

RESOLUTION NO. 2010- 197

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA. APPROVING THE TERMS OF THE GRANT CONTRACT AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE GRANT CONTRACT AND ALL NECESSARY REIMBURSEMENT DOCUMENTS BETWEEN ST. JOHNS COUNTY, FLORIDA AND THE FLORIDA COMMUNITIES TRUST ASSOCIATED WITH THE USINA BOAT RAMP PARK.

RECITALS

WHEREAS, on September 21, 2007 the Board of County Commissioners adopted Resolution No. 2007-268, approving the terms of a Purchase and Sale Agreement between North Beach Investment, Inc., and St. Johns County, attached hereto as **Exhibit "A"** incorporated by reference and made a part hereof; and

WHEREAS, the Purchase and Sale Agreement was in the amount of \$2,700,000.00 for the Usina Boat Ramp site; and

WHEREAS, the purchase of this property has been awarded FCT Grant Funding; as outlined in the Grant Contract as a reimbursement of (40%) of the final Project Cost, as defined in Rule 9K-7.002(32) unless FCT approves a different amount after determination of the MAPP, which shall be reflected in an addendum to this Agreement Grant Contract attached hereto as **Exhibit "B"**, incorporated by reference and made a part hereof; and

WHEREAS, the FCT Governing Board scored, ranked and selected this project to receive approval for funding; and

WHEREAS, Rule 9K-7.009(1), F.A.C. authorizes FCT to impose conditions for funding on those FCT applicants whose projects are selected for funding; and

WHEREAS, the intent of this Agreement is to impose terms and conditions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds ("Project Site"), that are necessary to ensure compliance with applicable Florida law and federal income tax law and to otherwise implement the provisions of Sections 259.105, 259.1051 and Chapter 380, Part III, Florida Statutes; and

WHEREAS, Chapter 380, Part III, Fla. Stat., the Florida Communities Trust Act, creates a non-regulatory agency within the Department of Community Affairs (“Department”) which will assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out project and activities authorized by the Florida Communities Trust Act; and

WHEREAS, FCT is funded through either Section 259.105(3) (c), Fla. Stat. of the Florida Forever Act, which provides for the distribution of twenty-two percent (22%), less certain reductions, of the net Florida Forever Revenue Bond proceeds to the Department, or any other revenue source designated by the Florida Legislature to provide land acquisition grants to local governments and nonprofit environmental organizations for the acquisitions of community-based projects, urban open spaces, parks and greenways to implement local comprehensive plans; and

WHEREAS, the Board of County Commissioners hereby designates Wil Smith as key contact for this project; and

WHEREAS, the Board of County Commissioners hereby authorizes and approves the County Administrator, or designee, to execute all necessary documents related to this FCT reimbursement to the County.

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 Commissions hereby approves and authorizes the County Administrator or designee, to execute all related documents to the Grant Contract authorizing this transaction to be a Reimbursement Acquisition and to close this transaction according to the terms of the Agreement.

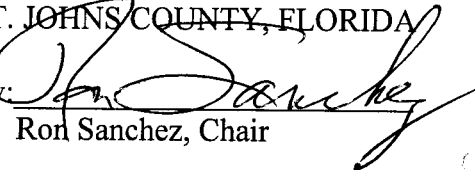
Section 3. The Board of County Commissioners hereby designates Wil Smith as the Key Contact for this project.

Section 4. To the extent that there are typographical 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.

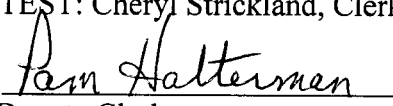
Section 5. The Clerk of Court is instructed to file and record the original Grant Contract in the Official Records Books of St. Johns County, Florida.

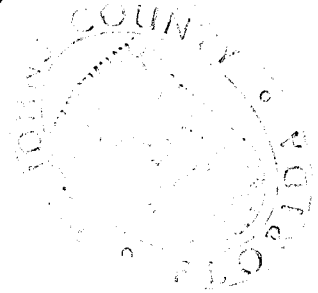
PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 21st day of Sept., 2010.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

By: 
Ron Sanchez, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk



RENDITION DATE 9/23/10

EXHIBIT "A" TO RESOLUTION

RESOLUTION NO. 2007- 268

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR PROPERTY OWNED BY NORTH BEACH INVESTMENT, INC., TO BE USED AS A PUBLIC BOAT RAMP AND PARK.

RECITALS

WHEREAS, the owner, North Beach Investment, Inc., has executed a Purchase and Sale Agreement for property to be used as a public boat ramp and park, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, purchasing the property for the public boat ramp and park will be an asset to the County insuring the property and the improvements will be County owned and used for the public in perpetuity; and

WHEREAS, St. Johns County entered into a Lease Agreement with North Beach Investments, Inc., May 16, 2006 with Board approval in Resolution No. 2006-155; and

WHEREAS, upon closing on the property, subject Lease Agreement will be terminated; and

WHEREAS, the purchase price for the property is \$2,700,000.00 which represents 7% over the average of the two appraisals performed by Crenshaw Williams Appraisal Company, MAI \$2,700,000.00 and Lampe, Roy & Associates, Inc., MAI \$2,311,000.00; and

WHEREAS, per Florida Statutes 125.355-b if the purchase exceeds the average of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote; and

WHEREAS, it is in the best interest of the County to acquire this property for public use.

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 terms of the Purchase and Sale Agreement and authorizes the County Administrator to execute the Purchase and Sale Agreement taking all steps necessary to move forward to close this transaction.

Section 3. The Clerk is instructed to file the original Purchase and Sale Agreement in the Clerks Office.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County,
Florida, this 18th day of September, 2007.



ATTEST: Cheryl Strickland, Clerk

By: Pam Halteman
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Ben Rich
Ben Rich, Chairman

RENDITION DATE 9/21/07

FILED

PURCHASE AND SALE AGREEMENT

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THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of September 24, 2007, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 ("Buyer") and **NORTH BEACH INVESTMENT, INC.**, a Florida corporation whose address is 4125 Coastal Highway, St. Augustine, Florida 32084 ("Seller").

