

DEP AGREEMENT NUMBER: S0958  
FCT PROJECT NUMBER: 11-050-FF11  
PROJECT NAME: SEBASTIAN HARBOR PRESERVE  
CSFA NUMBER: 37.078

## **GRANT AGREEMENT**

**THIS GRANT AGREEMENT** (“Agreement”) is entered into by and between the FLORIDA COMMUNITIES TRUST (“FCT”), a non-regulatory agency and instrumentality within the State of Florida, Department of Environmental Protection (“Department”), and INDIAN RIVER COUNTY, a Florida local government (“Recipient”).

### **THIS AGREEMENT IS ENTERED INTO PURSUANT TO THE FOLLOWING:**

**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 all Florida law, federal income tax law, and provisions of Sections 259.105, 259.1051 and Chapter 380, Part III, Florida Statutes (“F.S.”);

**WHEREAS**, Chapter 380, Part III, F.S., the Florida Communities Trust Act, creates a non-regulatory agency within the 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**, the Florida Forever Revenue Bonds (“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 62-818, Florida Administrative Code (“F.A.C.”) sets forth the procedures for the evaluation and selection of lands proposed for acquisition and Rule 62-819, F.A.C. sets forth the acquisition procedures;

**WHEREAS**, on August 25, 2011, the FCT Governing Board scored, ranked and selected projects to receive approval for funding;

**WHEREAS**, the Recipient’s Project (“Project”), described in an application submitted for evaluation, was selected for funding in accordance with Rule 62-818, F.A.C., and by executing this Agreement the Recipient reaffirms the representations made in its application;

**WHEREAS**, Rule 62-818.009, F.A.C. authorizes FCT to impose conditions on those FCT applicants whose projects are selected for funding; and

**WHEREAS**, the purpose of this Agreement is to set forth the condition(s) that must be satisfied by the Recipient prior to the disbursement of any FCT Florida Forever funds, and the restrictions imposed and site management compliance required governing the Project Site subsequent to its acquisition with the Bond proceeds.

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

## **I. PERIOD OF AGREEMENT**

1. This Agreement shall begin upon the date of execution and shall end **November 30, 2018** (“Expiration Date”), unless extended as set forth below or unless terminated earlier in accordance with the provisions contained herein.

2. FCT may extend this Agreement beyond the Expiration Date if the Recipient demonstrates that significant progress is made toward the Project Plan for approval or that extenuating circumstances beyond the Recipient’s control warrants an extension of time. Recipient must make a written request for an extension, fully explaining the reason(s) for the delay and why the extension is necessary, and shall provide the written request to FCT in accordance with provisions contained herein. A written request for an extension must be submitted prior to the Expiration Date.

FCT may, in its sole discretion, consent to an extension of this Agreement, and the decision whether to consent to such extension and the length of such extension, if any, shall depend upon an analysis of various factors, including specifically but not limited to: the needs and goals of FCT; the ability and willingness of Recipient to perform under the terms of this Agreement; the good standing of the Recipient (including any entity related to or affiliated with Recipient); the Recipient’s past record of performance, including submission of required reports, and any audits (as applicable); and other factors relevant to FCT mandates. FCT, in its sole discretion, reserves the right not to extend this Agreement beyond the initial term.

If the Recipient does not request a written extension, or if a requested written extension is not granted by FCT, the Recipient’s Award shall be rescinded and this Agreement shall terminate with notification pursuant to terms and conditions contained herein.

## **II. MODIFICATION OF AGREEMENT**

Either Party may request modification(s) 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 3900 Commonwealth Boulevard MS #115, Tallahassee, FL 32399, as soon as possible and no later than **November 3, 2017**. 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/or its representatives shall know 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. **Recipient's failure to adhere to or timely monitor the Project deadlines may result in FCT's allocation of time and/or resources to other grant recipients. Recipient's failure to comply with Project deadlines is cause for 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. Upon FCT's request, the Recipient shall provide a status report of its progress towards reimbursement of the Project Costs.

