

RESOLUTION NO. 2004- 363

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A LEASE AGREEMENT OF COUNTY PROPERTY TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ONGOING MANAGEMENT OF FORT MOSE AS A STATE PARK.

RECITALS

WHEREAS, the Lease Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, between Florida Department of Environmental Protection and St. Johns County; and

WHEREAS, St. Johns County is authorized in Section 125.031, Florida Statutes, to enter into leases with governmental agencies for properties needed for public purposes benefiting the citizens of ST. JOHNS COUNTY; and

WHEREAS, St. Johns County is authorized in Section 125.38, Florida Statutes, to enter into said lease with LESSEE via private sale; and

WHEREAS, St. Johns County desires to place the leased premises under direct management of Florida Department of Environmental Protection for resource-based public outdoor recreation, conservation and related park purposes.

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

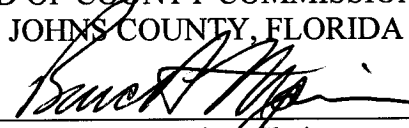
Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

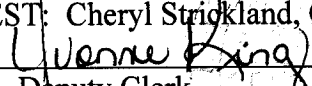
Section 2. The Board of County Commissioners hereby approves the Lease Agreement attached hereto and authorizes the County Administrator to execute said lease.

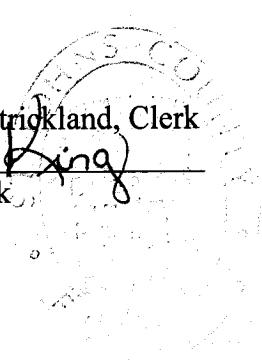
Section 3. The Clerk is instructed to record the original Lease Agreement in the Official Records of St. Johns County, Florida and mail a certified copy of the Lease Agreement to FDEP, Attn: Gemechu Debbo, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 15th day of December, 2004.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
Bruce A. Maguire, Chair

ATTEST: Cheryl Strickland, Clerk
By: 
Deputy Clerk



RENDITION DATE 12/20/04

EXHIBIT "A" TO RESOLUTION

LEASE AGREEMENT
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF RECREATION AND PARKS
AND
ST. JOHNS COUNTY

THIS LEASE AGREEMENT is made and entered into by and between St. Johns County, Florida, hereinafter referred to as "LESSOR", and the Florida Department of Environmental Protection, Division of Recreation and Parks, hereinafter referred to as "LESSEE".

WITNESSETH

WHEREAS, LESSOR holds title to certain lands, hereinafter referred to as the "leased premises"; and

WHEREAS, LESSEE desires to manage the leased premises as a part of a state park; and

WHEREAS, LESSOR desires to place the leased premises under direct management of LESSEE for resource-based public outdoor recreation, historical interpretation, conservation and related park purposes.

NOW, THEREFORE, the parties hereto, for and in consideration of the mutual covenants and agreements hereinafter contained, hereby covenant and agree as follows:

1. LESSOR does hereby lease to LESSEE the following described lands in St. Johns County, State of Florida together with any and all improvements thereon, said lands being more particularly described in Exhibit "A" attached hereto and made a part hereof.
2. The term of this lease shall commence on _____ and end 30 years hereafter or upon cancellation of Lease No. 3809 entered into by and between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as lessor, and

the Department of Environmental Protection (formerly Department of Natural Resources), Division of Recreation and Parks, as lessee. LESSEE shall have the option to renew this Lease Agreement, upon review by LESSOR, until 10/30/2039 to coincide with the termination date of Lease No. 3809 and referenced above.

3. LESSEE agrees that the leased premises shall be used for resource-based public outdoor recreation, conservation, historical interpretation, and related park purposes.
4. LESSOR represents it has the authority to lease the leased premises to LESSEE.
5. LESSEE shall have the right to enter upon the leased premises for all purposes necessary to the full enjoyment of the rights herein conveyed to it.
6. LESSEE shall, through its agents and employees, prevent the unauthorized use of the leased premises or any use thereof not in conformance with this lease.
7. LESSEE shall coordinate and oversee all activities on the leased premises. Any reference herein to funding or payment of costs or expenses to be borne by LESSEE shall be contingent upon the availability of funds for such purposes. LESSEE'S AND THE STATE OF FLORIDA'S PERFORMANCE AND OBLIGATION TO PAY UNDER THIS LEASE IS CONTINGENT UPON AN ANNUAL APPROPRIATION BY THE LEGISLATURE.
8. It is understood by both parties that the leased premises shall be managed in a manner consistent with the existing Management Plan approved by the Florida Department of Community Affairs and the Fort Mose approved Unit Management Plan and future amendments thereto. LESSEE shall be responsible for the preparation and coordination of periodic revisions to the management plans.
9. LESSOR or its duly authorized agents shall have the right to inspect the leased premises and the works and operations thereon of LESSEE in any matter pertaining to this lease.