WITNESSETH:

WHEREAS, the County is desirous of purchasing property owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple ownership of property for a public boat ramp and park. The property is described in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property"); and

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

- (a) The purchase price ("Purchase Price") is **\$2,700,000.00** for the compensation for the property needed for a public boat ramp and park. The Purchase Price shall be paid as follows:
- (b) A deposit will be held by the Escrow agent in the amount of 10% of the final purchase price and will be due within thirty (30) days after Commission approval.
- (c) Payment of the Purchase Price shall be in cash or other immediately available funds.

2. Title Evidence.

(a) Buyer agrees, at its sole option and expense, to take all reasonable action to obtain within 45 days from the effective date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in the State of Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed an owner's policy of title insurance in the amount of the

Purchase Price, insuring Buyer's title to the property subject only to the following (the "Permitted Encumbrances"):

- (i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;
- (ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;

(iii) restrictions and matters appearing on the plat of the Property;

(iiii) deed reversion clause added: If the property is not used for a boat ramp and/or public park the property will revert back to the Seller; and

(b) Buyer shall notify Seller in writing ("Title Notice") within 10 day after Buyer's receipt of the Commitment if the Commitment cannot be obtained or it discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment discloses any defect and such defect is timely noted in a Title Notice, Seller, at Seller's sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects, then in such event, Buyer's remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement and receiving a return of the Deposit.

3. Identity and Obligation of Escrow Agent.

(a) **Action Title Services**, 3670 US 1 South, St. Augustine, Florida 32145, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance policy.

(b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all the parties having an interest in such dispute directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery of the Deposit, monies or documents which Escrow Agent holds, in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder.

In the event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

4. Closing. Unless extended by the terms of Section 2, or other provisions hereof, the closing of the sale of the Property ("Closing") shall take place at the offices of the Escrow Agent, Action Title Services, 3670 US 1 South, St. Augustine, Florida 32145, closing will not take place before 181 days from the date of this Agreement and no later then 200 days from the date of this Agreement ("Closing Date").

5. Prorations. Any real property taxes due for 2007 will be paid by the County per the existing Lease Agreement the County has with North Beach Investment, Inc.

6. Seller's Representations. Seller represents to Buyer that he owns fee simple title to the Property and has full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

7. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a general warranty deed ("Deed") conveying the fee simple title to the Property, subject only to the Permitted Encumbrances and the matters referred to on the Commitment. The deed will have a reverter clause added stating if the property is not used for a boat ramp and/or public park the property will revert back to the Grantor or their successor and/or assigns;

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number "FIRPTA" affidavit to be signed by seller.

(iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the "gap" and to remove the standard printed exceptions for mechanics' lien and parties in possession other than Occupancy Tenants (except to the extent the same constitute Permitted Encumbrances).

(b) At the Closing, Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. Buyer shall execute and deliver to Seller such consents and authorizations as Seller may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Seller and Buyer shall execute such further documents and agreements as are reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

8. Closing Expenses. Buyer shall pay the cost of the owner's title policy issued pursuant to the Commitment, and Seller will pay the cost of recording the deed, documentary stamps on the deed and all of the expenses in connection with recording fees. Each party shall bear the expense of its own legal counsel.

9. Survey and Legal Description. Between this date and Closing, Buyer shall have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 2. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.

10. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for one hundred and twenty (120) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests or assessments including but not limited to Phase 1 Environmental Study, Real Estate Appraisal, and Engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer's sole cost and risk. Buyer agrees to provide Seller with copies of all reports conducted on the Property. If Buyer determines that the Property is unsuitable, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on or prior to the Inspection Termination Date. Such notice of termination must be given on or before the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

11. Termination of Contract. If Buyer for any reason determines that the Property is unsuitable for the Buyer's intended use, or that there are other circumstances that negatively affect the Buyer's intended use, then Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on or prior to the Inspection Termination Date. Such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

12. Default. (a) Default by Seller. If Seller defaults by performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than the Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.

13. Survival. All covenants, terms, provisions, representations and warranties set forth in

this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

15. Modification Must be in Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

16. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

17. Assignability. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

18. Time. Time is of the essence of all provisions of this Agreement.

19. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

20. Notices. Any notice hereunder must be in writing and delivered personally or by United States Mail, Registered or Certified, Return Receipt Requested; United States Express Mail; or Federal Express or equivalent courier service, and shall be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Seller: **North Beach Investment, Inc.**
4125 Coastal Highway
St. Augustine, Florida 32084

Buyer: **St. Johns County**
Michael D. Wanchick, County Administrator
4020 Lewis Speedway
St. Augustine, Florida 32095

Escrow Agent: **Action Title Services**
3670 US 1 South
St. Augustine, Florida 32084

21. Entire Agreement. This Agreement constitutes the entire agreement between the

parties and there are no agreements, representations or warranties, oral or written which have not been incorporated herein.

22. Applicability. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

23. Commission Dues. Buyer and Seller agree that Buyer will not be charged with any real estate commissions as a result of this transaction, but that Seller has the right to pay such commissions as Seller deems appropriate.

24. Use of the Premises. Buyer may use the Premises for the purpose of operating a boat launch ramp and docks with associated parking, fishing, and picnic areas ("Buyer's Intended Use") provided such is made available for public use without charge or fee and such is not in violation of any applicable law, ordinance, or regulation of any governmental body having jurisdiction thereof. Buyer shall not use or suffer to be used the Premises or any portion thereof for any commercial venture (whether owned and/or operated by buyer or a third party) or any purpose or purposes other than those specified above without the Seller or their successor and/or assigns, prior written consent, which consent may be granted or withheld in Seller's sole discretion. Buyer shall regularly police the Premises to inhibit and/or suppress conduct by the public that is or may be a nuisance to neighboring property or in violation of any federal, state, or local law or ordinance, such as over flow parking on neighboring properties or along the rights-of-way of adjacent streets, the dumping of litter or trash on the Premises and neighboring properties, late night partying, excessive noise and/or loitering on the Premises.

25. Required Improvements. Buyer shall construct and maintain a six foot tall vinyl privacy fence along the south and east side of the leased portion of Block 47 in North Beach Subdivision, Map Book 3, page 28 at approximately the existing tree line. Buyer shall also construct and maintain a six foot tall vinyl privacy fence along the south side of the East 125 feet of the North ½ of Block 47 of North Beach, Map Book 3, page 28. These fences shall be constructed at the same time buyer constructs the Intended Improvements.