5. The Recipient shall provide the appraisal(s) required by Rule 62-819.007, F.A.C. to FCT for review by a date not to exceed ninety (90) days after the execution of this Agreement. The appraisals shall be reviewed and, upon approval, the maximum reimbursement amount, as provided in Rules 62-818 and 62-819, F.A.C., shall be determined.

6. The Recipient shall develop the Project Site in accordance with the FCT Grant Award conditions and open the developed Project Site to the public within 3 years from the date of final disbursement of the FCT Award.

#### **IV. FUNDING PROVISIONS**

1. The FCT Florida Forever Award granted to the Recipient ("FCT Award") will in no event exceed **the balance of the legislative appropriation in the Florida Forever Trust Fund for 2011 (account: 348104-FY11) for the Florida Communities Trust Parks and Open Space Program as of the execution date (currently One Million One Hundred Sixty-Seven Thousand Four Hundred Five dollars and Eighty-Two Cents (\$1,167,405.82)**, unless FCT approves a different amount, which shall be reflected in an addendum to this Agreement, if applicable. The Recipient shall be reimbursed as outlined herein, up to the maximum amount identified herein, for eligible costs as defined in Rule 62-818.002(33), F.A.C., and identified in the Project Plan referenced herein.

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 62-818.003(7), 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 62-818.002(33), F.A.C. FCT shall

participate in the land cost at either the actual purchase price or the maximum reimbursement amount, whichever is less, multiplied by the percent stated herein.

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 62-818.014, F.A.C.

If the Project Site is comprised of multiple parcels and multiple owners, an Acquisition Plan, as defined in Rule 62-818.002(2), F.A.C., was required in the application. FCT reserves the right to withdraw or adjust the FCT Award if the priority parcel(s) or a significant portion of the Project Site identified in the Acquisition Plan cannot be acquired.

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 at the closing of the Project Site, payable to the Seller or the Seller's designated agent authorized by law to receive such payment, provided the State of Florida Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the State of Florida. If the Project Site is comprised of multiple parcels, FCT shall deliver at the closing of each parcel only the share of the FCT Award that corresponds to the parcel being acquired and closed. FCT shall prepare a grant reconciliation statement prior to the closing of the Project Site parcel that evidences the amount of Match provided by the Recipient, as applicable and if any is required, and the amount of the FCT Award. Funds expended by FCT for Project Costs shall be recognized as part of the 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 62-818.002(25), F.A.C. If the value of land is the source of the Match as defined in Rule 62-818.002(25), F.A.C., the maximum reimbursement amount shall determine the value of the Match. If the Project Site is comprised of multiple parcels, the Recipient shall deliver at the closing of each parcel the share of the Match that corresponds to the parcel being closed. 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, as applicable and if any is required.

6. If the Recipient is the local government having jurisdiction over the Project Site, and an action by the Recipient subsequent to the FCT Governing Board selection meeting results in a governmentally derived higher Project Site land value due to an "enhanced highest and best use," FCT acquisition activities shall be terminated unless the Seller agrees that the appraisal(s) will be based on the "highest and best use" of the Project Site on or before the FCT Governing Board selection meeting.

7. FCT's performance and obligation to pay under this Agreement is contingent upon an annual appropriation and approval by the Florida Legislature or designated agency, and is subject to any modification in accordance with Chapter 216, F.S. or the Florida Constitution.

8. The accounting systems for all Recipients must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Recipients are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Recipient's, or subrecipient's, accounting system cannot comply with this requirement, the Recipient, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.

If FCT finds that these funds have been commingled, FCT shall have the right to demand a refund, either in whole or in part, of the funds provided to the Recipient under this Agreement for non-compliance with the material terms of this Agreement. The Recipient, upon such written notification from FCT shall refund, and shall forthwith pay to FCT, the amount of money demanded. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from FCT by the Recipient to the date repayment is made by the Recipient to FCT.

