

DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 30th day of APRIL, 2007 by the City of Atlantic Beach, a municipal corporation, having an address at 800 Seminole Road, Atlantic Beach, FL 32233 ("Grantors"), in favor of North Florida Land Trust, a Florida non-profit corporation qualified to do business in Florida, having an address at 2029 N. 3rd St., Jacksonville Beach, FL 32250 ("Grantee").

WITNESSETH:

WHEREAS, Grantors are the sole owners in fee simple of certain real property in the City of Atlantic Beach, Florida, more particularly described in Exhibit A attached hereto and incorporated by this reference (the "Property"); and

WHEREAS, the property possesses natural, scenic, open space and recreational values (collectively, "conservation values") of great importance to Grantors, the people of Atlantic Beach and the people of the State of Florida; and

WHEREAS, in particular, the property contains abundant salt marshes and islands; and

WHEREAS, the specific conservation values of the Property are further documented in an inventory of relevant features of the Property on file at the offices of Grantee, which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this Grant and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantors intend that the conservation values of the Property be preserved and maintained by permitting only those land uses on the Property that do not significantly impair or interfere with them including, without limitation, those land uses relating to passive recreation, including but not limited to canoeing, kayaking, fishing, and boating; and

WHEREAS, Grantors further intend, as owners of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity; and

WHEREAS, Grantors, by majority vote of its City Commission approved conveyance of this Conservation Easement and enter into this Conservation Easement pursuant to its Home Rule Powers; and

WHEREAS, Grantee is a private, tax-exempt nonprofit organization and a qualified organization under Sections 501(c)(3) and 170(h), respectively, of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Internal Revenue Code"), whose primary purpose is the conservation of land for natural, historic, scenic, and recreational purposes;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the law of Florida and in particular Section 704.06, Florida Statutes, Grantors hereby voluntarily grant and convey to Grantee a Conservation Easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. Purpose. It is the purpose of this Easement to assure that the Property will be retained forever [predominantly] in its natural and scenic condition and to prevent any use of the Property that will [significantly] impair or interfere with the conservation values of the Property. Grantors

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intend that this Easement will confine the use of the Property to such activities, including, without limitation, those involving public passive recreation, as are not inconsistent with the purpose of this Easement.

2. Rights of Grantee. To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

(a) To preserve and protect the conservation values of the Property;

(b) To enter upon the Property at reasonable times and to conduct an annual inspection in order to monitor compliance with and otherwise enforce the terms of this Easement in accordance with Section 6, such entry shall be upon prior reasonable notice to Grantors, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and

(c) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in Section 6.

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

(a) Constructing or placing buildings, roads, billboards, cell phone towers, electrical transmission facilities, pipelines, public transportation facilities, or other structures, except as provided in Paragraph 4.

(b) Dumping or placing soil or other substances or materials as landfill, or dumping or placing trash, waste, or unsightly or offensive materials.

(c) Removing or destroying trees, shrubs, or other vegetation except:

(1) Where a tree is dead, diseased, or a hazard to humans, animals, or property; or

(2) Where the removal or destruction of vegetation is necessary to promote biodiversity, such as to eradicate non-native, nuisance species; or

(3) Where removal or destruction of vegetation is pursuant to a conservation management plan, which is approved by Grantee and subject to the permitting requirements of the St. Johns River Water Management District;

or

(d) Excavating, dredging, or removing limerock, peat, gravel, soil, rock, or other material substance in such a manner as to affect the surface.

(e) Permitting activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, or fish and wildlife habitat preservation, except as provided in Paragraph 4;

(f) Planting any plants that are generally considered non-native, invasive, nuisance species with the potential to disrupt the ecological function of infested lands. These plants may be defined by reference to the lists published by the Florida Exotic Pest Plant Council, or its successor organization, and shall include the Category I and II taxa. Grantor shall work with Grantee to remove any such non-native, invasive, nuisance species.

- (g) Permitting acts or uses detrimental to any parts of the property found to have historical, archaeological, or cultural significance.
- (h) Permitting subdivision or partition of the Property.
- (i) Constructing private docks on the property by adjacent landowners.

4. Reserved Rights. Grantors reserve to themselves, and to their personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. [Without limiting the generality of the foregoing, and subject to the terms of paragraph 3, the following rights are expressly reserved:]

- (a) constructing of trails, overlooks, benches and appropriate signage consistent passive recreation;
- (b) all activities related ecological restoration, such as replanting marshes, dredging silted canals, restoring channels and uplands;
- (c) the right to conduct any activities that would yield wetland mitigation credits and the right to sell those credits;
- (d) the right to mark water trails for canoeing and kayaking.

5. Notice and Approval.

5.1 Notice of Intention to Undertake Certain Reserved Actions. The purpose of requiring Grantors to notify Grantee prior to undertaking certain reserved activities referenced in paragraph 4 is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is not inconsistent with the purpose of this Easement. Whenever notice is required Grantors shall notify Grantee in writing not less than 30 days prior to the date Grantors intend to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

5.2 Grantee's Comment Period. Grantee shall provide in writing within 20 business days of receipt of Grantors' written request any comments regarding the proposed activities. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

6. Grantee's Remedies.

6.1 Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantors of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.

6.2 Injunctive Relief. If Grantors fail to cure the violation within 30 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30 day period, fail to begin curing such violation within the 30 day period, or fail to

continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.

6.3 Scope of Relief. Grantee's rights under this section 6 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantors agree that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in Paragraph 6.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section 6 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

6.4 Costs of Enforcement. All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, if Grantor ultimately prevails in a judicial enforcement action than the Grantee will, without limitation, bear the costs and expenses of the suit and reasonable attorneys' fees.

6.5 Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

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

7. Costs, Liabilities, Taxes, and Environmental Compliance.

7.1 Costs, Legal Requirements, and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

7.2 Remediation. If, at any time, there occurs, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and

remediation' including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

7.3 Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 USC sec. 9601-9675, and Chapters 376 and 403, Florida Statutes (2008) as amended.

7.4 Hold Harmless. Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys', mediation, and/or arbitration fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA and Chapters 376 and 403, Florida Statutes (2008), by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property.

8. Extinguishment and Condemnation.

8.1 Extinguishment. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled will be a prorated amount of the settlement determined by multiplying the portion of the purchase price of the property paid by or through Public Trust Environmental Legal Institute of Florida divided by the total purchase price for the property, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment.

8.2 Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered.

8.3 Application of Proceeds. Grantee shall use any proceeds received under the circumstances described in this section 8 in a manner consistent with its conservation purposes, which are exemplified by this grant.

9. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code (or any successor provision

then applicable), and authorized to acquire and hold conservation easements under Section 704.06, Florida Statutes (2008), or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least 20 days prior to the date of such assignment and must obtain the written consent of Grantor to the assignment, which consent shall not be unreasonably withheld.

10. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least 20 days prior to the date of such transfer and must obtain the written consent of Grantee to the assignment, which consent shall not be unreasonably withheld.

11. Estoppel Certificates. Upon request by Grantor, Grantee shall within 20 days execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, which certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantors contained in this Easement or otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within 30 days of receipt of Grantor's written request therefor.

12. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: City of Atlantic Beach attention City Manager

800 Seminole Rd.

Atlantic Beach, Florida 32233

To Grantee: North Florida Land Trust

2029 N. 3rd St.

Jacksonville Beach, Florida 32250

or to such other address as either party from time to time shall designate by written notice to the other.

13. Recordation. Grantee shall record this instrument in timely fashion in the official records of Duval County, Florida, and may re-record it at any time as may be required to preserve its rights in this Easement.

14. General Provisions.

14.1 Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Florida.

14.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Grantee to effect the purpose of this Easement and the policy and purpose of Section 704.06, Florida Statutes (2008)

If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

14.3 Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

14.4 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

14.5 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

14.6 Joint Obligation. The obligations imposed by this Easement upon Grantor shall be joint and several.

14.7 Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and their personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns.

14.8 Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

14.9 Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

14.10 Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

15. Ownership and Liabilities. It is understood and acknowledged by Grantee and Grantor that there are multiple legal issues to the claim of title by the seller of this property (the Buckman-Pritchard Trust) and that these legal issues remain after the Grantee has acquired the property, particularly these involve claims of the State of Florida to rights or direct ownership of a portion of the property. It is not intended by anything herein that Grantor shall be obligated to enter into, or to defend, litigation with the State of Florida or any other entity in the future if any disputes arise as to the use or ownership of the property described in this Easement.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantors and Grantee have set their hands on the day and year first above written.

Grantor: City of Atlantic Beach

By: [Signature]
James R. Hanson, City Manager

Attested: [Signature]
By: Donna L. Bartle
Print Name: DONNA L. BARTLE
City Clerk of Atlantic Beach

Grantee: North Florida Land Trust

By: [Signature]
Print Name: Melissa Gross Arnold
Title: PRESIDENT

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of April, 2009, by James R. Hanson, as City Manager and Donna L. Bartle, City Clerk of City of Atlantic Beach, a municipal corporation, on behalf of said corporation, who [] are personally known to me or who [] produced a driver's license for identification.



[Signature]
Notary Public

Notary Seal

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30th day of April, 2009, by Melissa Gross Arnold, as President of North Florida Land Trust, a Florida non-profit corporation, on behalf of said corporation, who [] is personally known to me or who [] produced a driver's license for identification.



[Signature]
Notary Public

Notary Seal

EXHIBIT "A"
LEGAL

All of unsurveyed Section 18, Township 2 South, Range 29 East, Jacksonville, Duval County, Florida.

Less and Except part in County Road No. 222.

Less and Except a strip of land 200 feet wide conveyed to Florida Coastline Canal and Transportation Company by Quit Claim Deed dated February 11, 1924, recorded in Deed Book 258, page 253, in the public records of Duval County, Florida.

Less and Except a portion of property conveyed to Jacksonville Electric Authority by Trustee's Deed dated May 6, 1973, recorded in Official Records Book 3513, page 1133, in the public records of Duval County, Florida.

Less and Except a portion of property conveyed to the City of Atlantic Beach by Quit Claim Deed dated February 17, 1998, recorded in Official Records Book 8854, page 1391, in the public records of Duval County, Florida.

Less and Except a portion of property conveyed to Mark F. Walton and Lynette M. Walton, husband and wife, and James C. Walton by Quit Claim Deed dated January 27, 2000 in Official Records Book 9549, page 1070, in the public records of Duval County, Florida.

Less and Except a 50 foot strip of land, 300 feet long, more or less, lying in unsurveyed Section 18, Township 2 South, Range 29 East, Duval County, Florida, said strip being bounded on the North by the portion of marshline that forms the southern boundary of the road right of way between Block 172 and Block 173 of Section H, Atlantic Beach, as shown and recorded in Plat Book 18 page 34; on the West by a southerly projection of the east line of said Block 172; on the East by a southerly projection of the West line of said Block 173; and on the south by the bank of an existing channel.