26. Access to Premises. Public access to the Premises shall be by way of Euclid Avenue only. No vehicular access shall be permitted from Myrtle or 10th Street.

27. Approval of Site Plan. Prior to the construction, alteration, or reconstruction of the Required Improvements or the Intended Improvements on the Premises or the removal of trees having a circumference in excess of six inches measured two feet above the surface of the ground, the Buyer must submit to the Seller for approval a site plan depicting vehicular access to the Premises, anticipated tree removal, and all boat ramps, docks, restroom facilities, buildings, parking areas, picnic areas, driveways, walks, landscaping, drainage systems, signage and other improvements currently existing or to be constructed on the Premises. The Seller approval of such site plan shall not be unreasonably withheld or delayed.

29. Effective Date: The effective date of this Agreement shall be the first date upon which this Agreement or its valid counterparties are properly executed by all named parties.

30. 1031 Exchange: If Seller wishes to enter into a like-kind exchange (either simultaneous with Closing or deferred) with respect to the Property under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects to effectuate the Exchange, including the execution of documents; provided

(a) The cooperating party shall incur no liability or expense related to the Exchange and

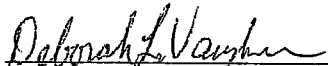
(b) The Closing shall not be contingent upon, nor extended or delayed by, such exchange.


31. Amendment. Notwithstanding any other provision contained in this Agreement, the closing date may be extended by the County, and the Seller, without further action of the Board of County Commissioners of St. Johns County. As a result, the County Administrator may execute an extension of the closing date, without such referenced further action of the Board. This accommodation extends only to extension of closing dates. Any other Amendment of this Purchase and Sale Agreement must be approved by action of the Board of County Commissioners of St. Johns County.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement or its counterparties.


SELLER:
North Beach Investment, Inc.

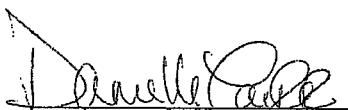
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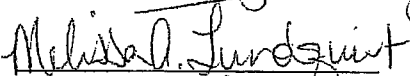

Witness Name Deborah L. Vaughn


Witness Name Lisa M. Cole

BUYER:
St. Johns County, Florida

By:  Date: 9-29-07
Michael D. Wanchick
County Administrator


Witness Name Danielle Taylor


Witness Name Melissa A. Lundquist

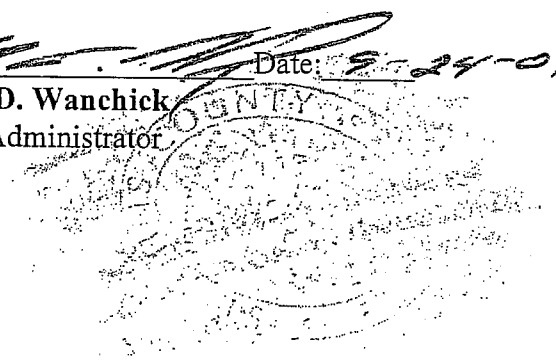


EXHIBIT "A"

All of Block 47, except the East 125 feet of the North $\frac{1}{2}$ of Block 47, North Beach, according to map or plat thereof recorded in Map Book 3, page 28, of the public records of St. Johns County, Florida, together with that portion of vacated Bay Street lying to the west of said Block 47.

EXHIBIT "B" TO RESOLUTION

FCT Contract Number -CT-
FLORIDA COMMUNITIES TRUST
08-019 -FF8
USINA INTRACOASTAL WATERWAY PARK
CSFA # 52002

GRANT CONTRACT

THIS AGREEMENT is entered into by and between the FLORIDA COMMUNITIES TRUST ("FCT"), a non-regulatory agency within the State of Florida Department of Community Affairs, and ST. JOHNS COUNTY, a political subdivision of the State of Florida ("Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

WHEREAS, the intent of this Agreement is to impose terms and conditions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds ("Project Site"), that are necessary to ensure compliance with applicable Florida law and federal income tax law and to otherwise implement the provisions of Sections 259.105, 259.1051 and Chapter 380, Part III, Florida Statutes;

WHEREAS, Chapter 380, Part III, Fla. Stat., the Florida Communities Trust Act, creates a non-regulatory agency within the Department of Community Affairs ("Department") which will assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, FCT is funded through either Section 259.105(3)(c), Fla. Stat. of the Florida Forever Act, which provides for the distribution of twenty-two percent (22%), less certain reductions, of the net Florida Forever Revenue Bond proceeds to the Department, or any other revenue source designated by the Florida Legislature to provide land acquisition grants to local governments and nonprofit environmental organizations for the acquisition of community-based projects, urban open spaces, parks and greenways to implement local comprehensive plans;

WHEREAS, the Florida Forever Revenue Bonds are issued as tax-exempt bonds, meaning the interest on the bonds is excluded from the gross income of bondholders for federal income tax purposes;

WHEREAS, Rule 9K-7, Florida Administrative Code ("F.A.C.") sets forth the procedures for the evaluation and selection of lands proposed for acquisition and Rule 9K-8, F.A.C. sets forth the acquisition procedures;

WHEREAS, on September 4, 2008 the FCT Governing Board scored, ranked and selected projects to receive approval for funding;

08-019-FF8
Aug.18, 2010
Pre-acquisition

WHEREAS, the Recipient's project, described in an application submitted for evaluation, was selected for funding in accordance with Rule 9K-7, F.A.C., and by executing this Agreement the Recipient reaffirms the representations made in its application;

WHEREAS, Rule 9K-7.009, F.A.C. authorizes FCT to impose conditions for funding on those FCT applicants whose projects have been selected for funding;

WHEREAS, Rule 9K-7.003(8) F.A.C., recognizes real property owned by the Recipient and included in the application as part of the Project Site as an eligible source of Match, provided that the real property owned was acquired by the Recipient within 24 months prior to the application deadline for which the application was made. The date of this application deadline was May 7, 2008;

WHEREAS, the Recipient acquired fee simple title to the entire Project Site on _____ (Insert date[s]) from _____ (Insert Seller name[s]);

WHEREAS, the Recipient will request disbursement of FCT Florida Forever Bond proceeds for the reimbursement of Project Costs expended by the Recipient for the acquisition of the Project Site; and

WHEREAS, the purpose of this Agreement is to set forth the conditions that must be satisfied by the Recipient prior to the disbursement of any FCT Florida Forever funds awarded, as well as the restrictions that are imposed on the Project Site subsequent to reimbursing the Recipient for Project Costs.