In the event that the Recipient recovers costs, incurred under this Agreement and reimbursed by FCT, from another source(s), the Recipient shall reimburse FCT for all recovered funds originally provided under this Agreement. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the payment(s) are recovered by the Recipient to the date repayment is made to FCT by the Recipient.

## **V. NOTICE AND CONTACT**

1. All notices and written communication between the Parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient to:

Florida Communities Trust  
3900 Commonwealth Boulevard, MS#115  
Tallahassee, FL 32399

2. All contact and correspondence from FCT to the Recipient shall be through the key contact as required by Rules 62-818 and 62-819, F.A.C. 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: Roland M. DeBlois**  
**Organization: Indian River County Environmental Planning & Code Enforcement Section**  
**Title: Chief**  
**Address: 1801 27th Street, Bldg. A, Vero Beach, FL 32960-3388**  
**rdeblois@ircgov.com**  
**Telephone: (772) 226-1258**  
**E-mail: [rdeblois@ircgov.com](mailto:rdeblois@ircgov.com)**

3. The Recipient authorizes the administrator, employee, officer or representative named in this paragraph, as Recipient's agent, to execute all documents in connection with this Project on behalf of the Recipient, including, but not limited to, this Agreement or any addenda thereto, purchase agreement(s) for the property, grant reconciliation statement, closing documents, statements submitted as a part of the Project Plan and Declaration of Restrictive Covenants.

**Name: Joseph E. Flescher or Successor**  
**Organization: Indian River County Board of County Commissioners**  
**Title: Chair**  
**Address: 1801 27th Street, Vero Beach, FL 32960-3388**  
**Telephone: (772) 226-1919**  
**E-mail: [jflescher@ircgov.com](mailto:jflescher@ircgov.com)**

4. In the event that different representatives or addresses are designated for **NOTICE AND CONTACT**, specified herein, after execution of this Agreement, notice of the changes shall be rendered to FCT as provided in **NOTICE AND CONTACT**, paragraph 1. above.

5. The Recipient hereby notifies FCT that the Recipient's Federal Employer Identification Number(s) is **59-6000674**.

## **VI. PROJECT PLAN APPROVAL; REIMBURSEMENT 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 62-819.011, 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. Documents associated with acquisition of the parcel(s):
  - (1) A copy of the Purchase Agreement(s) for sale and purchase of the parcel(s) between the Recipient and **Lincoln Land Development, LLC**.

- (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) A copy of the appraisals of the parcel(s) required by Rule 62-819.007 F.A.C. issued in furtherance of the Recipient's acquisition of the parcel(s).
- (5) A copy of the Certified Survey(s) of the parcel(s) that meets the requirements of Rule 62-819, F.A.C., which was certified in furtherance of the Recipient's acquisition of the parcel(s), and is dated within ninety (90) days of the date of acquisition of the parcel(s) by the Recipient.
- (6) A copy of any title insurance commitments and policies, including any endorsements, issued in furtherance of the Recipient's acquisition of the parcel(s) evidencing marketable title in Recipient to the parcel(s) and, as applicable, 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 insurance commitment or policy.
- (7) A copy of environmental site assessments (ESA) of the parcel(s) certified to the Recipient, which meets the standards and requirements of American Society for Testing and Materials ("ASTM") Practice E 1527, and with a date of certification within 90 days of the date of acquisition of the parcel(s) by the Recipient, together with the statement required by Rule 62-819.012(4), F.A.C.

b. Documents associated with Grant Award Disbursement:

- (1) Issuance of an updated title insurance commitment evidencing the current title to the parcel(s). The commitment should include all documents referenced in the commitment. The Recipient shall also provide an updated title commitment evidencing the title of the parcel at the time of Grant Award Disbursement. Issuance of an updated certified survey and updated policy or endorsement issued to the Recipient, the Trust or the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("Trustees"), individually or as co-insureds, may be required based on information disclosed in the updated commitments.