10. This lease and any rights and privileges contained herein are for the sole use of LESSEE and shall not be assigned or transferred to another party without prior written approval of LESSOR.
11. LESSEE shall assist in the investigation of injury or damage claims arising out of LESSEE's management programs or activities under this lease. LESSEE is responsible for all personal injury and property damage attributable to the negligent acts or omissions of 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, or any other law providing limitation on claims.
12. LESSOR shall make a diligent effort to resolve all issues pertaining to title defects, survey matters or environmental contamination associated with the leased premises. LESSOR and LESSEE agree to cooperate in developing an appropriate strategy for jointly resolving these matters. LESSOR acknowledges and understands that LESSEE is unable to commit any of its routine operating funds for the resolution of any title defect, survey matter, or environmental contamination associated with the leased premises. LESSEE shall not be responsible for any issues pertaining to title defects, survey matters, or environmental contamination, except for those that result from the negligent acts of LESSEE, 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, or any other law providing limitation on claims.
13. All easements including, but not limited to, utility easements are expressly prohibited without the prior written approval of the LESSOR. Any easement not approved in writing by LESSOR shall be void and without legal effect.
14. Subleases of any nature are prohibited, unless approved in writing by LESSOR. LESSEE may enter into contracts, agreements and other documents necessary to carry out the programs and activities of LESSEE under this lease.
15. 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 all utilities turned off when the leased premises are surrendered.

16. LESSEE shall maintain the leased premises and any improvements located thereon, in a state of good condition, working order and repair, including, but not limited to, keeping the leased premises free of trash and meeting all building and safety codes.
17. LESSEE will, for the entire term of this lease and at the LESSEE's cost and expense, maintain for its benefit and the benefit of LESSOR, hazard and flood insurance on any buildings and all improvements on the premises in an amount not less than the full replacement value of such improvements. All insurance policies required by this paragraph shall insure the interests of the LESSOR and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida as named co-insureds and shall be obtained and maintained with insurance companies qualified under the laws of the State of Florida to assume the risks undertaken and each such policy shall contain a provision that it may not be cancelled by the insurer except upon at least (30) days prior written notice to LESSOR.
18. Each party agrees to maintain tort liability insurance or self-insurance coverage for their respective activities for no less than the maximum amount of which the Legislature waives sovereign immunity for the State and its agencies and political subdivisions.
19. LESSEE is duly authorized to demolish and remove an old house, garbage and debris, and an old boat currently placed on the leased premises.
20. All improvements placed on the leased premises by LESSEE will remain the property of LESSEE during the period of this lease. Upon termination of this lease, LESSEE shall have the right to remove any or all improvements it has placed on the leased premises.
21. LESSEE shall not do, or suffer to be done, in, on, or upon the leased premises any act which may result in damage or depreciation of value to the leased premises.
22. This lease sets forth the entire understanding between the parties and shall only be

amended with the prior written mutual consent of the parties hereto.

23. Should LESSEE breach any of the covenants, terms, or conditions of this lease, LESSOR shall give written notice to LESSEE of such breach. In the event that LESSEE fails to remedy said breach to the satisfaction of LESSOR within one (1) year of receipt of written notice, LESSOR may at its discretion upon consultation with LESSEE, either terminate this lease or continue this lease in full force and effect. Should the LESSOR decide to continue this lease, LESSEE shall diligently pursue all funding and other avenues available to it to remedy said breach.

24. All notices shall be in writing and shall be deemed to be sufficiently given or served for all purposes when delivered in person or sent by certified mail, return receipt requested, to any party at its address below stated or at such other address of which it shall have notified the party giving such notice in writing. The LESSOR and the LESSEE hereby designate their address as follows:

LESSEE:

Florida Department of Environmental Protection
Division of Recreation and Parks
Anastasia State Park
1340-A AIAS
St. Augustine, Florida 32084-5422
Attention: Park Manager

LESSOR:

St. Johns County
St. Johns County Real Estate Division
4020 Lewis Speedway
St. Augustine, Florida 32084
Attention: Tony Cubbedge

25. The lease may be terminated by mutual agreement of the parties. In the event such termination is invoked by LESSOR, without cause, LESSOR shall reimburse LESSEE for the appraised values of any fixed capital improvements provided by LESSEE, unless LESSEE removes said improvements pursuant to Paragraph 18 above. Upon termination of this lease, LESSEE shall surrender the leased premises to the LESSOR.