NOW THEREFORE, FCT and the Recipient mutually agree as follows:

I. PERIOD OF AGREEMENT

1. This Agreement shall begin upon the Recipient's project being selected for funding and shall end **APRIL 1, 2011** ("Expiration Date"), unless extended as set forth below or unless terminated earlier in accordance with the provisions of Article XIII of this Agreement.

2. FCT may extend this Agreement beyond the Expiration Date if the Recipient demonstrates that significant progress is being made toward Project Plan approval or that extenuating circumstances warrant an extension of time. A request for an extension shall fully explain the reason for the delay and why the extension is necessary and shall be provided to FCT in accordance with paragraph V.1. prior to the Expiration Date. If the Recipient does not request an extension, or if a requested extension is not granted by FCT, the Recipient's award shall be rescinded and this Agreement shall terminate.

II. MODIFICATION OF AGREEMENT

1. Either party may request modification of the provisions of this Agreement at any time. Changes which are mutually agreed upon shall be valid only when reduced to writing and duly signed by each of the parties hereto. Such amendments shall be incorporated into this Agreement.

III. DEADLINES

1. At least two original copies of this Agreement shall be executed by the Recipient and returned to the FCT office at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, as soon as possible and before **November 1, 2010**. If the Recipient requires more than one original document, the Recipient shall photocopy the number of additional copies needed and then execute each as an original document. Upon receipt of the signed Agreements, FCT shall execute the Agreements, retain one original copy and return all other copies that have been executed to the Recipient.

2. The Recipient and its representatives shall know of and adhere to all project deadlines and devise a method of monitoring the project. Deadlines stated in this Agreement, as well as deadlines associated with any FCT activity relating to the project, shall be strictly enforced. Failure to adhere to deadlines may result in delays in the project, allocation of time or resources to other recipients that respond timely or the termination of this Agreement by FCT.

3. The Recipient shall submit the documentation required by this Agreement to FCT as soon as possible so that the Project Costs may be reimbursed in an expeditious manner.

4. The Recipient shall provide a monthly status report to FCT of its progress towards reimbursement of the Project Costs.

5. The Recipient shall provide the appraisal(s) required by 9K-8.007, F.A.C. to FCT for review by a date not to exceed ninety (90) days after the Recipient's project is selected for funding. The appraisals shall be reviewed and, upon approval, the Maximum Approved Purchase Price ("MAPP"), as provided in Rule 9K-8.007(5) and (6), F.A.C., shall be determined.

IV. FUNDING PROVISIONS

1. The FCT Florida Forever award granted to the Recipient ("FCT Award") will in no event exceed the lesser of Forty Percent (40%) of the final Project Costs, as defined in Rule 9K-7.002(32), F.A.C., or One Million Eighty Seven Thousand Nine Hundred Thirty Dollars And Zero Cents (\$1,087,930.00), unless FCT approves a different amount after determination of the MAPP, which shall be reflected in an addendum to this Agreement.

The FCT Award is based on the Recipient's estimate of final Project Costs in its application, as well as the Limitation of Award provided in Rule 9K-7.003(6), F.A.C. and advertised in the Notice of Application. When disbursing the FCT Award, FCT shall recognize only those Project Costs consistent with the definition in Rule 9K-7.002(32), F.A.C. FCT shall participate in the land cost at

either the actual purchase price or the MAPP, whichever is less, multiplied by the percent stated in the above paragraph.

2. The FCT Governing Board selected the Recipient's application for funding in order to acquire the entire Project Site identified in the Application. FCT reserves the right to withdraw or adjust the FCT Award if the acreage that comprises the Project Site is reduced or the project design is changed so that the objectives of the acquisition cannot be achieved. FCT shall consider any request for Project Site boundary modification in accordance with the procedures set forth in Rule 9K-7.010, F.A.C.

3. The FCT Award shall be delivered either in the form of Project Costs prepaid by FCT to vendors or in the form of a State of Florida warrant to the Recipient. The FCT Award shall only be delivered after FCT approval of the Project Plan and Project Site acquisition terms. FCT shall prepare a grant reconciliation statement prior to the reimbursement that evidences the amount of Match provided by the Recipient, if any is required, and the amount of the FCT Award. Funds expended by FCT for Project Costs shall be recognized as part of FCT Award on the grant reconciliation statement.

4. If a Match is required, it shall be delivered in an approved form as provided in Rule 9K-7.002(24), F.A.C. If the value of Pre-acquired land, as defined by Rule 9K-7.002(31), F.A.C., or donated land is the source of the Match, the MAPP shall determine the value of the Match. Funds expended by the Recipient for Project Costs shall be recognized as part of the Match on the grant reconciliation statement.

5. By executing this Agreement, the Recipient affirms that it is ready, willing and able to provide a Match, if any is required.

6. FCT's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Florida Legislature, and is subject to any modification in accordance with Chapter 216, Fla. Stat. or the Florida Constitution.

V. NOTICE AND CONTACT

1. All notices provided under or pursuant to this Agreement shall be in writing and delivered either by hand delivery or first class, certified mail, return receipt requested, to:

Florida Communities Trust
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

2. All contact and correspondence from FCT to the Recipient shall be through the key contact. Recipient hereby notifies FCT that the following administrator, officer or employee is the authorized key contact on behalf of the Recipient for purposes of coordinating project activities for the duration of the project:

Name: _____

Title: _____

Address: _____

Phone: _____ Fax: _____

E-mail: _____

3. The Recipient authorizes the administrator, employee, officer or representative named in this paragraph to execute all documents in connection with this project on behalf of the Recipient, including, but not limited to, the Grant Contract or any addenda thereto, grant reconciliation statement, statements submitted as a part of the Project Plan and Declaration of Restrictive Covenants.

Name: _____

Title: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

4. In the event that different representatives or addresses are designated for either paragraph 2. or 3. above after execution of this Agreement, notice of the changes shall be rendered to FCT as provided in paragraph 1. above.

