S. Army Corps of Engineers requires funding to be in place in advance of the commencement of the Project; and

**WHEREAS**, the Escrow Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, to be executed by the participating Property Owners and St. Johns County, sets forth the terms and conditions to have funds in place for the additional sand.

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:**

Section 1. The above Recitals are incorporated into the body of this Resolution and Such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms and conditions of the Escrow Agreement and authorizes the County Administrator, or designee, to execute the Agreements in substantially the same form as attached on behalf of the County.

Section 3. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**PASSED AND ADOPTED** by the Board of County Commissioners this 3<sup>rd</sup> day of March, 2020.

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

By: [Signature]  
Jeb S. Smith, Chair

ATTEST: Brandon Patty, Clerk

By: [Signature]  
Deputy Clerk

Rendition Date: 3/5/20

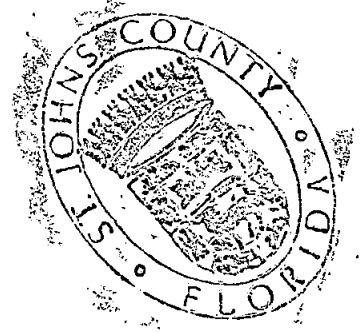


Exhibit "A" to Resolution

**ESCROW AGREEMENT**

**THIS ESCROW AGREEMENT**, (the "Agreement") made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_, whose address is \_\_\_\_\_ (Property Owner), and St. Johns County, a political subdivision of the state of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084 (Escrow Agent).

**WHEREAS**, St. Johns County and the Department of the Army have entered into a Project Partnership Agreement for the St. Johns County, Florida Coastal Storm Risk Management Project (South Ponte Vedra Beach and Vilano Beach Reaches) (the "Project") whereby St. Johns County has agreed to be the Local Sponsor for the Project, which provides for beach and dune nourishment within the South Ponte Vedra Beach and Vilano Beach reaches; and

**WHEREAS**, the Property Owner, is the owner of the property located at \_\_\_\_\_ (the Property), which is more particularly described in Exhibit A attached hereto, and which is located within the area encompassed by the Project

**WHEREAS**, the Property Owner has executed the Permanent Beach Storm Damage Reduction Easement attached hereto as Exhibit B (the Perpetual Easement), pursuant to which the Property Owner granted St. Johns County certain rights with respect to the Property, including the right to deposit sand on the Property; and

**WHEREAS**, the Property Owner wishes to have additional sand placed on the Property landward of the Perpetual Easement at the Property Owner's cost; and

**WHEREAS**, in order for the additional sand to be placed on the Property in connection with the Project, the U.S. Army Corps of Engineers requires funding to be in place in advance of the commencement of the Project; and

**WHEREAS**, the Property Owner has agreed to deposit the sum of \$ \_\_\_\_\_ with the Escrow Agent (the Funds) representing an amount equal to one hundred percent of the prorated estimate of the cost of the additional sand to be placed on the Property; and

**WHEREAS**, Escrow Agent is agreeable to act as escrow agent without compensation under this Agreement and to disburse the Funds in accordance with the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set for the below, the parties agree:

1. Establishment of Escrow Account.

1.1. The Escrow Agent agrees to hold the Funds in escrow subject to the terms and conditions of this Escrow Agreement.

1.2. An Escrow Account shall be established by the Escrow Agent who shall hold and distribute the Funds from time to time as set forth in this Escrow Agreement.

1.3. The Property Owner agrees that the Funds in the Escrow Account are to be used exclusively for the purpose of funding the placement of approximately \_\_\_\_\_ cubic yards of sand on the Property as shown in Exhibit C attached hereto.

2. Disbursements.

2.1. The Escrow Agent shall disburse the Funds to the U.S. Army Corps of Engineers upon receiving the estimate from the U.S. Army Corps of Engineers of the amount of funds required from the Non-Federal Sponsor to meet its portion of the cost share for the Project according to the terms of the Project Partnership Agreement.

2.2. Upon proper disbursement of all the Funds, the Escrow Agreement shall Terminate and any overage will be refunded to the Property Owner.

3. Escrow Agent's Responsibility.

3.1. Upon disbursement of all or any portion of the Funds in accordance with this Agreement, Escrow Agent shall have no further responsibility with respect to the amounts so disbursed. In this regard, it is expressly agreed and understood that in no event shall the aggregate amount of disbursements from the Escrow Account by Escrow Agent exceed the amounts deposited by the Property Owner in the Escrow Account.