IN WITNESS WHEREOF, St. Johns County, Florida, and the State of Florida Department of Environmental Protection, Division of Recreation and Parks, have caused these presents to be signed by their duly authorized officers, and their official seals have been hereunto affixed this __ day of _____, 2004 and the _____ of _____, 2004, respectively.

ST. JOHNS COUNTY, FLORIDA
By its Board of County Commissioners

By: _____ (SEAL)

Witness

Print/Type Witness Name

Bruce A. Maguire
Type/Print Name

Title: Chairman

Witness

(OFFICIAL SEAL)

Print/Type Witness Name

"LESSOR"

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by Bruce A. Maguire, as Chairman, the Board of County Commissioners of St. Johns County, Florida, on behalf of the county. She is personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form and Legality

By: _____
St. Johns County Attorney

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
DIVISION OF RECREATION AND PARKS

Witness

Print/Type Witness Name

Witness

Print/Type Witness Name

By: _____ (SEAL)
Albert G. Gregory, Chief
Office of Park Planning

"LESSEE"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____
_____, 2004, by Albert G. Gregory, as Chief, Office of Park Planning, of the Division of
Recreation and Parks, Florida Department of Environmental Protection. He is personally
known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form and Legality

DEP Attorney

EXHIBIT "A"

A portion of Sections 6, 56 and 60, Township 7 South, Range 30 East, St. Johns County, Florida, being more particularly described as follows:

For a point of reference commence at the Northwest corner of Saratoga Lake Unit One, as recorded in Map Book 3, Page 136 of the Public Records of St. Johns County, Florida; thence North 67° 20' 00" East along the North line of said Saratoga Lake Unit One, a distance of 553.15' to its intersection with the easterly right of way line of Prado Avenue (a 50' right of way); thence South 28° 48' 29" East along said Easterly right of way line, a distance of 30.00' to the point of beginning.

From the point of beginning thus described, thence North 67° 20' 00" East along the North line of lands described in deed recorded in the Official Records of St. Johns County in Book 206, Page 622, also being the Southerly right of way line of Rio Vista Avenue, as shown on revised plat of Fort Moosa Gardens, as recorded in Map Book 4, Page 34 of said Public Records, a distance of 793.21' to its intersection with the mean high water line of the marshes of Baya Creek and Robinson Creek; thence following 13 courses and distances along said mean high water line; First course: South 26° 18' 20" East, a distance of 25.27'; Second course: South 36° 41' 16" East, a distance of 26.43'; Third course: South 12° 34' 33" West, a distance of 22.84'; Fourth course: South 19° 30' 07" East, a distance of 28.42'; Fifth course: South 61° 23' 38" East, a distance of 29.20'; Sixth course: South 80° 06' 54" East, a distance of 26.22'; Seventh course: North 74° 58' 38" East, a distance of 42.00'; Eighth course: North 63° 10' 09" East, a distance of 19.33'; Ninth course: North 55° 31' 23" East, a distance of 23.53'; Tenth course: North 41° 10' 09" East, a distance of 45.22'; Eleventh course: North 31° 04' 51" East, a distance of 96.02'; Twelfth course: North 24° 24' 28" East, a distance of 26.31'; Thirteenth course: North 77° 31' 35" East, a distance of 8.10' to its intersection with the southeasterly line of parcel three of previously mentioned Official Records Book 206, Page 622; thence South 31° 02' 30" West along said Southeasterly line, a distance of 313.24' to the most southerly corner of said parcel three; thence South 28° 48' 29" East along the Easterly line of parcel two of said Official Records Book 206, Page 622, a distance of 171.92' to the Southeasterly corner thereof; thence South 67° 20' 00" West along the Southerly line of said Official Records Book 206, Page 622, a distance of 779.21' to the Southwesterly corner thereof; thence North 28° 48' 29" West along the Westerly line of last mentioned deed, also being the Easterly right of way line of Prado Avenue (a 50' right of way) as shown on said Saratoga Lake Unit One, a distance of 399.58' to the point of beginning.

The lands thus described contain 7.29 acres, more or less, and are the same as those described in Official Records Book 206, Page 622, less and except that portion lying below the mean high water line of Baya Creek and Robinson Creek (State Sovereign Lands).