5. The Recipient hereby notifies FCT that the Recipient's Federal Employer Identification Number(s) is _____.

VI. PROJECT PLAN APPROVAL; PRE-CLOSING REQUIREMENTS

1. Prior to the final disbursement of the FCT Award, the Recipient shall submit to FCT and have approved a Project Plan that complies with Rule 9K-8.011, F.A.C. The Project Plan shall

not be considered by FCT unless it is organized with a table of contents and includes all of the following documents to ensure that the interest of the State of Florida will be protected:

- a. Closing documents associated with the parcel(s):
 - (1) A copy of the Purchase Agreement(s) for sale and purchase of the parcel(s) between the Recipient and _____
_____ (Insert name[s] of Seller[s]).
 - (2) A copy of closing statements from Buyer(s) and Seller(s) for the purchase of the parcel(s).
 - (3) A copy of the recorded deed(s) evidencing conveyance of title to the parcel(s) to the Recipient.
 - (4) Certified survey(s) of the parcel(s) that meets the requirements of Rule 9K-8.006, F.A.C., and is dated within ninety (90) days of the date of acquisition of the parcel(s) by the Recipient.
 - (5) A copy of the title insurance policy(s) evidencing marketable title in Recipient to the parcel(s) and effective the date of acquisition of the parcel(s) by the Recipient, including a statement from the title insurer as to the minimum promulgated rate if premium was paid by Recipient, and all documents referenced in the title policy(s).
 - (6) Environmental site assessment(s) of the parcel(s) certified to the Recipient, which meets the standards and requirements of ASTM Practice E 1527, and with a date of certification within ninety (90) days of the date of acquisition of the parcel(s) by Recipient, together with the statement required by Rule 9K-8.012(4), F.A.C.
- b. A letter from FCT indicating approval of the Management Plan written in accordance with Rule 9K-7.011, F.A.C., and as described in Article VII below.
- c. A statement of the Project Costs.
- d. A statement of the amount of the award being requested from FCT.
- e. Supporting documentation that the conditions imposed as part of this Agreement have been satisfied.
- f. A signed statement by the Recipient that the Recipient is not aware of any pending criminal, civil or regulatory violations imposed on the Project Site by any governmental agency or body.

- g. A signed statement by the Recipient that all activities under this Agreement comply will all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the applicable adopted and approved comprehensive plan.
- h. Additional documentation as may be requested by FCT to provide Reasonable Assurance, as set forth in paragraph VII.4. below.

2. FCT shall approve the terms under which the interest in land is acquired pursuant to Section 380.510(3), Fla. Stat. Such approval is deemed given when FCT approves the Project Plan containing a copy of the document(s) vesting title to the Project Site in the Recipient.

3. All real property shall be obtained through a Voluntarily-Negotiated Transaction, as defined in Rule 9K-7.002(46). The use of or threat of condemnation is not considered a Voluntarily-Negotiated Transaction.

4. All invoices for Project Costs, with proof of payment, shall be submitted to FCT and be in a detail sufficient for a proper audit thereof.

5. Rule 9K-7.002(32) states that "reasonable real estate fees or commissions paid by the Recipient for Acquisition" are eligible Project Costs. In an effort to maximize the Florida Forever funds for land acquisition, FCT will conservatively review each request for real estate fees or commissions with close scrutiny to determine if the fee or commission is reasonable. FCT will not reimburse the portion of real estate fees or commissions that are determined by FCT to be unreasonable. Recipient will be financially responsible for the portion of the real estate fee or commission not reimbursed by FCT.

6. The Recipient may, and is strongly encouraged to, request a courtesy review of its Project Plan prior to its submission for approval.

7. Reimbursement for Project Costs shall not occur until after FCT approval of the Project Plan.

VII. MANAGEMENT PLAN; ANNUAL STEWARDSHIP REPORT

1. Prior to approval of the Project Plan and final disbursement of the FCT Award, the Recipient shall submit to FCT and have approved a Management Plan that complies with Rule 9K-7.011, F.A.C. and addresses the criteria and conditions set forth in Articles VII, VIII, IX, X, and XI herein.

2. The Management Plan explains how the Project Site will be managed to further the purposes of the project and meet the terms and conditions of this Agreement. The Management Plan shall include the following:

- a. An introduction containing the project name, location and other background information relevant to management.
- b. The stated purpose for acquiring the Project Site as proposed in the application and a prioritized list of management objectives.
- c. The identification of known natural resources including natural communities, listed plant and animal species, soil types, and surface and groundwater characteristics.
- d. A detailed description of all proposed uses including existing and proposed physical improvements and the impact on natural resources.
- e. A detailed description of proposed restoration or enhancement activities, if any, including the objective of the effort and the techniques to be used.
- f. A scaled site plan drawing showing the Project Site boundary, existing and proposed physical improvements and any natural resource restoration or enhancement areas.
- g. The identification and protection of known cultural or historical resources and a commitment to conduct surveys prior to any ground disturbing activity, if applicable.
- h. A description of proposed educational displays and programs to be offered, if applicable.
- i. A description of how the management will be coordinated with other agencies and public lands, if applicable.
- j. A schedule for implementing the development and management activities of the Management Plan.
- k. Cost estimates and funding sources to implement the Management Plan.

3. If the Recipient is not the proposed managing entity, the Management Plan shall include a signed agreement between the Recipient and the managing entity stating the managing entity's willingness to manage the site, the manner in which the site will be managed to further the purpose(s) of the project and the identification of the source of funding for management.

In the event that the Recipient is a partnership, the Recipient shall also provide FCT with the interlocal agreement that sets forth the relationship among the partners and the fiscal and management responsibilities and obligations incurred by each partner for the Project Site as a part of its Project Plan.

4. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105 and Chapter 380, Part III, Fla. Stat., the Recipient(s) shall be required to provide FCT with Reasonable Assurance, pursuant to Rule 9K-7.002(35), F.A.C., that it has the financial resources, background, qualifications and competence to manage the Project Site in perpetuity in a reasonable and professional manner. Where the Recipient does not include at least one Local Government, FCT may require the Recipient to do one, or more, of the following: post a performance or other bond in an amount sufficient to ensure that the Project Site shall be reasonably and professionally managed in perpetuity; establish an endowment or other fund in an amount sufficient to ensure performance; provide a guaranty or pledge by the Local Government, in whose jurisdiction the Project Site is located, which shall require the Local Government to take over the responsibility for management of the Project Site in the event the Recipient is unable to, and may require the Local Government to be a named co-signer on the Declaration of Restrictive Covenants; or provide such other assurances as the Governing Board may deem necessary to adequately protect the public interest.