- (2) Issuance of an ESA of the parcel(s) certified to the Recipient, FCT, and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, which meets the standards and requirements of Rule 62-819.012, F.A.C. and the ASTM Practice E 1527, and with a date of certification within 90 days of Grant Award Disbursement, together with the statement required by Rule 62-819.012(4), F.A.C. If the Phase 1 ESA reports evidence of recognized environmental conditions, then a Phase II ESA performed to address any concerns raised in the Phase I ESA and to confirm the presence of contaminants on site. Phase II ESAs shall meet the standards and requirements of ASTM E1903-11. In the event an adverse ESA is reported on a site, FCT shall assess the risk to the State. Because the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida will have an executory interest in the Project Site, FCT shall have the right to refuse to deliver funds for closing/disbursement if FCT determines the hazardous materials contamination presents a liability to the State that outweighs the benefits to be derived from the acquisition of the Project Site. If it is determined by FCT that a delay in, or termination of the Acquisition is necessary, the Trust shall immediately notify the Recipient, and this Agreement shall be amended accordingly.
- c. A letter from FCT indicating approval of the Management Plan written in accordance with Rule 62-818.011, F.A.C., and as described in Article VII below.
  - d. A statement of the Project Costs.
  - e. A statement of the amount of the award being requested from FCT.
  - f. Supporting documentation that the conditions imposed as part of this Agreement have been satisfied.
  - g. 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.
  - h. 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.
  - i. Additional documentation as may be requested by FCT to provide Reasonable Assurance, as set forth in paragraph VII.4. below.



Upon approval of the Project Plan, a completed copy of the FCT Project Reconciliation Statement, **Attachment A**, shall be submitted to the FCT Grant Manager. The completed FCT Project Reconciliation Statement shall reference the DEP Agreement Number for this Grant Agreement.

2. FCT shall approve the terms under which the interest in land is acquired pursuant to Section 380.510(3), F.S. Such approval is deemed given when FCT approves and executes the purchase agreement for acquisition of the Project Site, further described herein.

3. **All real property shall be obtained through a Voluntarily-Negotiated Transaction, as defined in Rule 62-818.002(46), F.A. C. The use of or threat of condemnation is not considered a Voluntarily-Negotiated Transaction.**

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

5. Rule 62-818.002(33), F.A.C. states that reasonable real estate fees or commissions that do not exceed \$10,000.00 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 62-818.011, F.A.C. and addresses the criteria and conditions set forth in Articles VII, VIII, IX, X, and XI herein.

2. The Management Plan outlines how the Project Site will be managed to further the purpose(s) of the Project and outlines terms and conditions of this Agreement. The Management Plan shall include at a minimum the following:

- a. An introduction containing the Project name, location and other background information relevant to Project Site 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.
- l. Coordination plan to allow for safe, open access to the public except for designated construction zones, Project Site enhancements, design, remodeling and/or upgrades. Recipient is responsible to maintain sections of the Project Site open and accessible to the public which are safe and not under construction and/or within the construction zone, enhancements, design, remodeling, and/or upgrades in the portions or sections of the Project Site.

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.

Additionally, the managing entity must comply with the approved Management Plan and Recipient is ultimately responsible to oversee compliance of the Management Plan, the fulfillment of all Management Plan terms and liable for violations thereof.