3.2. Escrow Agent shall hold the Funds deposited in the Escrow Account uninvested.

3.3. The Property Owner understands and agrees that the duties of Escrow Agent are purely ministerial in nature. The Property Owner further agrees that:

(a) Escrow Agent shall not be responsible for the performance by the Property Owner under this Agreement or any other agreement.

(b) Escrow Agent shall not be liable for any action taken or omitted hereunder or under this Agreement except in the case of the Escrow Agent's bad faith, gross negligence or willful misconduct.

3.4. The Escrow Agent may resign as Escrow Agent at any time upon thirty (30) days prior written notice to the Property Owner. In the case of the Escrow Agent's resignation, its only duty shall be to hold and dispose of the Escrow Account in accordance with the original provisions of this Agreement until such successor escrow agent shall be appointed. The Property Owner shall appoint such successor escrow agent. Upon such appointment, the Escrow Agent's only duty shall be to pay over to the successor escrow agent the Funds in escrow pursuant to this Agreement less any portion thereof previously paid out in accordance with this Agreement.

3.5. The Property Owner agrees to indemnify Escrow Agent and its partners, and agents (herein the "Indemnitees") against, and to hold them harmless of and from, any and all loss, liability, cost, damage and expense, any and all loss, limitation, reasonable attorneys' fees, except in the case of Escrow Agent's bad faith, gross negligence, or willful misconduct, which the Indemnitees may suffer or incur by reason of any action, claim or proceeding brought by any third party against the Indemnitees, arising out of or relating in any way to this Agreement, or the performance of its duties hereunder, and including any claim arising out of any mechanic' liens filed in connection with the construction of the Improvements.

3.6. In the event the Escrow Agent is joined as a party to a lawsuit by virtue of the fact that it is holding the Funds, the Escrow Agent shall, at its option, either (1) tender the Funds into the registry of the appropriate court or (2) disburse the Funds in accordance with the court's ultimate disposition of the case, and the Property Owner hereby agrees to indemnify and hold the Escrow Agent harmless in accordance with the provisions of Section 3.5 above. If the Escrow Agent tenders the Funds into the registry of the appropriate court and files an interpleader naming the Property Owner and any affected third party of whom the Escrow Agent has received actual notice, the Escrow Agent shall be released and relieved from any further obligation and liability in connection with this Escrow Agreement, and the Property Owner agrees to indemnify and hold the Escrow Agent harmless in accordance with the provisions of Section 3.5 above.

#### 4. Miscellaneous.

4.1. This Agreement encompasses the entire Agreement of the parties and shall not be modified except by an instrument in writing signed by the parties.

4.2. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the proper venue and jurisdiction for any action or claim with respect to this Agreement or any document delivered pursuant hereto shall be in the appropriate court in St. Johns County, Florida.

4.3. All notice required to be given in connection with this Agreement shall be sent via certified mail or overnight express with receipt and addressed as follows:

If to Property Owner:

(Address & Phone Number)

With a copy to:

(Address & Phone Number)

If to Escrow Agent:

(Address & Phone Number)

IN WITNESS WHEREOF, this Agreement has been executed this day of \_\_\_\_\_, 20\_\_.

Witnesses:

**Property Owner**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

(Print Name)

Its: \_\_\_\_\_

**Escrow Agent**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Exhibit A

(Property Description)

Exhibit B

PIN\_OWNERNAME

Prepared by:  
St. Johns County  
500 San Sebastian View  
St. Augustine, Florida 32084

**PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT**

**THIS INSTRUMENT**, made this \_\_\_\_ day of \_\_\_\_\_, between \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as the "Grantor", and ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, hereinafter referred to as the "Grantee".

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

**WITNESSETH:**

WHEREAS, GRANTOR owns beachfront property described in Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, GRANTEE and the Department of the Army have entered into a Project Partnership Agreement for The St. Johns County, Florida Coastal Storm Risk Management Project (South Ponte Vedra Beach and Vilano Beach Reaches) (the "Project") whereby GRANTEE has agreed to be the Local Sponsor for the Project, which provides for beach and dune nourishment within the South Ponte Vedra Beach and Vilano Beach reaches; and

WHEREAS, as Local Sponsor for the Project, GRANTEE is seeking to obtain "perpetual beach storm damage reduction" easements from owners of property in the South Ponte Beach and Vilano Beach reaches, such as GRANTOR; and

WHEREAS, it is in the interest of the GRANTOR to grant this Easement to prevent storm damage and restore adjacent beach and dune.

**NOW THEREFORE**, in consideration of the mutual benefits to be derived from the permitted uses described below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties to this easement agree to the following.

GRANTOR does hereby bargain, convey, and grant a perpetual and assignable easement in, on, over, and across the land described in Exhibit "A", which is attached hereto and incorporated herein, for use by GRANTEE, its representatives, agents, contractors, and assigns to construct; preserve; patrol; operate; maintain; repair; rehabilitate; and replace; a public beach a dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the Project, together with the right of public use and access; to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement.

GRANTOR their successors and assigns reserve the right to construct dune overwalk structures in accordance with any applicable Federal, State, or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function. Prior approval of the plans and specifications for such structures is obtained from the designated representative of the Project Sponsor and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the project which may require removal of such structures at Grantors' expense.

GRANTOR their successors and assigns further reserve all such rights and privileges as may be used and enjoyed by a fee owner without interfering with or abridging any right or privilege acquired by GRANTEE in this Easement, subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

GRANTOR and GRANTEE shall be responsible for their own acts of negligence when acting within the scope of this Easement and shall be liable for any damages resulting from said negligence. Nothing herein is intended to be a waiver of sovereign immunity or of any applicable statutory limitations of liability, including, but not limited to, Section 768.28, Florida Statutes, by GRANTEE (or GRANTOR if applicable). Nothing herein shall be construed as consent by GRANTOR or GRANTEE to be sued by third parties in any manner arising out of this Easement.

This Easement shall become effective upon proper execution by GRANTOR.

The covenants, rights, privileges, restrictions, and reservations set forth herein shall run with the land.

The terms and conditions of this Easement shall be deemed severable. Consequently, if any term or condition in this Easement shall be held illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Easement shall continue in full force and effect unless the particular term or condition held illegal or void renders the balance of the Easement impossible to perform.

IN WITNESS WHEREOF, GRANTOR has set hereto its hand and seal on the day and year above written.

Signed, sealed and delivered  
in the presence of :

Witness Signature \_\_\_\_\_

Grantor Signature \_\_\_\_\_

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

Witness Signature \_\_\_\_\_

Grantor Signature \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Personally Known or Produced Identification  
Type of Identification Produced

EXHIBIT "A"

THAT PART OF THE FOLLOWING DESCRIBED PARCEL LYING BETWEEN THE MEAN HIGH WATER OF THE ATLANTIC OCEAN\* AND THE "LANDWARD LIMIT OF EASEMENT LINE" AS DESCRIBED IN AFFIDAVIT RECORDED IN OFFICIAL RECORDS 4786, PAGE 1224 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA:

LEGAL DESCRIPTION

\* In the event an erosion control line is established over the parcel identified above, the reference to the mean high water of the Atlantic Ocean shall mean the erosion control line.

Exhibit C

Prepared by:  
St. Johns County  
500 San Sebastian View  
St. Augustine, Florida 32084

**TEMPORARY WORK AREA EASEMENT**

**THIS INSTRUMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as the "Grantor", and ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, hereinafter referred to as the "Grantee".

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

**WITNESSETH:**

**NOW THEREFORE**, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GRANTOR does hereby bargain, convey, and grant a temporary easement and right-of-way in, on, over and across the land described in Exhibit "A" for a period not to exceed \_\_\_\_\_ beginning with date possession of the land is granted to the GRANTEE, for use by the GRANTEE, its representatives, agents, and contractors as a work area, including the right to deposit fill, move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of The St. Johns County, Florida Coastal Storm Risk Management Project (South Ponte Vedra Beach and Vilano Beach Reaches), together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

GRANTOR and GRANTEE shall be responsible for their own acts of negligence when acting within the scope of this Temporary Easement and shall be liable for any damages resulting from said negligence. Nothing herein is intended to be a waiver of sovereign immunity or of any applicable statutory limitations of liability, including, but not limited to, Section 768.28, Florida Statutes, by GRANTEE (or GRANTOR if applicable). Nothing herein shall be construed as consent by GRANTOR or GRANTEE to be sued by third parties in any manner arising out of this Easement.

IN WITNESS WHEREOF, Grantor has set hereto its hand and seal on the day and year above written.

Signed, sealed and delivered  
in the presence of :

GRANTOR

Witness Signature \_\_\_\_\_

Grantor Signature \_\_\_\_\_

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

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

Witness Signature \_\_\_\_\_

Grantor Signature \_\_\_\_\_

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

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



EXHIBIT "A"

THAT PART OF THE FOLLOWING DESCRIBED PARCEL LYING BETWEEN THE EASTERLY RIGHT OF WAY LINE STATE ROAD A1A AS NOW ESTABLISHED AND THE "LANDWARD LIMIT OF EASEMENT LINE" AS DESCRIBED IN AFFIDAVIT RECORDED IN OFFICIAL RECORDS 4786, PAGE 1224 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA:

LEGAL DESCRIPTION