5. The Recipient shall, through its agents and employees, prevent the unauthorized use of the Project Site or any use thereof not in conformity with the Management Plan approved by FCT.

6. All buildings, structures, improvements and signs shall require the prior written approval of FCT as to purpose. Further, tree removal, other than non-native species, and major land alterations shall require the written approval of FCT. The approvals required from FCT shall not be unreasonably withheld upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources of the Project Site. FCT's approval of the Recipient's Management Plan addressing the items mentioned herein shall be considered written approval from FCT.

7. As required by Rule 9K-7.013, F.A.C., each year after FCT reimbursement of Project Costs the Recipient shall prepare and submit to FCT an annual stewardship report that documents the progress made on implementing the Management Plan.

VIII. SPECIAL MANAGEMENT CONDITIONS

In addition to the Management Plan conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the Project Site and result from either commitments made in the application that received scoring points or observations made by FCT staff during the site visit described in Rule 9K-7.009, F.A.C.:

1. The future land use and zoning designations of the project site shall be changed to conservation, outdoor recreation, open space, or other similar category.
2. A permanent recognition sign, at a minimum size of 3' x 4', shall be maintained at the entrance of the project site visible to the general public. The sign shall include the FCT logo and acknowledge that the project site was purchased with funds from the Florida Communities Trust and the Recipient.

3. At least four recreational facilities such as picnic pavilion, canoe/kayak launch, horseshoe pit and boat ramp shall be provided. The facilities shall be developed in a manner that allows the general public reasonable access for observation and appreciation of the natural resources on the project site without causing harm to those resources.
4. The location and design of recreational amenities, roads, and parking facilities shall be designed to have minimal impacts on natural resources and shall incorporate pervious materials wherever feasible.
5. Bike racks shall be installed to provide an alternative to automobile transportation to the project site.
6. The project shall provide an access facility to the Tolomato River, such as a boat ramp.
7. The development and management of the project site shall enhance the designated Florida Circumnavigational Paddling Trail by providing a paddling trail sign, canoe/kayak launch and restrooms.
8. A nature trail of at least ¼ mile shall be provided on the project site.
9. Interpretive signs or kiosks shall be provided on the project site to educate visitors about the natural environment or history of the area.
10. At least 12 regularly scheduled educational classes or programs shall be provided at the project site per year. These programs shall promote the protection of environmental or historical resources.
11. A staffed nature center shall be developed on the project site, providing year round educational classes or programs and be open to the general public on a consistent basis.
12. Measures shall be taken to maintain a fence and vegetated buffer to screen the park from adjacent residential development, abate noise, or screen other uses.
13. The County shall landscape park facilities to enhance overall park experience by planting native shade trees, and flowering and seasonal color plants around stormwater facilities, recreational amenities, roads and parking areas, building entrances and at the park entrance.
14. A significant portion of the wetland area, approximately 0.2 acres of the degraded Tolomato River shoreline, shall be planted with native wetland vegetation.
15. Invasive exotic vegetation shall be removed from the project site.

16. An ongoing monitoring and control program for invasive vegetation including exotic (non-native) and nuisance native plant species shall be implemented at the project site. The objective of the control program shall be the elimination of invasive exotic plant species and the maintenance of a diverse association of native vegetation. The management plan shall reference the Exotic Pest Plant Council's most recent List of Florida's Most Invasive Species to assist in identifying invasive exotics on the project site.
17. A feral animal removal program shall be developed and implemented for the project site.
18. The quality of surface waters shall be improved by the installation of stormwater facilities on the project site that provide wildlife habitat and/or open space in a park like setting. The development of the stormwater facilities shall be coordinated with the St. Johns River Water Management District.
19. An archaeological survey shall be performed for any area within the project site proposed for development prior to the commencement of proposed development activities in that area. All planned activities involving known archaeological sites or identified site areas shall be closely coordinated with the Department of State, Division of Historical Resources in order to prevent the disturbance of significant sites. A protection plan shall be developed and implemented in conjunction with the Division of Historical Resources for the protection of known historic sites located on the project site.
20. Management of the project site shall be coordinated with the St. Johns River Water Management District and Guana-Tolomato-Matanzas National Estuarine Research Reserve.

IX. DECLARATION OF RESTRICTIVE COVENANTS REQUIREMENTS IMPOSED BY CHAPTER 259 AND CHAPTER 380, PART III, FLA. STAT.

1. Each parcel in the Project Site to which the Recipient acquires title shall be subject to a Declaration of Restrictive Covenants describing the parcel and containing such covenants and restrictions as are, at a minimum, sufficient to ensure that the use of the Project Site at all times complies with Sections 375.051 and 380.510, Fla. Stat.; Section 11(e), Article VII of the Florida Constitution; the applicable bond indenture under which the Bonds were issued; and any provision of the Internal Revenue Code or the regulations promulgated thereunder that pertain to tax exempt bonds. The Declaration of Restrictive Covenants shall contain clauses providing for the conveyance of title to the Project Site to the Board of Trustees of the Internal Improvement Trust Fund ("Trustees"), or a nonprofit environmental organization or government entity, upon failure to comply with any of the covenants and restrictions, as further described in paragraph 3. below.

2. The Declaration of Restrictive Covenants shall also restate the conditions that were placed on the Project Site at the time of project selection and initial grant approval. The Declaration of Restrictive Covenants shall be executed by FCT and the Recipient at the time of reimbursement of

Project Costs and shall be recorded by the Recipient in the county(s) in which the Project Site is located.

3. If any essential term or condition of the Declaration of Restrictive Covenants is violated by the Recipient or by some third party with the knowledge of the Recipient, the Recipient shall be notified of the violation by written notice given by personal delivery, registered mail or registered expedited service. The recipient shall diligently commence to cure the violation or complete curing activities within thirty (30) days after receipt of notice of the violation. If the curing activities can not be reasonably completed within the specified thirty (30) day time frame, the Recipient shall submit a timely written request to the FCT Program Manager that includes the status of the current activity, the reasons for the delay and a time frame for the completion of the curing activities. FCT shall submit a written response within thirty (30) days of receipt of the request and approval shall not be unreasonably withheld. It is FCT's position that all curing activities shall be completed within one hundred twenty (120) days of the Recipient's notification of the violation. However, if the Recipient can demonstrate extenuating circumstances exist to justify a greater extension of time to complete the activities, FCT shall give the request due consideration. If the Recipient fails to correct the violation within either (a) the initial thirty (30) day time frame or (b) the time frame approved by FCT pursuant to the Recipient's request, fee simple title to all interest in the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, nonprofit environmental organization, the Florida Division of Forestry, the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection or a Water Management District, who agrees to accept title and manage the Project Site. FCT shall treat such property in accordance with Section 380.508(4)(e), Fla. Stat.