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, F.S., the Recipient(s) shall be required to provide FCT with Reasonable Assurance, pursuant to Rule 62-818.002(36), 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 62-818.013, 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

Based on the Management Plan, points awarded in scoring the application, and observations made by FCT staff during the site visit described in Rule 62-818.009, F.A.C., the Recipient is required to provide the following:

- a. **At least two recreational facilities such as a picnic pavilion and a wildlife observation platform. 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.**
- b. **The Recipient shall provide a functional land-based walking, nature, bike, equestrian or multi-use trail of at least 1/2 mile on the Project Site. Park benches shall be provided along the trail.**
- c. **A permanent recognition sign, at a minimum size of 3' x 4', shall be maintained at the entrance area of the Project Site. The sign shall acknowledge the year the Project Site was acquired and that the Project Site was purchased with funds from the Florida Communities Trust Program and the Recipient.**
- d. **The future land use designation of the Project Site shall be changed to conservation, outdoor recreation, open space, or another similar category.**
- e. **The location and design of recreational amenities, roads, and parking facilities shall have minimal impacts on natural resources and shall incorporate impervious materials wherever feasible. Site development shall be planned to minimize alteration of natural resources and habitat fragmentation, and to place facilities and site improvements on previously disturbed areas to the greatest extent possible.**
- f. **The Recipient shall provide a safe pedestrian sidewalk connection between the project site and the sidewalk network in the adjacent neighborhood.**
- g. **Interpretive kiosks shall be provided on the Project Site to educate visitors about the natural environment and/or unique cultural history of the area.**
- h. **A baseline survey of natural communities, and plant and animal species shall be conducted on the Project Site. The survey shall be used in the design and location of development activities to avoid and minimize impacts to native vegetation and natural communities. The survey**

shall be used to develop land management plans to preserve and appropriately manage the natural communities that occur on the Project Site to ensure the long-term viability of these communities. Periodic surveys shall be conducted of the Project Site to assess and guide management. The timing and extent of the surveys shall be identified in the Management Plan.

- i. The Project Site shall be managed in a manner that protects and enhances the listed and non-listed native wildlife species and their habitat.**
- j. The Project Site shall be managed in a manner that protects and enhances the listed and non-listed native wildlife species and their habitat, including the Locally Significant and Strategic Habitat Conservation areas found onsite.**
- k. A prescribed burn plan including fire lines, shall be developed in coordination with the Florida Forest Service and/or the Florida Fish and Wildlife Conservation Commission to maintain natural fire-dependent vegetative communities found onsite. Fire lines shall be developed between the adjacent development and the Project Site.**
- l. 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 List of Florida's Most Invasive Species to assist in identifying invasive exotics on the Project Site.**
- m. A feral animal removal program shall be developed and implemented for the Project Site.**
- n. 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 with shallow slopes and no fencing. Stormwater management improvements shall be coordinated with the St. Johns River Water Management District and FCT.**
- o. The Project Site shall be connected to and managed as part of a local, regional or statewide land-based recreational trail system.**
- p. Management of the Project Site shall be coordinated with management of the adjacent publicly-owned Sebastian Stormwater Park.**

- q. **The Project Site shall be protected and managed as part of an ecological corridor that includes Sebastian Stormwater Park and Sebastian Scrub Conservation Area.**

**IX. DECLARATION OF RESTRICTIVE COVENANTS REQUIREMENTS IMPOSED BY CHAPTER 259 AND CHAPTER 380, PART III, F.S.**

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, F.S.; 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, as applicable, to the Trustees, or a nonprofit environmental organization or government entity, upon failure to comply with any of the covenants and restrictions, as further described herein.*

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 the reimbursement of the Project Site 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 cannot be reasonably completed within the specified thirty (30) day time frame, the Recipient shall submit a timely written request to FCT pursuant to conditions stated herein, which 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 or nonprofit environmental organization who agrees to accept title. FCT may, but is not required to, negotiate a management agreement with the 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 manage the Project Site. FCT shall treat such property in accordance with Section 380.508(4), F.S.

## **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 or nonprofit environmental organization. FCT will also attempt to negotiate a management agreement with the 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 manage the Project Site.

3. Following the reimbursement of the Project Site, 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 Project Site's acquisition.