X. GENERAL OBLIGATIONS OF THE RECIPIENT AS A CONDITION OF PROJECT FUNDING

1. The interest acquired by the Recipient in the Project Site shall not serve as security for any debt of the Recipient.

2. If the existence of the Recipient terminates for any reason, title to the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, nonprofit environmental organization, the Florida Division of Forestry, the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection or a Water Management District who agrees to accept title and manage the Project Site.

3. Following the reimbursement of Project Costs, the Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation or outdoor recreation uses, as appropriate. If an amendment to the applicable comprehensive plan is required, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the Recipient subsequent to the reimbursement of Project Costs.

4. FCT staff or its duly authorized representatives shall have the right at any time to inspect the Project Site and the operations of the Recipient at the Project Site.

5. The Project Site shall permanently contain one sign, provided by FCT, recognizing FCT's role in the acquisition of the Project Site. The cost of shipping the sign shall be deducted from the FCT Award, as reflected on the grant reconciliation statement. For a Project Site where the FCT Award is divided into more than one closing, the cost of the sign shall be deducted from the grant reconciliation statement containing the first parcel to close. The sign shall be displayed at the Project Site within ninety (90) days of the final disbursement of the FCT award. A photograph of the sign installed at the Project Site shall be provided to FCT within the same ninety (90) day timeframe.

XI. OBLIGATIONS OF THE RECIPIENT RELATING TO THE USE OF BOND PROCEEDS

1. FCT is authorized by Section 380.510, Fla. Stat. to impose conditions for funding on the Recipient in order to ensure that the project complies with the requirements for the use of Florida Forever Bond proceeds including, without limitation, the provisions of the Internal Revenue Code and the regulations promulgated thereunder as the same pertain to tax exempt bonds.

2. The Recipient agrees and acknowledges that the below listed transactions, events, and circumstances, collectively referred to as the "disallowable activities," may be disallowed on the Project Site as they may have negative legal and tax consequences under Florida law and federal income tax law. The Recipient further agrees and acknowledges that these disallowable activities may be allowed up to a certain extent based on guidelines or tests outlined in the Federal Private Activity regulations of the Internal Revenue Service:

- a. any sale or lease of any interest in the Project Site to a non-governmental person or organization;
- b. the operation of any concession on the Project Site by a non-governmental person or organization;
- c. any sales contract or option to buy or sell things attached to the Project Site to be severed from the Project Site with a non-governmental person or organization;
- d. any use of the Project Site by a non-governmental person other than in such person's capacity as a member of the general public;
- e. any change in the character or use of the Project Site from that use expected at the date of the issuance of any series of Bonds from which the disbursement is to be made;
- f. a management contract for the Project Site with a non-governmental person or organization; or
- g. such other activity or interest as may be specified from time to time in writing by FCT to the Recipient.

3. If the Project Site, after its acquisition by the Recipient and/or the Trustees, is to remain subject to any of the disallowable activities, the Recipient shall provide notice to FCT, as provided for in paragraph V.1., at least sixty (60) calendar days in advance of any such transactions, events or circumstances, and shall provide to FCT such information as FCT reasonably requests in order to evaluate for approval the legal and tax consequences of such disallowable activities.

4. In the event that FCT determines at any time that the Recipient is engaging, or allowing others to engage, in disallowable activities on the Project Site, the Recipient shall immediately cease or cause the cessation of the disallowable activities upon receipt of written notice from FCT. In addition to all other rights and remedies at law or in equity, FCT shall have the right to seek temporary and permanent injunctions against the Recipient for any disallowable activities on the Project Site.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE RECIPIENT AND OTHER GOVERNMENTAL BODIES, NONPROFIT ENTITIES OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE RECIPIENT OF THE RESPONSIBILITY TO ENSURE THAT THE CONDITIONS IMPOSED HEREIN ON THE PROJECT SITE AS A RESULT OF UTILIZING BOND PROCEEDS TO ACQUIRE THE PROJECT SITE ARE FULLY COMPLIED WITH BY THE CONTRACTING PARTY.

XII. RECORDKEEPING; AUDIT REQUIREMENTS

1. The Recipient shall maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement. These records shall be available at all reasonable times for inspection, review or audit by state personnel, FCT and other personnel duly authorized by FCT. "Reasonable" shall be construed according to the circumstances, but ordinarily shall mean the normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

2. If the Recipient expends a total amount of State financial assistance equal to or in excess of \$500,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Fla. Stat., the applicable rules of the Executive Office of the Governor and the Comptroller and Chapter 10.550 (local government entities) or Chapter 10.650 (nonprofit organizations), Rules of the Auditor General. In determining the State financial assistance expended in its fiscal year, the Recipient shall consider all sources of State financial assistance, including State funds received from FCT, other state agencies and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements. The funding for this Agreement was received by FCT as a grant appropriation.

In connection with the audit requirements addressed above, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Fla. Stat. This includes submission of a

reporting package as defined by Section 215.97(2)(d), Fla. Stat. and Chapter 10.550 (local government entities) or 10.650 (nonprofit organizations), Rules of the Auditor General.

Per Department of Financial Services Rule 69I-5.004(2)(a), Florida Administrative Code, the determination of when State financial assistance is expended should be based on when the activity occurs (the activity pertains to events that require the nonstate entity to comply with contracts or agreements, such as expenditure transactions associated with grants.) Additional prior fiscal year expenditures of State financial assistance should be added to total expenditures of State financial assistance previously reported for the prior fiscal year to determine if the threshold was exceeded. If so, the nonstate entity should take appropriate action to provide for an audit for the prior fiscal year in accordance with the Florida Single Audit Act. Therefore, it may be necessary for the Recipient to amend prior fiscal year audits to account for receiving the FCT grant funds because the determining factor of when the expenditure must be accounted for is when the expenditure is made, not the signing of this agreement.