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, logo provided by FCT, recognizing FCT's role in the acquisition of the Project Site. 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, F.S. 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 on a temporary basis with FCT written approval 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; or
- b. the operation of any concession on the Project Site by a non-governmental person or organization; or
- 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; or
- 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; or
- 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; or
- 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; or
- h. any and all activities that violate the Federal Private Activity regulations of the Internal Revenue Service.

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 or denial 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 books, records and documents directly pertinent to performance under this Agreement in accordance with United States Generally Accepted Accounting Principles (U.S. G.A.A.P.) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event any work is subcontracted, the Recipient shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

- a. The Recipient understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the Department's Inspector General in any investigation, audit, inspection, review, or hearing. The Recipient will comply with this duty and ensure that its subcontracts issued under this Grant, if any, impose this requirement, in writing, on its subcontractors.
- b. In addition to the requirements of the preceding paragraph, the Recipient shall comply with the applicable provisions contained in **Attachment B, Special Audit Requirements**, attached hereto and made a part hereof. **Exhibit 1 to Attachment B** summarizes the funding sources supporting the Agreement for purposes of assisting the Recipient in complying with the requirements of **Attachment B**. A revised copy of **Exhibit 1** must be provided to the Recipient for each amendment which authorizes a funding increase or decrease. If the Recipient fails to receive a revised copy of **Exhibit 1**, the Recipient shall notify the key contact with FCT to request a copy of the updated information.
- c. The Recipient is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The Recipient shall consider the type of financial assistance (federal and/or state) identified in **Attachment B, Exhibit 1** when making its determination. For federal financial assistance, the Recipient shall utilize the guidance provided under 2 CFR § 200.330 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the Recipient shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs. Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

The Recipient should confer with its chief financial officer, audit director or contact the Department for assistance with questions pertaining to the applicability of these requirements.

### **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 State Chief Financial Officer, 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; or
- 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; or
- 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; or
- e. If the Recipient fails to comply with Project deadlines in a timely fashion set forth in the approved Management Plan; or
- f. If the Recipient fails to keep access of the Project Site open to the public.

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 upon the date of the letter. Notification shall be given pursuant to Section V.; or
- b. Commence an appropriate legal or equitable action to enforce performance of this Agreement; or
- c. Withhold or suspend payment of all or any part of the FCT Award; or
- 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: Events of Default; 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, F.S., 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), F.S. 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), F.S.

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. PUBLIC RECORDS ACCESS:**

- A. Recipient shall comply with Florida Public Records Law under Chapter 119, F.S. Records made or received in conjunction with this Agreement are public records under Florida law, as defined in Subsection 119.011(12), F.S. Recipient shall keep and maintain public records required by the Department to perform the services under this Agreement.
- B. This Agreement may be unilaterally canceled by the Department for refusal by the Recipient to either provide to the Department upon request, or to allow inspection and copying of all public records made or received by the Recipient in conjunction with this Agreement and subject to disclosure under Chapter 119, F.S., and Article I, Section 24(a), Florida Constitution.
- C. If Recipient meets the definition of “Contractor” found in Paragraph 119.0701(1)(a), F.S.; [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:
  - i. Pursuant to Section 119.0701, F.S., a request to inspect or copy public records relating to this Agreement for services must be made directly to the Department. If the Department does not possess the requested records, the Department shall immediately notify the Recipient of the request, and the Recipient must provide the records to the Department or allow the records to be inspected or copied within a reasonable time. If Recipient fails to provide the public records to the Department within a reasonable time, the Recipient may be subject to penalties under Section 119.10, F.S.
  - ii. Upon request from the Department’s custodian of public records, Recipient shall provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
  - iii. Recipient shall identify and ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Recipient does not transfer the records to the Department.
  - iv. Upon completion of the Agreement, Recipient shall transfer, at no cost to Department, all public records in possession of Recipient or keep and maintain public records required by the Department to perform the services under this Agreement. If the Recipient transfers all public records to the Department upon completion of the Agreement, the Recipient shall destroy

any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Recipient keeps and maintains public records upon completion of the Agreement, the Recipient shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the Department.

- D. IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS by telephone at (850) 245-2118, by email at [ombudsman@dep.state.fl.us](mailto:ombudsman@dep.state.fl.us), or at the mailing address below:**

**Department of Environmental Protection  
ATTN: Office of Ombudsman and Public Services  
Public Records Request  
3900 Commonwealth Blvd, Mail Slot 49  
Tallahassee, FL 32399**

## **XV. 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.

## **XVI. 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. In accordance with Section 216.347, F.S., the Recipient is hereby prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency. Further, in accordance with Section 11.062, F.S., no state funds, exclusive of salaries, travel expenses, and per diem, appropriated to, or otherwise available for use by, any executive, judicial, or quasi-judicial department shall be used by any state employee or other person for lobbying purposes.

6. The employment of unauthorized aliens by any recipient is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Recipient knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Recipient shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.

7. The Recipient shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this Agreement. The Recipient acknowledges that this requirement includes, but is not limited to, compliance with all applicable federal, state and local health and safety rules and regulations. The Recipient further agrees to include this provision in all subcontracts issued as a result of this Contract.

8. The Recipient shall save and hold harmless and indemnify the State of Florida and the Department against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of any person or persons and for the loss of damage to any property resulting from the use, service, operation or performance of work under the terms of this Agreement, resulting from the negligent acts of the Recipient, his subcontractor, or any of the employees, agents or representatives of the Recipient or subcontractor to the extent allowed by law.

9. To the extent required by law, the Recipient will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all

of its employees connected with the work of this Project and, in case any work is subcontracted, the Recipient shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Recipient. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Recipient shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of his employees not otherwise protected.

- a. Recipient's chief financial officer ("CFO") must provide self-insurance documentation to FCT prior to execution of this agreement and upon any subsequent changes relating to the terms or insurance carrier.

10. The Recipient, as an independent contractor and not an agent, representative, or employee of the Department, agrees to carry adequate liability and other appropriate forms of insurance. The Department shall have no liability except as specifically provided in this Agreement.

11. This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

12. This Agreement embodies the entire agreement between the Parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the Parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

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

RECIPIENT: INDIAN RIVER COUNTY  
a Florida local government

FLORIDA COMMUNITIES TRUST,  
STATE OF FLORIDA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

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

By: \_\_\_\_\_  
Secretary or designee

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form and Legality:

Approved as to Form and Legality:

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

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**List of attachments/exhibits included as part of this Agreement:**

Specify	Letter/	
Type	Number	Description (include number of pages)
Attachment	A	FCT Project Reconciliation Statement (2 pages)
Attachment	B	Special Audit Requirements (5 Pages)



**ATTACHMENT A**

**FCT PROJECT RECONCILIATION STATEMENT**

Recipient Name: \_\_\_\_\_  
Project Name: \_\_\_\_\_  
FCT Project #: \_\_\_\_\_  
Date: \_\_\_\_\_

**GRANT AWARD CALCULATION**

**TOTAL PROJECT COSTS**

**Land Purchase Price**

- (1)

**Total Land Purchase Price**

\$ -

**Acquisition Expenses**

Survey

\$ -

Title Insurance

- (2)

Appraisal Review

-

Appraisals

-

Environmental Audit

-

**Total Acquisition Expenses**

-

**Total Project Costs**

\$ -

**COMPUTATION OF GRANT AWARD AND LOCAL MATCH AMOUNT**

**FCT Award Computation**

Share of Purchase Price

\$ - (1)

Share of Acquisition Expenses

-

**Total Share of Project Costs**

\$ - (3)

**Recipient Local Match Amount**

Share of Purchase Price

\$ -

Share of Acquisition Expenses

-

**Total Share of Project Costs**

-

**Total Project Costs**

\$ -

**COMPUTATION OF PREPAIDS, REIMBURSEMENTS, AND ADDITIONAL COSTS**

**FLORIDA COMMUNITIES TRUST**

**FCT Prepaid Project Costs**

Appraisal Review

\$ -

**Total Prepaid Costs**

-

**FCT Amount Due at Closing**

Share of Total Project Costs	\$	-	
Less Total Prepaid Costs	-		
Total Amount Due From FCT			\$ -

**Recipient Prepaid Costs**

Land Purchase Price	\$	-
Survey	-	
Title Insurance	-	
Appraisals	-	
Environmental Site Assessment	-	
Total Prepaid Costs	\$	-

**Recipient Amount Due**

Share of Total Project Costs	\$	-
Less Prepaids	-	
Total Amount Due to County	\$	-

**Recipient Additional Costs**

Record Grant Award Agreement	\$	-	(4)
Total Additional Costs	-		

**Notes:**

- (1) Pursuant to memorandum from \_\_\_\_\_ to \_\_\_\_\_ dated \_\_, the maximum reimbursement amount is \$\_\_. The Recipient acquired the property on \_\_, at a purchase price of \$\_\_\_\_. The FCT Reimbursement is based on the maximum reimbursement amount, which may be less than the purchase price paid by Recipient.
- (2) Amount includes costs for title insurance, title examination, title search and closing fees.
- (3) Pursuant to the terms of the Grant Agreement, the amount of the grant shall not exceed the lesser of \$ \_\_\_\_\_ or \_\_\_\_% of the total project cost.
- (4) Disbursed to Clerk of the Court, \_\_\_\_\_ County, at time of reimbursement from FCT.

The foregoing reconciliation of Recipients' costs is hereby approved by the undersigned.

**RECIPIENT**

**FLORIDA COMMUNITIES TRUST  
STATE OF FLORIDA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## ATTACHMENT B

### SPECIAL AUDIT REQUIREMENTS

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient (*which may be referred to as the "Contractor", Grantee" or other name in the contract/agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

#### MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

#### AUDITS

##### **PART I: FEDERALLY FUNDED**

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfda/cfda.html>.

## **PART II: STATE FUNDED**

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes.

1. In the event that 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, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Attachment indicates state financial assistance awarded through the Department of Environmental Protection by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
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, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.state.fl.us/audgen>.

## **PART III: OTHER AUDIT REQUIREMENTS**

*(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)*

## **PART IV: REPORT SUBMISSION**

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this Attachment shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

**Audit Director**

Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Electronically:

[FDEPSingleAudit@dep.state.fl.us](mailto:FDEPSingleAudit@dep.state.fl.us)

- B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10th Street  
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/fac/>

- C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department of Environmental Protection at one the following addresses:

By Mail:

**Audit Director**

Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Electronically:

[FDEPSingleAudit@dep.state.fl.us](mailto:FDEPSingleAudit@dep.state.fl.us)

3. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

**Audit Director**

Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Electronically:

[FDEPSingleAudit@dep.state.fl.us](mailto:FDEPSingleAudit@dep.state.fl.us)

B. The Auditor General's Office at the following address:

State of Florida Auditor General  
Room 401, Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

**Audit Director**

Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Electronically:

[FDEPSingleAudit@dep.state.fl.us](mailto:FDEPSingleAudit@dep.state.fl.us)

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

#### **PART V: RECORD RETENTION**

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of **5** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **3** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

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**EXHIBIT – 1**

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

<b>Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:</b>					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category

<b>State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:</b>					
Federal Program Number	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

<b>State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:</b>						
State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
3710	Florida Forever Trust Fund	2011	37.078	Florida Communities Trust (Florida Forever Funded Grant Program)	\$1,167,405.82	084112

<b>Total Award</b>					<b>\$1,167,405.82</b>	
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For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<http://12.46.245.173/cfda/cfda.html>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.