3. If the Recipient expends less than \$500,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Fla. Stat. is not required. If the Recipient elects to have an audit conducted in accordance with the provisions of Section 215.97, Fla. Stat., the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from Recipient funds not obtained from a State entity).

4. The annual financial audit report shall include all management letters, the Recipient's response to all findings, including corrective actions to be taken, and a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and agreement number. Copies of financial reporting packages required under this Article shall be submitted by or on behalf of the Recipient directly to each of the following:

Department of Community Affairs (at each of the following addresses):

Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Florida Communities Trust
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

State of Florida Auditor General at the following address:

Auditor General's Office
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

5. If the audit shows that any portion of the funds disbursed hereunder were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to FCT of all funds not spent in accordance with the applicable regulations and Agreement provisions within thirty (30) days after FCT has notified the Recipient of such non-compliance.

6. The Recipient shall retain all financial records, supporting documents, statistical records and any other documents pertinent to this Agreement for a period of five (5) years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the five-year period, the records shall be retained until the litigation or audit findings have been resolved.

7. The Recipient shall have all audits completed in accordance with Section 215.97, Fla. Stat. performed by an independent certified public accountant ("IPA") who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The IPA shall state that the audit complied with the applicable provisions noted above.

XIII. DEFAULT; REMEDIES; TERMINATION

1. If the necessary funds are not available to fund this Agreement as a result of action by the Florida Legislature or the Office of the Comptroller, or if any of the events below occur ("Events of Default"), all obligations on the part of FCT to make any further payment of funds hereunder shall, if FCT so elects, terminate and FCT may, at its option, exercise any of its remedies set forth herein, but FCT may make any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment. The following constitute Events of Default:

- a. If any warranty or representation made by the Recipient in this Agreement, any previous agreement with FCT or in any document provided to FCT shall at any time be false or misleading in any respect, or if the Recipient shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with FCT and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;
- b. If any material adverse change shall occur in the financial condition of the Recipient at any time during the term of this Agreement from the financial condition revealed in any reports filed or to be filed with FCT, and the Recipient fails to cure said material adverse change within thirty (30) days from the date written notice is sent to the Recipient by FCT;
- c. If any reports or documents required by this Agreement have not been timely submitted to FCT or have been submitted with incorrect, incomplete or insufficient information; or

- d. If the Recipient fails to perform and complete in timely fashion any of its obligations under this Agreement.

2. Upon the happening of an Event of Default, FCT may, at its option, upon thirty (30) calendar days from the date written notice is sent to the Recipient by FCT and upon the Recipient's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude FCT from pursuing any other remedies contained herein or otherwise provided at law or in equity:

- a. Terminate this Agreement, provided the Recipient is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address set forth in paragraph V.2. herein;
- b. Commence an appropriate legal or equitable action to enforce performance of this Agreement;
- c. Withhold or suspend payment of all or any part of the FCT Award;
- d. Exercise any corrective or remedial actions, including, but not limited to, requesting additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance or issuing a written warning to advise that more serious measures may be taken if the situation is not corrected; or
- e. Exercise any other rights or remedies which may be otherwise available under law, including, but not limited to, those described in paragraph IX.3.

3. FCT may terminate this Agreement for cause upon written notice to the Recipient. Cause shall include, but is not limited to: fraud; lack of compliance with applicable rules, laws and regulations; failure to perform in a timely manner; failure to make significant progress toward Project Plan and Management Plan approval; and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Fla.Stat., as amended. Appraisals, and any other reports relating to value, offers and counteroffers are not available for public disclosure or inspection and are exempt from the provisions of Section 119.07(1), Fla. Stat. until a Purchase Agreement is executed by the Owner(s) and Recipient and conditionally accepted by FCT, or if no Purchase Agreement is executed, then as provided for in Sections 125.355(1)(a) and 166.045(1)(a), Fla. Stat.

4. FCT may terminate this Agreement when it determines, in its sole discretion, that the continuation of the Agreement would not produce beneficial results commensurate with the further expenditure of funds by providing the Recipient with thirty (30) calendar days prior written notice.

5. The Recipient may request termination of this Agreement before its Expiration Date by a written request fully describing the circumstances that compel the Recipient to terminate the project. A request for termination shall be provided to FCT in a manner described in paragraph V.1.

XIV. LEGAL AUTHORIZATION

1. The Recipient certifies with respect to this Agreement that it possesses the legal authority to receive funds to be provided under this Agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind the Recipient to the terms of this Agreement.

XV. STANDARD CONDITIONS

1. This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict and shall be severable, but shall not invalidate any other provision of this Agreement.

2. No waiver by FCT of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of FCT hereunder, or affect the subsequent exercise of the same right or remedy by FCT for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to FCT under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

3. The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.

4. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit lease bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

5. No funds or other resources received from FCT in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

This Agreement embodies the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

ST. JOHNS COUNTY

FLORIDA COMMUNITIES TRUST

By: _____

By: _____

Print Name: _____

Ken Reecy

Title: _____

Community Program Manager

Date: _____

Date: _____

Approved as to Form and Legality:

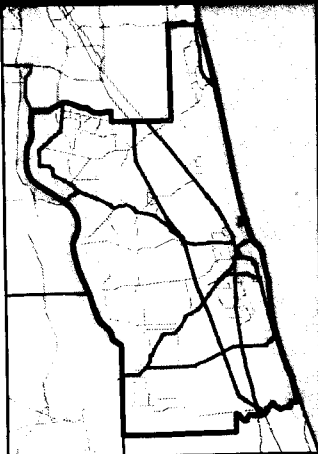
Approved as to Form and Legality:

By: _____

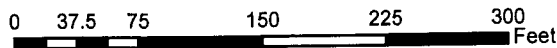
By: _____

Print Name: _____

Kristen L. Coons, Trust Counsel



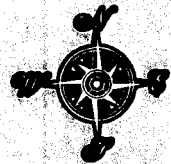
Usina Boat Ramp Park Grant Contract



St. Johns County
Land Mgmt Systems
Real Estate Division



Map Prepared:
September 2, 2010
(904) 209-0798



2008 Aerial Imagery

DISCLAIMER.
This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy.