

Meeting Date
February 17, 2015



Replacement	
AGENDA	
Section	Consent
Item No.	II.A.3

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Agreement to Renew Existing Lease with Supplemental Terms with Indian River Trading Company (dba as Ms. Apples Crab Shack) and William C. Norwood (dba Doc's Bait House) -District 2
DEPT/OFFICE	Natural Resources Management Department (NRM)

Requested Action:

It is requested that the Board authorize the Chairman to execute an updated five (5) year lease with Indian River Trading Company and William C. Norwood for continued commercial fisheries operations at Griffis Landing subject to final approval by the County Attorney and Risk Management.

Summary Explanation & Background:

Brevard's working waterfronts link the County's citizenry with commercial and recreational opportunities that the Indian River Lagoon system provides. While recreational benefits accrue to the County via the Indian River Lagoon, the Lagoon's commercial and economic benefits are also critical to the County's economic diversity. Without maintaining a viable community presence, these economic benefits will be transferred outside of the County.

In 2010, through funding provided by the State of Florida's Stan Mayfield Working Waterfronts Grant Program and the Florida Inland Navigation District (FIND), Brevard County acquired the working waterfront site, known as Griffis Landing, along with the two commercial fisheries businesses, currently in operation. Improvement of this working waterfront, Brevard's last remaining riverfront commercial fishery operation that takes local seafood directly across its docks, will maintain and enhance recreational and commercial access to Brevard's waterways.

On May 18, 2010, the Management Plan was approved by the Board. Lease revenue from the site's tenants has been a sufficient source of revenue and savings since project inception five (5) years ago. Operation and maintenance of the planned configuration of the non-leased portions of the property, to include trash removal, landscape maintenance and general upkeep and oversight are estimated to be approximately \$10,000 annually. Current leases bring in \$21,960 annually (pre tax).

Major Lease Amendment components:

- At the commencement of each new term, after the initial term, the amount of monthly rent shall increase equal to Consumer Price Index or 3% which ever is less.
- Lease fees will be established as follows:
 Indian River Trading Company will conform with the current Port Canaveral lease rate for Marinas/Fishing Fleet, (\$1,096 per month/\$13,152 per year)
 William C. Norwood will conform with the current Port Canaveral lease rate for Bulkhead waterfront (\$762.67 per month/\$9,152 per year.)
- Both leases will be for one (1) term of five (5) years with an annual option to renew for an additional five (5) years.

The operations of these two businesses continue to comply with the Board approved Management Plan and existing lease agreements. Further the operations satisfy the Deed of Restrictive Covenants imposed upon the property by the State of Florida which requires the operations to be predominantly commercial fishing working waterfront activities.

Staff requests permission to move forward with updated 5-yr leases based on the existing leases and supplemental conditions and rates described above. The revised lease agreements will be approved by the County Attorney and Risk Management prior to execution by the Chairman.

Fiscal Impact:

FY 14/15 – Lease revenues of not less than \$22,000 per year
 FY 15/16 - Lease revenues of not less than \$22,000 per year

Name: Ernest N. Brown or Virginia Barker, Natural Resources Management Department, (321) 633-2016

Clerk to the Board instruction: N/A

Exhibits Attached: A – Blue Crab Cove Contract; B – Covenants; C – Doc's Bait House Lease Agreement; D – Ms. Apple's Lease Agreement

Contract /Agreement (If attached):		Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR <input type="checkbox"/>
County Manager	Assistant County Manager	Department Director / Extension					
Stockton Whitten	Mel Scott	Ernest Brown/X52439					



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

February 18, 2015

MEMORANDUM

TO: Ernest Brown, Natural Resources Management Director

RE: Item II.A.3, Agreement to Renew Existing Lease with Supplemental Terms with Indian River Trading Company (dba Ms. Apples Crab Shack) and William C. Norwood (dba Doc's Bait House), for Continued Commercial Fisheries Operations at Griffis Landing

The Board of County Commissioners, in regular session on February 17, 2015, authorized the Chairman to execute an updated five-year lease with Indian River Trading Company and William C. Norwood for continued commercial fisheries operations at Griffis Landing, subject to final approval by the County Attorney and Risk Management.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/clm

VERBATIM TRANSCRIPT - ITEM II.A.3., AGREEMENT TO RENEW EXISTING LEASE WITH SUPPLEMENTAL TERMS WITH INDIAN RIVER TRADING COMPANY (DBA MS. APPLES CRAB SHACK) AND WILLIAM C. NORWOOD (DBA DOC'S BAIT HOUSE), RE: CONTINUED COMMERCIAL FISHERIES OPERATIONS AT GRIFFIS LANDING

Fisher: Let's take them in order here, so II.A.3., existing Lease for supplemental terms with Indian River Trading Company. Who has a concern with that?

Infantini: I do. This is a lease to lease out the space to Ms. Apples Crab Shack. Originally we purchased, Brevard County purchased this property from the owners, now leasing the property for \$2.8 million, and then subsequently we turned around and leased it back to them at a bargain basement price, which is roughly \$1.31 per square foot. The prevailing rate for leasing such space, even if I looked, I just looked it up again this morning, is anywhere from \$8 to \$50 per square foot; and when the County's looking for, you know, more revenue, I would think at least getting a fair value for what we're leasing back to an organization seems fit. So, for that reason I'm not in favor of approving this lease. I'd like to have it go back to staff, have them research the existing, the values that are out there for rental property; and that's my suggestion.

Fisher: Okay, can I get staff to comment on exactly how you got to this point and give us a little history here?

Brown: And I just thought you just pulled it so you could hear me talk on my very last Board day.

Fisher: Well.

Brown: No? Okay. The prevailing rates, that is actually a real challenge that we dealt with back in 2010 when the Board struggled with this. So, as you mentioned Commissioner, we acquired this property for \$2.8 million under the Stan Mayfield Working Waterfront Grant. That working waterfront grant was specific to preserve the cultural and economic heritage of commercial fisheries working waterfronts. At that particular time we were losing commercial fisheries from the landscape to what is normally a highest and best use for waterfront, which at that time was condominiums, and so Representative Stan Mayfield was a strong advocate for the preservation of commercial fisheries in particular; and in his honor, they created this granting mechanism to preserve these commercial fisheries. Now as part of that the State, when we accepted the money from the State, they required that we put a deed of restrictive covenants on this property. So the only thing that can go into operation there are commercial fisheries, commercial fisheries, working waterfront.

Infantini: What is a commercial fishery, because what I saw was they still have their restaurant and they still buy food, but it is not like people are dropping off . . .

when I think of a commercial fishery, I'm thinking people are pulling up, like they did back in Miami, pulling up to the boat docks and loading their seafood from those docks, and then putting it in that facility. As you recall, all of the docks were completely dilapidated. The boat ramp was so in such disrepair my engineer didn't even know there was a boat ramp there. So, I'm losing some of the point with the fishery, the working fisheries, because where are they getting their seafood, because it wasn't from the docks?

Brown: Right, the, currently Ms. Apples Crab Shack, the Indian River Trading Company, has 12 crabbers that provide local seafood to that establishment. It is, it is by definition, by State definition, not a restaurant. It's managed and inspected by the Department of Agriculture and Consumer Services. So it's technically an agricultural aquaculture activity. Okay? It's a wholesale and retail establishment for, as a seafood market; and there's a fine line and distinction between a restaurant versus wholesale retail fish market, but they are technically in the wholesale retail fish market. They are technically in the wholesale retail fish market box, and that distinction is made as to whether or not the Health Department inspects or whether or FDAC's inspects them. So they still do receive local seafood over the docks. In fact, the last facility they're the last facility in Brevard County that receives local seafood over its dock and then sells it to our citizens both local, wholesale or retail. Now, admittedly the Lagoon is not in a great place. We are for crabs we are about 11 percent of what the harvest used to be 27 years ago, and oysters are less than one percent. Clams are actually at .2 percent of what they were 27 years ago. So there's no doubt we're in a place where the local seafood industry is struggling. Hence the reason the State saw it necessary to preserve these elements. But there's no question, they are still receiving local seafood, and they do receive seafood from other parts of the country to maintain it. So when we talk about the purpose and intent of it, it was designed to preserve the cultural and economic heritage of our commercial fisheries. When we go to the, I think you used the term fair rate, rental rate, whatever that . . . I don't want to misquote you on that. When we looked at that, that was a very difficult thing to do because it's restricted to commercial fisheries operations. We can't put a Chart House there. We can't put a Bennigans or Applebee's or Chili's there, which would enjoy those kind of commercial rate structures. So we went to the only other place in Brevard County that has comparable activity and that's the Port Canaveral facilities, and we based those rates on Port Canaveral lease rates; and as we discussed, and it's in the documentation buried in there, but you know, the current published lease rates for Port Canaveral for marinas and fishing fleets and the other elements in there is \$1.20 per square foot. Now, that's a land use rate, and that's exactly what they're looking at here; and for the on the bulkhead, which is the Doc's Bait House is actually on the bulkhead, it's paying \$2.60 per square foot. So we had to go to the only known comparable in Brevard County to link those rates, because we cannot compare this to Applebee's or to Chili's or to

even Grill's Restaurant, which is actually on the riverfront because they're able to expand their businesses and meet that criteria.

Infantini: Could we then put it out to RFP so that we could see who else would be willing to lease this? Kind of like with the cell towers. We were saying, I think it was like \$5,000 a month. We're charging more for our cell tower space than we are for this acre of waterfront business frontage, and I just, it just seems like inequity. I just, I think it's not a time sensitive project. If we went out and just from word of mouth let people know, do a small amount of advertising, let working fisheries know if you'll buy local seafood that you could rent this out. I feel confident we could rent it out for more than \$20,000 a year. Heck, I would rent it for that much and buy local seafood. I think that we're losing the opportunity, and heard a huge amount of discussion from these Commissioners that they needed revenue, and here you have a viable business. I'm not sure what the business sense is to close this off.

Brown: We did build into this particular contract the CPI or three percent, which is exactly what the Board does with their budget to allow for that escalation to ensure that we do have some ability to increase it over time. I'm, this particular proposal is actually consistent with the last lease that we signed in 2010, and it's just locking it in for another five years.

Infantini: Right, but you remember we discussed the fair market value, and at that point you agreed that they were actually paying significantly less than . . . I think the fair market value we came up with, and I'm grasping at straws here, I think it was like \$12 per square foot. Ernie and I had a discussion about the market rate per square foot back then, and so I disagreed, and I think actually Commissioner Anderson was on the same page as me saying that he didn't think that was a fair rental rate, but . . .

Brown: Right, and Commissioner we did talk about that. The rate actually just changed, the first five years Ms. Apples Crab Shack was at a much lower rate, actually \$300 a month, and that was part of the negotiated contract; and the agreement that the State, or the County, agreed to that is at the end of the five years if the waterfront improvements were completed then it would go to the Port rate. That's actually what we're doing, because you're right, it was a much lower rate, \$300 a month versus what we're now dealing with \$1,100 a month, so it's tripled.

Infantini: I mean, I think we're actually charging them lower. Okay, I think we're actually charging them less than we're charging even our concessionaires.

Fisher: Okay. Mr. Brown, you have anything else you want to say? Did you finish your analysis of how you come up with this rate? Are you comfortable with what you've explained?

Brown: We can certainly go into more detail if you need to.

Fisher: Okay, all right, Commissioner Barfield then Commissioner Smith.

Barfield: Didn't we just do a similar one of these in Titusville or Crackerjacks?

Fisher: Yes, it's a little similar from the standpoint of it's a piece of property that actually the City owns, the County operates, and there's a restaurant on that site. It was kind of sitting vacant, and we actually went out for RFP and we only got one bidder, and so we renewed it. So, it's a waterfront property, but is a restaurant/bar type thing.

Barfield: That's a small business. I'm concerned if we put this out that we could put two small businesses out of business, and they've been there a long time. It's fair market value, and I'm for it. I mean, I know what it is. I know all about the area, and I believe that it's important to let these people stay there. It is very unique. It can't just be a restaurant. It has to be specifically according to the guidelines of the Mayfield Grant. So, I'm for it.

Fisher: Okay. Commissioner Smith.

Smith: Well, I can tell you from my point of view, when I first heard about this, I wasn't real crazy about it because we spent \$2.8 million on this property, and then basically took it off the market, because the deal that we made to preserve the fisheries; and then we turned around and we charged less rent than the person was paying for taxes. So, that doesn't float well with me either, but now that we've created this monster . . . can I use that word . . . I kind of think we're stuck with it because that property is so restricted now, if we raise this person's rent, they can't do anything like an ordinary businessman to improve his income in order to offset the increase in pay, I mean the increase in rent. He can't make it a restaurant. It would be a great place for a seafood restaurant or an on-the-water restaurant. People would come for miles around, but he can't do that, so we've tied the man's hands, and I think if we put him out of business, it probably would sit empty. I don't know that we could . . . in other words, what I'm saying is there's not a whole lot of people, or whole lot of businesses, that would be willing to go into business with their hands tied behind their back.

Fisher: Also just for the record too, will show how that was funded, because I think it's important to show the history of how this qualified?

Brown: Certainly. The funding mechanism, again it was \$2.8 million acquisition and \$1.8 million came from the State Grant, \$600,000 came from the Florida Inland Navigation District, and about \$385,000 came from MIRA. So that funding mechanism . . . if you want to talk about return on your investment from a local leveraging perspective, it's pretty significant return on our investment, and then we're able to recover actually twice as much revenue as we need to maintain the property now. So, while it's not maybe as high as some people would like to have the revenues, it cost us about \$10,000 a year to actually maintain the

property, and we're getting over \$20,000; and we put that into a fund to ensure that we can cover any unforeseen circumstances.

Fisher: Commissioner, we're you through Commissioner Smith? Okay, Commissioner Anderson. Yeah, I think that was important to note that of the \$2.8, \$2.5 came from other sources to purchase this property. It wasn't actually come out of General Fund or what have you. With that, I see Commissioner Infantini reaching again.

Infantini: Well, the point is we bought it from the individual that's renting it now for \$2.8 million. We then put over \$700,000 in repairs in the property, so I don't understand how \$20,000 per year is a good return on our investment when the investment is that of all the taxpayers. It's not just . . . you can't just look at Brevard County contributed \$350,000 toward the purchase. The purchase price was \$2.8 million, and after receiving \$2.8 million and then \$700,000 in repairs just to get it into a nice condition, or a decent condition, he's leasing it back for \$21,000 per year; and so I don't actually think he's locked in. And you can call it whatever you want, if you don't want to call it a restaurant. When I walked in there went up to the counter, I purchased food, and sat down and ate it, and so, even though it might not be classified as a restaurant based on who gets to inspect it, it's still a restaurant. They're not very well tied, and there's local fisheries that buy seafood from many different places. I just, I don't think it's time sensitive. I don't think that we're locked in to this, and to not take a chance . . . and I could be mistaken, there may not be anyone else who is willing to take it over, but at \$21,000 a year, I'm just going to throw my hat in and say, I bet we could get at least \$25,000 a year from somebody willing to lease it and do the exact same business as Ms. Apples is doing.

Barfield: I'd like to call the question.

Anderson: I just want Ernie to clarify something on the revenues received. Where does that go again?

Brown: It goes directly back into the maintenance and repair of the facility itself.

Anderson: So any revenues that we ever collect on a fishery will not be, could not be used for General Fund?

Brown: That is correct.

Anderson: Thank you.

Fisher: The State set up this grant program . . . will you explain how this all come about? I'm not sure it was clear, the Mayfield whole grant deal.

Brown: The Stan Mayfield Working Waterfront Grant was intentional designed to preserve commercial fisheries working waterfronts, and at the time in 2007 and

prior we were losing waterfront at an alarming rate.

Fisher: Condos going out.

Brown: Condos . . . as a matter of fact, this was fully entitled for condos, and the question that before the Board is do we want to preserve our heritage and a component of our economic diversity in Brevard County; and that was the intent that was set before the Board. At the time we had every single one of our State Delegations supporting it, and our current Delegation still supports it; and because of the nature of what this does, it maintains diversity in our economy and maintains the cultural heritage of our community.

Fisher: I'd like to say one other thing, I think this is the only active working waterfront property in the County, is that correct?

Brown: With the exception of the Port, yes.

Barfield: With that I'd like to make a motion that we approve this.

Fisher: Okay, I've got a motion by Commissioner Barfield. Do I have a second?

Anderson: Second.

Fisher: Second by Commissioner Anderson. Any further discussion? All in favor say Aye.

Fisher, Barfield, Anderson: Aye.

Fisher: All opposed?

Infantini, Smith: Nay.

Fisher: All right, 3, 2 against it. It passes.



Florida Communities Trust

June 19, 2009

Mr. Ernie Brown
Brevard County
2725 Judge Fran Jamieson Way, Bldg A-219
Viera, FL 32940

**RE: FCT Project Number: 08-002-WW1
Brevard County
Blue Crab Cove**

Dear Mr. Brown:

Enclosed please find a fully executed original of the Grant Contract and Confidentiality Agreement for the above-referenced Florida Communities Trust / Stan Mayfield Working Waterfront Project.

If you have any questions, please contact me at (850) 922-1692.

Sincerely,


Jay Sircy
Grants Specialist IV

js\

Enclosures

FCT Contract Number ~~07-CT- E1-08-FB-A1-002~~ ^{with} *J*
FLORIDA COMMUNITIES TRUST 002 *J*
08-002-WW1
BLUE CRAB COVE
CSFA # 52.013

**STAN MAYFIELD WORKING WATERFRONT
GRANT CONTRACT**

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

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

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

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

WHEREAS, FCT is funded through either Section 259.105(3)(c), Fla. Stat. of the Florida Forever Act, which provides for the distribution of two point five percent (2.5%), less certain reductions, of the net Florida Forever Revenue Bond proceeds to the Department, or any other revenue source designated by the Florida Legislature, to provide land acquisition grants to local governments and nonprofit working waterfront organizations for the acquisition of working waterfronts;

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

WHEREAS, Rule 9K-9, Florida Administrative Code ("F.A.C.") sets forth the procedures for the evaluation and selection of lands proposed for acquisition and Rule 9K-10, F.A.C. sets forth the acquisition procedures;

WHEREAS, on January 29, 2009, the FCT Governing Board evaluated and scored the applications to develop a ranking list of projects to present to the Board of Trustees of Internal Improvement Trust Fund;

WHEREAS, on April 13, 2009, the Board of Trustees of Internal Improvement Trust Fund selected and approved the projects which will receive funding;

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

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

WHEREAS, the purpose of this Agreement is to set forth the conditions that must be satisfied by the Recipient prior to the disbursement of any FCT Florida Forever funds awarded, as well as the restrictions that are imposed on the Project Site subsequent to its acquisition. Since the entire Project Site has not yet been negotiated for acquisition, some elements of the project are not yet known such as the purchase price, other project costs, and the terms upon which an owner will voluntarily convey the property.

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

I. PERIOD OF AGREEMENT

1. This Agreement shall begin upon the Recipient's project being selected for funding and shall end **April 15, 2010 ("Expiration Date")**, unless extended as set forth below or unless terminated earlier in accordance with the provisions of Article XIII of this Agreement.

2. FCT may extend this Agreement beyond the Expiration Date if FCT determines that significant progress is being made toward the acquisition of the Project Site or that extenuating circumstances warrant an extension of time. If FCT does not grant an extension the Recipient's award shall be rescinded and this Agreement shall terminate.

II. MODIFICATION OF AGREEMENT

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

III. DEADLINES

1. At least two original copies of this Agreement shall be executed by the Recipient and returned to the FCT office at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, as soon as possible and before **June 15, 2009**. If the Recipient requires more than one original document, the

Recipient shall photocopy the number of additional copies needed and then execute each as an original document. Upon receipt of the signed Agreements, FCT shall execute the Agreements, retain one original copy and return all other copies that have been executed to the Recipient.

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

4. No later than **June 15, 2009**, the Recipient shall deliver to FCT a written statement from the Project Site property owner(s) evidencing that the owner(s) is willing to entertain an offer from the Recipient and FCT, if not previously provided in the Application. No acquisition activity shall be commenced prior to FCT receipt of this statement.

6. No later than **June 15, 2009**, the Recipient shall deliver to FCT the executed Confidentiality Agreement provided to the Recipient by FCT, pursuant to Rule 9K-8.008(3), F.A.C. No acquisition activity shall be commenced prior to FCT receipt of the executed Confidentiality Agreement.

IV. FUNDING PROVISIONS

1. The FCT Florida Forever award granted to the Recipient ("FCT Award") will in no event exceed the lesser of Sixty Five Percent (65%) of the final Project Costs, as defined in Rule 9K-9.002(17), F.A.C., or Two Million Six Hundred Sixty Five Thousand Dollars And Zero Cents (\$2,665,000.00) unless FCT approves a different amount after determination of the Maximum Approved Purchase Price (MAPP), which shall be reflected in an addendum to this Agreement. FCT will not participate in Project Costs that exceed the grant award amount.

The FCT Award is based on the Recipient's estimate of final Project Costs in its application. When disbursing the FCT Award, FCT shall recognize only those Project Costs consistent with the definition in Rule 9K-9.002(17), F.A.C. FCT shall participate in the land cost at either the actual purchase price or the MAPP, whichever is less, multiplied by the percent stated in the above paragraph.

2. The FCT Governing Board ranked and the Board of Trustees of the Internal Improvement Trust Fund ("Trustees") selected the Recipient's Application for funding in order to acquire the entire Project Site identified in the Application. FCT reserves the right to withdraw or adjust the FCT Award if the acreage that comprises the Project Site is reduced or the project design is changed so that the objectives of the acquisition cannot be achieved. FCT shall consider any

request for Project Site boundary modification in accordance with the procedures set forth in Rule 9K-9.009, F.A.C.

If the Project Site is comprised of multiple parcels and multiple owners, then FCT reserves the right to withdraw or adjust the FCT Award if the priority parcel(s) or a significant portion of the Project Site 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 Comptroller 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 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, 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 9K-9.002(15), F.A.C. 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, 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 financially perform under this Agreement is contingent upon an annual appropriation by the Florida Legislature, and is subject to any modification in accordance with Chapter 216, Fla. Stat. or the Florida Constitution.

8. FCT's performance and obligation to financially perform under this Agreement is contingent upon the issuance of Florida Forever Revenue Bonds issued by the State of Florida and of the proceeds of the Florida Forever Revenue Bonds being released to the Department.

V. NOTICE AND CONTACT

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

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

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

Name: Ernie Brown
Title: Director of Natural Resources
Address: 2725 Judge Fran Jamieson Way, Bldg - A-219
Vienna, FL 32940
Phone: 321-633-2016 Fax: 321-633-2029
E-mail: _____

3. The Recipient authorizes the administrator, employee, officer or representative named in this paragraph to execute all documents in connection with this project on behalf of the Recipient, including, but not limited to, the Grant Contract or any addenda thereto, purchase agreement(s) for the property, grant reconciliation statement, closing documents and Declaration of Restrictive Covenants.

Name: _____
Title: _____
Address: _____

Phone: _____ Fax: _____
Email: _____

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

5. The Recipient hereby notifies FCT that the Recipient's Federal Employer Identification Number(s) is 59-6000523.

VI. PRE-CLOSING REQUIREMENTS

1. Prior to FCT approval of the signed purchase agreement(s), closing(s) of the real estate transaction(s) to acquire the Project Site and final disbursement of the FCT Award, the Recipient shall submit to FCT:

- a. Supporting documentation that the conditions imposed as part of this Agreement have been satisfied.
- b. 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.
- c. A signed statement by the Recipient that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the applicable adopted and approved comprehensive plan.
- d. Additional documentation as may be requested by FCT to provide Reasonable Assurance, as set forth in paragraph VII.4. below.

2. FCT shall approve the terms under which the interest in land is acquired pursuant to Section 380.510(3), Fla. Stat. Such approval is deemed given when FCT approves and executes the purchase agreement for acquisition of the Project Site, further described in paragraph VI.1.a. above.

3. All real property shall be obtained through a Voluntarily-Negotiated Transaction, as defined in Rule 9K-9.002(42). The use of or threat of condemnation is not considered a Voluntarily-Negotiated Transaction.

4. Any invoices requested, along with proof of payment, shall be submitted to FCT and be in a detail sufficient for a proper audit thereof.

5. Interest in the Project Site shall be titled in the Recipient.

6. The transfer of interest to the Recipient for the Project Site shall not occur until the requirements for the acquisition of lands, as specified in Section 380.507(11), Fla. Stat. and Rule Chapter 9K-10, F.A.C., have been fully complied with by the Recipient and FCT and the Recipient has complied with all Purchase Agreement requirements.

7. The deed transferring interest of the Project Site to the Recipient shall set forth the executory interest of the Board of Trustees of the Internal Improvement Trust Fund.

VII. MANAGEMENT PLAN; ANNUAL STEWARDSHIP REPORT

1. Prior to the signature of the purchase agreement(s), closing(s) of the real estate transaction(s) and final disbursement of the FCT Award, the Recipient shall submit to FCT and have approved a Management Plan that complies with Rule 9K-9.010, F.A.C. and addresses the criteria and conditions set forth in Articles VII, VIII, IX, X and XI herein. The Recipient is strongly urged to coordinate with FCT staff in order to ensure that FCT approval of the Management Plan occurs prior to the closing date of the real estate transaction(s) associated with the Project Site and the disbursement of the FCT Award.

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

- a. An introduction containing the project name, location and other background information relevant to management.
- b. The stated purpose for acquiring the Project Site as proposed in the Application and a prioritized list of management objectives.
- c. A detailed description of all proposed uses including existing and proposed physical improvements and the impact on natural resources.
- d. A scaled site plan drawing showing the Project Site boundary, existing and proposed physical improvements.
- e. A description of proposed educational displays and programs to be offered, if applicable.
- f. A schedule for implementing the development and management activities of the Management Plan.
- g. Cost estimates and funding sources to implement the Management Plan.

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

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

4. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105 and Chapter 380, Part III, Fla.Stat., the Recipient(s) shall be required to provide FCT with Reasonable Assurance, pursuant to Rule 9K-9.002(19), 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 is a Non-profit Working Waterfront Organization and does not include at least one Local Government partner, FCT will require the Recipient to establish a management endowment in an amount sufficient to ensure performance; and provide a guaranty or pledge by the Local Government, the Water Management District in which the project is located, or a managing agency of the Board of Trustees to act as a backup manager to assume responsibility for management of the Project Site in the event the Recipient is unable to continue to manage the Project Site.

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. 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 or land alterations will not adversely impact the management of the Project Site. FCT's approval of the Recipient's Management Plan addressing the items mentioned herein shall be considered written approval from FCT.

7. As required by Rule 9K-9.012, F.A.C., each year after FCT closes on the Project Site, the Recipient shall prepare and submit to FCT an annual stewardship report that documents the progress made on implementing the Management Plan.

VIII. SPECIAL MANAGEMENT CONDITIONS

In addition to the Management Plan conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the project site and result from either representations made in the application that received scoring points or observations made by FCT staff during the site visit described in Rule 9K-9.007, F.A.C.:

1. The future land use and zoning designations of the project site shall be changed to Working Waterfronts or other similar category.
2. 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 that the project site was purchased with funds from the Florida Communities Trust Program and the Recipient.
3. At closing, the existing submerged land lease will be transferred to the Recipient.

4. Prior to closing, the Recipient will provide a letter from the Department of Environmental Protection stating the current land owner is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wetland certification forms are current or that the facilities or structures are not subject to a state sovereignty submerged land lease.
5. Annually the Recipient will provide a letter from the Department of Environmental Protection stating the Recipient is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wetland certification forms are current or that the facilities.
6. The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing dilapidated docking facility at the project site.
7. The existing buildings on the project site will be used as a working waterfront building.
8. The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing boat ramp at the project site.
9. The Recipient will set aside a storage area for traps, nets, or other gear need for commercial fishing or aquaculture operations.
10. Permanent structured displays of artifacts and other items shall be provided that provides information about the economic, cultural or historic heritage of Florida's traditional Working Waterfronts.
11. Interpretive kiosk or signs shall be provided that educate the public about the economic, cultural, or historic heritage of Florida's traditional Working Waterfronts.

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

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

2. The Declaration of Restrictive Covenants shall also restate the conditions that were placed on the Project Site at the time of project selection and initial grant approval. The Declaration of Restrictive Covenants shall be executed by FCT and the Recipient at the time of the closing 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 can not be reasonably completed within the specified thirty (30) day time frame, the Recipient shall submit a timely written request to the FCT Program Manager that includes the status of the current activity, the reasons for the delay and a time frame for the completion of the curing activities. FCT shall submit a written response within thirty (30) days of receipt of the request and approval shall not be unreasonably withheld. It is FCT's position that all curing activities shall be completed within one hundred twenty (120) days of the Recipient's notification of the violation. However, if the Recipient can demonstrate extenuating circumstances exist to justify a greater extension of time to complete the activities, FCT shall give the request due consideration. If the Recipient fails to correct the violation within either (a) the initial thirty (30) day time frame or (b) the time frame approved by FCT pursuant to the Recipient's request, all interest in the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, Nonprofit Working Waterfront Organization, Water Management District in which the project is located, or a managing agency of the Board of Trustees who agrees to accept interest and manage the Project Site. FCT shall treat such property in accordance with Section 380.508(4)(e), Fla. Stat.

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

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

2. If the existence of the Recipient terminates for any reason, interest to the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, Nonprofit Working Waterfront Organization, Water Management District in which the project is located, or a managing agency of the Board of Trustees who agrees to accept interest and manage the Project Site.

3. Following the acquisition of the Project Site, the Recipient shall ensure that the future land use and zoning designation assigned to the Project Site is for a category dedicated to working waterfronts. 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 recognizing FCT's role in the acquisition of the Project Site.

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

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

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

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

3. If the Project Site, after its acquisition by the Recipient and/or the Trustees, is to remain subject to any of the disallowable activities, the Recipient shall provide notice to FCT, as

provided for in paragraph V.1., at least sixty (60) calendar days in advance of any such transactions, events or circumstances, and shall provide to FCT such information as FCT reasonably requests in order to evaluate for approval the legal and tax consequences of such disallowable activities.

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

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

XII. RECORDKEEPING; AUDIT REQUIREMENTS

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

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

In connection with the audit requirements addressed herein, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Fla. Stat. This includes submission of a reporting package as defined by Section 215.97(2)(d), Fla. Stat. and Chapter 10.550 (local government entities) or 10.650 (nonprofit organizations), Rules of the Auditor General.

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

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

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

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

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

and

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

State of Florida Auditor General at the following address:

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

5. If the audit shows that any portion of the funds disbursed hereunder were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to FCT of all funds not spent in accordance with the applicable regulations and

Agreement provisions within thirty (30) days after FCT has notified the Recipient of such non-compliance.

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

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

XIII. DEFAULT; REMEDIES; TERMINATION

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

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

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

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

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

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

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

XIV. LEGAL AUTHORIZATION

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

XV. STANDARD CONDITIONS

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

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

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

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

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

Contract No. 09-CT-E1-08-FB-A1-002
FCT Project No: 08-002-WW1

CONFIDENTIALITY AGREEMENT

This is a Confidentiality Agreement ("Agreement") pursuant to Rule 9K-10.005(3), Florida Administrative Code (F.A.C.).

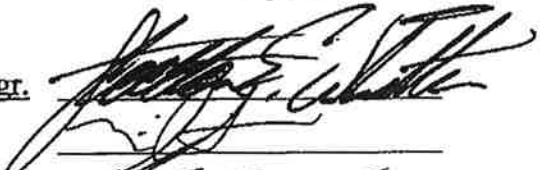
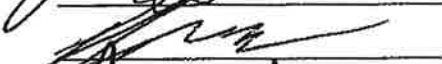


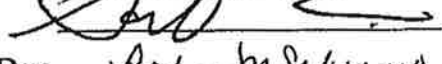
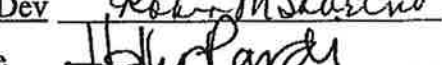
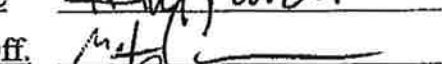
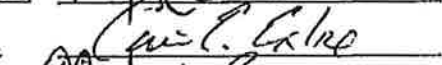


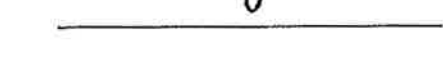

Parties to the Confidentiality Agreement: BREVARD COUNTY ("Recipient"), a local government of the State of Florida, and the FLORIDA COMMUNITIES TRUST ("FCT"), a non-regulatory agency within the Department of Community Affairs.

Parcels Covered by this Agreement: This Agreement covers all parcels identified as part of the project site in SMWW application 08-002-WW1 that was selected for funding and is governed by a Grant Contract for FCT Project Number 08-002-WW1 ("Project Site").

Confidentiality:

- a) Pursuant to Rule 9K-10.002(8), F.A.C., the term "Confidential" refers to information that shall not be available for public disclosure or inspection and is exempt from the provisions of Section 119.07, Florida Statutes (F.S.).
- b) The Recipient and its agents shall maintain the confidentiality of all appraisals, offers, and counteroffers as required by Section 125.355(1)(a), F.S., for counties, or Section 166.045(1)(a), F.S., for municipalities, and Chapter 9K-10, F.A.C. The Recipient may disclose such confidential information only to the individuals listed herein below.
- c) Requests to add persons to the disclosure list shall be made in writing. Upon the written consent of the FCT Community Program Manager, the Recipient shall execute an Addendum to the Agreement. All confidentiality requirements outlined above shall apply to individuals added to the list.
- d) The undersigned board members and staff of the Recipient and its agents, if any, agree to maintain the confidentiality of appraisal information, offers and counter-offers concerning FCT Project Number 08-002-WW1, as required by Section 125.355 (1)(a), F.S., for counties or Section 166.045 (1)(A), F.S., for municipalities, Chapter 9K-10, F.A.C., and this Confidentiality Agreement between the Recipient and FCT.

e) The undersigned certify that they have no legal or beneficial interest in the Project Site.

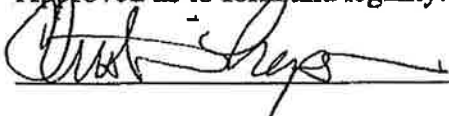
Date	Recipient Board Member, Staff or Agent Name	Signature
<u>6/3/09</u>	<u>Stockton Whitten, Interim Co Mgr.</u>	
<u>6-3-09</u>	<u>Mel Scott, Assistant Co. Mgr.</u>	
<u>6/2/09</u>	<u>Ernie Brown, Director, NRMO</u>	
<u>6-3-09</u>	<u>Greg Lugar, Dir, Econ. & Fin. Prog.</u>	
<u>6/3/09</u>	<u>Scott Knox, County Attorney</u>	
<u>6/3/09</u>	<u>Scott Ellis, Clerk of the Court</u>	
<u>6/3/09</u>	<u>Robin Sobrino, Dir. Planning & Dev</u>	
<u>6/3/09</u>	<u>Holly Pardi, Public Works Office</u>	
<u>6-2-09</u>	<u>Matt Culver, Natural Res. Mgt Off.</u>	
<u>6-3-09</u>	<u>Carie Exline, Clerk of Court Off.</u>	
<u>6-3-09</u>	<u>Christine Lepore, County Atty. Off.</u>	
<u>6-5-09</u>	<u>Trudie Infantini, Commissioner, D-3</u>	

BREVARD COUNTY

By: Chuck Nelson
Title: Chuck Nelson, Chairman

As approved by the Board on
Date: May 19, 2009

Approved as to form and legality:



By: Christine Lepore,
Title: Assistant County Attorney

FLORIDA COMMUNITIES TRUST

By: Ken Reecy
Ken Reecy
Community Program Manager

Date: 6-18-09

Approved as to form and legality:

By: Kristen L. Coons
Title: Trust Counsel

ATTEST:


Scott Ellis, Clerk of Court

Exhibit B

This document prepared by
Kristen L Coons, Esquire
Florida Communities Trust
Department of Community Affairs
2555 Shumard Oak Blvd
Tallahassee, FL 32399

FLORIDA COMMUNITIES TRUST
SMWW1 AWARD #08-002-WW1
FCT Contract #09_CT=E1-08-F8-J1-002
BLUE CRAB COVE

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION is entered into by and between the **FLORIDA COMMUNITIES TRUST** ("FCT"), a nonregulatory agency within the State of Florida Department of Community Affairs, and **BREVARD COUNTY**, a political subdivision of the State of Florida ("Recipient")

THIS DECLARATION IS ENTERED INTO BASED ON THE FOLLOWING FACTS

WHEREAS, the intent of this Declaration is to impose terms and conditions on the use of state funds and the lands acquired with such state funds, as described in Exhibit "A" attached hereto and made a part hereof ("Project Site"), that are necessary to ensure compliance with applicable Florida law and to otherwise implement the provisions of Sections 259 105, 259 1051 and Chapter 380, Part III, Florida Statutes,

WHEREAS, Chapter 380, Part III, Fla Stat, the Florida Communities Trust Act, creates a non-regulatory agency within the Department of Community Affairs ("Department") that 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 working waterfront organizations to carry out projects and activities authorized by the Florida Communities Trust Act,

WHEREAS, the people of the State of Florida are concerned about the loss of adequate access to tidal waters for the commercial harvesting of wild and aquacultured marine organisms within the State of Florida,

WHEREAS, FCT is funded through either Section 259 105(3)(c), Fla Stat of the Florida Forever Act, which provides for the distribution of two point five percent (2.5%), less certain reductions, of the net Florida Forever Revenue Bond proceeds to the Department, or any other revenue source designated by the Florida Legislature, to provide land acquisition grants to local governments and nonprofit working waterfront organizations for the acquisition of working

DRC\08-002-WW8
5/17/2010

waterfronts,

WHEREAS, the State of Florida, acting by and through FCT, and the Recipient seek to permanently preserve and conserve the Project Site as a working waterfronts since the Project Site has significant value as working waterfront real estate to provide access to tidal waters to support or to provide direct services to Working Waterfronts Businesses,

WHEREAS, Rule 9K-9, Florida Administrative Code ("F A C"), sets forth the procedures for the evaluation and selection of lands proposed for acquisition and Rule 9K-10, F A C sets forth the acquisition procedures,

WHEREAS, FCT has approved the terms under which the Project Site was acquired and the deed whereby the Recipient acquired title to the Project Site. The deed shall contain such covenants and restrictions as are sufficient to ensure that the use of the Project Site at all times complies with Section 375.051, Florida Statutes and Section 9, Article XII of the State Constitution and it shall contain clauses providing for the conveyance of title to the Project Site to the Board of Trustees of the Internal Improvement Trust Fund ("Trustees") upon the failure of the Recipient to use the Project Site acquired thereby for such purposes,

WHEREAS, the purpose of this Declaration is to set forth the covenants and restrictions that are imposed on the Project Site subsequent to disbursing FCT Florida Forever funds to the Recipient for Project Costs, and,

WHEREAS, this Declaration constitutes a restriction and covenant that shall forever run with the land and is binding upon the Recipient, its successors, and assigns in the event of any transfer, sale or foreclosure of the Project Site

NOW THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, FCT and the Recipient do hereby contract and agree as follows

I PERIOD OF AGREEMENT

1 This Declaration shall begin upon execution by both parties. The covenants and restrictions contained herein shall run with the Project Site and shall bind, and the benefit shall inure to, FCT and the Recipient and their respective successors and assigns

II. MODIFICATION OF DECLARATION

1 Either party may request modification of the provisions of this Declaration 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 Declaration

III RECORDING AND APPROVAL OF DECLARATION OF RESTRICTIVE COVENANTS

1 Upon execution by the parties hereto, the Recipient shall cause this Declaration to be recorded and filed in the official public records of **Brevard County, Florida**, and in such manner and in such other places as FCT may reasonably request. The Recipient shall pay all fees and charges incurred in connection therewith.

2 The Recipient and FCT agree that the State of Florida Department of Environmental Protection shall forward this Declaration to the Department of Environmental Protection Bond Counsel for review. In the event Bond Counsel opines that an amendment is required to this Declaration so that the tax-exempt status of the Florida Forever Bonds is not jeopardized, FCT and the Recipient shall amend the Declaration accordingly.

IV NOTICE AND CONTACT

1 All notices provided under or pursuant to this Declaration shall be in writing and delivered either by hand delivery or first class, certified mail, return receipt requested, to the addresses specified below. Any such notice shall be deemed received on the date of delivery if by personal delivery or upon actual receipt if sent by registered mail.

FCT
Florida Communities Trust
Department of Community Affairs
2555 Shumard Oak Blvd
Tallahassee, FL 32399-2100
ATTN: Program Manager

Recipient
Natural Resources Management Office
2725 Judge Fran Jamieson Way Bldg A Room 219
Viera, FL 32940
ATTN: Ernest Brown

2 In the event that a different representative or address is designated for paragraph 1 above after execution of this Declaration, notice of the change shall be rendered to FCT as provided in paragraph 1 above.

V. PROJECT SITE TITLE REQUIREMENTS IMPOSED BY CHAPTER 259, CHAPTER 375 AND CHAPTER 380, PART III, FLA. STAT

1 Any transfer of the Project Site shall be subject to the approval of FCT and FCT shall enter into a new agreement with the transferee containing such covenants, clauses or other restrictions as are sufficient to protect the interest of the State of Florida.

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

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

4 In the event that the Project Site is damaged or destroyed or title to the Project Site, or any part thereof, is taken by any governmental body through the exercise or the threat of the exercise of the power of eminent domain, the Recipient shall deposit with FCT any insurance proceeds or any condemnation award and shall promptly commence to rebuild, replace, repair or restore the Project Site in such manner as is consistent with the Declaration. FCT shall make any such insurance proceeds or condemnation award moneys available to provide funds for such restoration work. In the event that the Recipient fails to commence or to complete the rebuilding, repair, replacement or restoration of the Project Site after notice from FCT, FCT shall have the right, in addition to any other remedies at law or in equity, to repair, restore, rebuild or replace the Project Site so as to prevent the occurrence of a default hereunder

Notwithstanding any of the foregoing, FCT shall have the right to seek specific performance of any of the covenants and restrictions of this Declaration concerning the construction and operation of the Project Site

VI. MANAGEMENT OF PROJECT SITE

1 The Project Site shall be managed only for the conservation, protection and enhancement of working waterfronts, along with other related uses necessary for the accomplishment of this purpose. The proposed uses for the Project Site are specifically designated in the Management Plan approved by FCT

2 The Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to working waterfront 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

3 The Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Declaration comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the adopted and approved comprehensive plan for the jurisdiction, as applicable. Evidence shall be provided to FCT that all required licenses and permits have been obtained prior to the commencement of any construction

4 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

5 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

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 by FCT upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources or working waterfront aspects 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 If archaeological and historic sites are located on the Project Site, the Recipient shall comply with Chapter 267, Fla Stat. The collection of artifacts from the Project Site or the disturbance of archaeological and historic sites on the Project Site shall be prohibited unless prior written authorization has been obtained from the Department of State, Division of Historical Resources.

8 As required by Rule 9K-9, 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.

VII SPECIAL MANAGEMENT CONDITIONS

In addition to the Management Plan conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the project site and result from either representations made in the application that received scoring points or observations made by FCT staff during the site visit described in Rule 9K-9 007, F A C.

1 The future land use and zoning designations of the project site shall be changed to Working Waterfronts or other similar category.

2 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 that the project site was purchased with funds from the Florida Communities Trust Program and the Recipient.

3 At closing, the existing submerged land lease will be transfer to the Recipient.

4 Prior to closing, the Recipient will provide a letter from the Department of Environmental Protection stating the current land owner is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wet slip certification forms are current or that the facilities or structures are not subject to a state sovereignty submerged land lease

5 Annually the Recipient will provide a letter from the Department of Environmental Protection stating the Recipient is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wet slip certification forms are current or that the facilities

6 The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing dilapidated docking facility at the project site

7 The existing buildings on the project site will be used as a working waterfront building

8 The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing boat ramp at the project site

9 The Recipient will set aside a storage area for traps, nets, or other gear need for commercial fishing or aquaculture operations

10 Permanent structured displays of artifacts and other items shall be provided that provides information about the economic, cultural or historic heritage of Florida's traditional Working Waterfronts

11 Interpretive kiosk or signs shall be provided that educate the public about the economic, cultural, or historic heritage of Florida's traditional Working Waterfronts

VIII. RECORDKEEPING; AUDIT REQUIREMENTS

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

2 If the Recipient expends a total amount of State financial assistance equal to or in excess of \$500,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215 97, Fla Stat , the applicable

rules of the Executive Office of the Governor and the Comptroller and Chapter 10 550 (local government entities) or Chapter 10 650 (nonprofit organizations), Rules of the Auditor General In determining the State financial assistance expended in its fiscal year, the Recipient shall consider all sources of State financial assistance, including State funds received from FCT, other state agencies and other non-state entities State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements The funding for this Declaration was received by FCT as a grant appropriation

In connection with the audit requirements addressed herein, the Recipient shall ensure that the audit complies with the requirements of Section 215 97(7), Fla Stat This includes submission of a reporting package as defined by Section 215 97(2)(d), Fla Stat and Chapter 10 550 (local government entities) or 10 650 (nonprofit organizations), Rules of the Auditor General

3 If the Recipient expends less than \$500,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215 97, Fla Stat is not required If the Recipient elects to have an audit conducted in accordance with the provisions of Section 215 97, Fla Stat , the cost of the audit must be paid from non-State funds (i e , the cost of such an audit must be paid from Recipient funds not obtained from a State entity)

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

Department of Community Affairs (at each of the following addresses)
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

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

State of Florida Auditor General at the following address
Auditor General's Office
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

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

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

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

IX DEFAULT, REMEDIES, TERMINATION

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

X LEGAL AUTHORIZATION

1 The Recipient certifies with respect to this Declaration that it possesses the legal authority to receive funds to be provided under this Declaration and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Declaration 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 Declaration.

XI. STANDARD CONDITIONS

1 This Declaration shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Declaration 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 Declaration.

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.

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 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

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

This Declaration including Exhibit "A" embodies the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Declaration

Witness

[Signature]
Print Name scott Ellis, Clerk

[Signature]
Print Name Christine Mulligan

BREVARD COUNTY, a political subdivision
of the State of Florida

By Mary Bolin

Mary Bolin, Chairman
As approved by the Board on

Date May 18, 2010

Approved as to Form and Legality

By [Signature]
Print Name Christine Lepore

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 18 day of May,
2010, by Mary Bolin on behalf of the Local Government, and who is personally
known to me

[Signature]
Notary Public

Print Name Tamara J. Van Fossan

Commission No _____

My Commission Expires _____



Witness

[Signature]
Print Name Miriam Snipes

[Signature]
Print Name John Sirey

FLORIDA COMMUNITIES TRUST

By Ken Reecy
Ken Reecy, Community Program Manager
Florida Communities Trust

Date 6-14-10

Approved as to Form and Legality
By [Signature]
Kristen L. Coons, Trust Counsel

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 14 day of June, 2010, by **Ken Reecy**, Community Program Manager, Florida Communities Trust, who is personally known to me

[Signature]

Notary Public
Print Name _____
Commission No _____
My Commission Expires _____



EXHIBIT "A"

DRC\08-002-WW8
5/17/2010

PARCEL A

A PARCEL OF LAND LYING IN SECTION 35, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGIN AT AN IRON ROD MONUMENTING THE SOUTHWEST CORNER OF LOT 17, BLOCK "A" OF MAP NO ONE, MERRITT WINTER HOME DEVELOPMENT, RECORDED IN PLAT BOOK 2, PAGE 55, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND RUN S 03 degrees 28 minutes 07 seconds E, ALONG A RADIAL LINE, A DISTANCE OF 10.27 FEET TO A NAIL AND DISK ON THE NORTH RIGHT OF WAY LINE OF STATE ROAD NO 520 (AS DETERMINED BY FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, STATE JOB #70100, PROJECT #1124, DATED JUNE 1977), SAID POINT BEING ON AN 11,494.20 FOOT RADIUS CURVE TO THE LEFT, THENCE WESTERLY, ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 03 degrees 35 minutes 34 seconds, A DISTANCE OF 720.77 FEET TO AN IRON ROD, THENCE N 05 degrees 51 minutes 28 seconds W, A DISTANCE OF 79.27 FEET TO A NAIL AND DISK SET IN AN EXISTING WOOD DOCK, THENCE CONTINUE N 05 degrees 51 minutes 28 seconds W, A DISTANCE OF 2 FEET, MORE OR LESS, TO AND INTO THE WATERS OF THE INDIAN RIVER, THENCE RETURN TO THE POINT OF BEGINNING AND RUN N 11 degrees 28 minutes 42 seconds W, ALONG THE WESTERLY RIGHT OF WAY LINE OF MYRTICE AVENUE (FORMERLY KNOWN AS INDIAN RIVER BOULEVARD), A DISTANCE OF 87.27 FEET TO A NAIL AND DISK MONUMENTING THE NORTHEAST CORNER OF THE "CASINO LOT" (AS INDICATED ON THE SUBDIVISION RECORDED PLAT OF MERRITT CITY SUBDIVISION RECORDED IN PLAT BOOK 3, PAGE 45, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA), THENCE S 83 degrees 22 minutes 47 seconds W, ALONG THE NORTH LINE OF SAID "CASINO LOT", A DISTANCE OF 21.75 FEET TO AN IRON ROD ON THE WESTERLY RIGHT OF WAY LINE OF MYRTICE AVENUE (A 40 FOOT WIDE RIGHT OF WAY), THENCE N 16 degrees 21 minutes 00 seconds W, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 120.98 FEET TO A CONCRETE MONUMENT ON THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 31, BLOCK 1 OF SAID MERRITT CITY SUBDIVISION, THENCE WEST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF LOT 31, A DISTANCE OF 345 FEET, MORE OR LESS, TO AND INTO THE WATERS OF THE INDIAN RIVER, THENCE SOUTHWESTERLY, MEANDERING SAID WATERS OF THE INDIAN RIVER, TO AN INTERSECTION WITH THE THIRD COURSE OF THIS DESCRIPTION

PARCEL B

A PARCEL OF SUBMERGED LAND LYING IN SECTION 35, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, IN THE INDIAN RIVER LAGOON, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCE AT THE NORTHEAST CORNER OF THE "OUTLOT" FOR LOT 31, BLOCK 1, OF MERRITT CITY SUBDIVISION, RECORDED IN PLAT BOOK 3, PAGE 45, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND RUN WEST ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID "OUTLOT", A DISTANCE OF 344.58 FEET TO A POINT ON THE "ORDINARY HIGH WATER LINE" (OHWL) ON/FOR THE INDIAN RIVER, THENCE S 23 degrees 13 minutes 59 seconds W, ALONG SAID OHWL, A DISTANCE OF 28.20 FEET THENCE S 30 degrees 16 minutes 14 seconds W, ALONG SAID OHWL, A DISTANCE OF 67.08 FEET, THENCE S 40 degrees 27 minutes 39 seconds W, ALONG SAID OHWL, A DISTANCE OF 21.23 FEET TO THE POINT OF BEGINNING, THENCE S 34 degrees 47 minutes 56 seconds W, ALONG SAID OHWL, A DISTANCE OF 94.44 FEET, THENCE S 20 degrees 12 minutes 36 seconds W, ALONG SAID OHWL, A DISTANCE OF 15.45 FEET, THENCE S 58 degrees 36 minutes 41 seconds W, ALONG SAID OHWL, A DISTANCE OF 9.58 FEET, THENCE S 76 degrees 07 minutes 18 seconds W, ALONG SAID OHWL, A DISTANCE OF 20.64 FEET, THENCE S 03 degrees 28 minutes 55 seconds E, ALONG SAID OHWL, A DISTANCE OF 4.69 FEET TO A POINT ON AN EXISTING CONCRETE BOAT RAMP, THENCE S 79 degrees 16 minutes 02 seconds W, ALONG SAID OHWL AND CONCRETE BOAT RAMP, A DISTANCE OF 14.31 FEET TO A POINT ON A WOOD BULKHEAD, THENCE N 26 degrees 53 minutes 03 seconds W, ALONG SAID OHWL AND BULKHEAD, A DISTANCE OF 18.44 FEET, THENCE S 88 degrees 45 minutes 43 seconds W, ALONG SAID OHWL AND BULKHEAD, A DISTANCE OF 139.53 FEET, THENCE N 05 degrees 51 minutes 28 seconds W, A DISTANCE OF 4.96 FEET, THENCE N 88 degrees 29 minutes 19 seconds E, A DISTANCE OF 150.98 FEET, THENCE N 36 degrees 08 minutes 03 seconds E, A DISTANCE OF 128.41 FEET, THENCE S 53 degrees 5 minutes 57 seconds E, A DISTANCE OF 28.37 FEET TO THE POINT OF BEGINNING

LEASE ASSUMPTION AGREEMENT

W / *MS*

This Agreement made and entered into this 28th day of June, 2010, by and between WILLIAM C. NORWOOD dba DOC'S BAIT HOUSE hereinafter referred to as "Tenant," and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision to the State of Florida, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, the County intends to purchase and maintain a Historic Working Waterfront known as the Blue Crab Cove in accordance with the Florida Communities Trust Stan Mayfield Working Waterfront Grant (hereinafter "the Grant") for the purpose of providing public access, maintaining and preserving commercial fisheries and associated water dependent activities in Brevard and providing education regarding the historic and economic importance of these activities for the general public; and

WHEREAS, the property will be subject to a Declaration of Restrictive Covenants recorded in the Official Records of Brevard County and a management plan pursuant to the requirements of the grant contract; and

WHEREAS, all activities by Landlord and Tenant shall be consistent with the Stan Mayfield Working Waterfront Grant Contract signed May 19, 2009 attached hereto as Exhibit "B" and the Declaration of Restrictive Covenants and the state approved Management Plan required by the Grant contract; and

WHEREAS, the Blue Crab Cove property is currently occupied by two tenants each of whom operate water dependent and fishery related businesses meeting the intent of the Grant; and,

WHEREAS, the County is working to allow both businesses to remain in place for a period of time to ensure the viability of the commercial fishery benefit; and

WHEREAS, the County wishes to assume the existing lease between Seller, Merritt Island Land Trust and the Tenant, Doc's Bait House, attached hereto as Exhibit "A"; and

WHEREAS, the County wishes to assure that the tenant, Doc's Bait House agrees to operate the business as a Historic Working Waterfront subject to the Stand Mayfield Working Waterfront Grant Contract a copy of which is attached hereto as Exhibit "B" any state approved Management Plan and the proposed deed restrictions shown required by the Grant, and

WHEREAS, the existing lease provides for payment of upon renewal and that term, current market rate, requires clarification; and

WHEREAS, the duties between the parties also require clarification,

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. The recitals above are hereby incorporated into this agreement.

2. The lease between Merritt Island Land Trust and Doc's Bait House dated February 6, 2010 and attached hereto as Exhibit "A" is hereby assumed by Brevard County as the Landlord. The parties agree to the additional terms and clarifications provided herein as an amendment to the lease agreement assumed.

3. The paragraph relating to the term of the lease currently states:

The term of this Lease will be from 18 February, 2010 until 17 February, 2015. If Tenant is in full compliance with all of the terms of this Lease at the expiration of this term, and if the Tenant remains as tenant after the expiration of this Lease with the consent of the Landlord but without signing a new lease, a new year to year tenancy will be created with the same terms and conditions as this Lease, except that the rent shall be at the current market rate in each year and such new tenancy may be terminated by ninety (90) days written notice from either the Tenant or the Landlord.

The following language is added

Current market rate is defined as the lease rates charged by the Canaveral Port Authority for property. There are different lease rates charged by the Canaveral Port Authority for different areas in the Port's jurisdiction. The rate charged pursuant to this agreement shall change based on the construction of waterfront improvements defined in the management plan. Specifically, if the waterfront improvements described in the management plan have not been

completed, the current market rate rental for Doc's Bait House shall be the Port Canaveral lease rate for Marinas/Fishing Fleet, currently \$1.20 per sq ft, or whatever that amount is determined to be by the Canaveral Port Authority at the time of renewal, if any. If the prescribed waterfront improvements described in the management plan are substantially completed, the current market rate for Doc's Bait House rental will be the cove rate along the Port's bulkhead, currently, \$2.60 per sq. ft, or whatever that amount is determined to be by the Canaveral Port Authority for the bulkhead area at the time of renewal, if any.

4. **PAYMENT DELIVERY.** The Tenant, in transmitting payments to the County hereunder, shall make all checks payable to Brevard County Board of County Commissioners, in care of Natural Resources Management Office, 2725 Judge Fran Jamieson Way, Building A, Room 219, Viera, Florida 32940.

5. **RIGHT TO AUDIT RECORDS, ACCOUNTING PROCEDURES AND REPORTS.** In the performance of this Agreement, the Tenant shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the County upon reasonable advance notice and shall be retained by the Tenant for a period of three years after termination of this agreement. The Tenant shall cooperate with and provide the County, or its duly authorized representative, any information or reports concerning its activities, income, revenues, expenses, and disbursements as may be necessary under the provisions of the Grant or as otherwise may reasonably be required, when so requested.

6. **PUBLIC RECORDS.** All records or documents created by the Tenant, or provided to the Tenant by the County, in connection with the activities or services provided by the Tenant under the terms of this Agreement, are public records and the Tenant agrees to comply with any request for such public records or documents made in accordance with Section 119.07, Florida Statutes.

7. **COPYRIGHT.** No reports, data, programs or other material produced, in whole or in part for the benefit and use of the County, under this Agreement, shall be subject to copyright by Tenant in the United States or any other Country.

8. **SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

9. **OPERATION AND MAINTENANCE.** In addition to the duties provided in the existing lease, Tenant shall comply with all requirements of the Stan Mayfield Working Waterfront Grant contract attached hereto and incorporated herein as Exhibit B and any state approved Management Plan and deed restrictions required by that grant contract.

10. **COUNTY OBLIGATIONS.** The County's obligations generally remain as defined by the lease being assumed. The Landlord and the Tenant acknowledge that the payment of sales tax is not addressed in the lease, but the Landlord has been paying the sales tax. As the new Landlord the County acknowledges the obligation to pay the sales tax. In addition, clarification is provided herein, that the County shall take no action to eliminate the existing ambient water circulation system to ensure live seafood viability.

11. **IMPROVEMENTS.** The Tenant agrees that all requests for improvements and/or changes will be submitted, in writing, for prior approval, to the Director, and if necessary, to the Brevard County Planning and Development Department, the Brevard County Public Health Department, or any other governmental agency requiring approval. The Tenant agrees that any and all improvements and/or changes once approved will be at the expense of the Tenant.

It is hereby mutually agreed and understood that all fixtures permanently attached to the Premises shall become and remain the property of the County. At the time that the County approves the improvements, the County and the Tenant shall agree as to whether the improvements are fixtures which shall remain the County's property at the end of this Agreement or any extension renewal hereof.

The Tenant shall ensure that any contractor which the Tenant may hire to perform any construction, renovation, or repairs to the Premises, shall not be entitled to file any liens, mechanic's or otherwise, against the Premises or any County property to secure the contractor's

interests or payments. Any contract which the Tenant signs or executes with a contractor shall include a provision which requires the contractor to waive the right to file any such liens against County property and a provision which requires the contractor to include the same waiver by any subcontractor which the contractor may hire in an agreement/contract the contractor executes with the subcontractor. Minor work, not required to be performed by a licensed contractor per County code, may be performed by the Tenant.

12. INDEMNIFICATION AND INSURANCE. In addition to provision 12 of the lease, the Tenant agrees that it will indemnify and save harmless the County from any and all liability claims, damages, losses, expenses including attorney's fees, proceedings, and causes of action of every kind and nature, arising out of or in connection with the Tenant's use, occupation, management, or control of the Premises, or any improvements thereon, or the furniture, furnishings, equipment and fixtures used in connection with the Premises. The Tenant agrees that it will, at its own expense, defend any and all actions, suits, or proceedings, which may be brought against the County in connection with the Tenant's use, occupation, management, or control of the Premises. The Tenant agrees that it will satisfy, pay and discharge any and all judgments that may be entered against the County in any such action or proceeding. The parties agree that specific consideration has been paid for this hold harmless/indemnification agreement. Insurance policies provided under the existing lease shall provide that the County shall be entitled to thirty (30) days prior written notice (instead of 10 day notice provided in the lease) of any changes in or cancellation of such policies and shall name the County as an additional insured.

A certificate of insurance indicating that the Tenant has coverage in accordance with the requirements of the lease agreement shall be furnished by the Tenant to the Director within ten (10) days from the date of the execution of this Agreement. The certificate shall include an endorsement specifically providing coverage for the Tenant's liability for indemnifying the County the lease and this assumption agreement.

13. **ASSIGNMENT.** The Tenant, its successors, assigns, and representatives, agree not to assign or sublease the leased Premises, any part thereof, or any right or privilege connected therewith, or to allow any other person, except the Tenant's agents or employees, to occupy the Premises or any part thereof, without first obtaining the County's written consent and the written consent of the Florida Communities Trust. The County expressly covenants that such consent shall not be unreasonably or arbitrarily refused. One consent by the County shall not constitute consent to any subsequent assignment, sublease or occupation by other persons or parties. The Tenant's unauthorized assignment, sublease or license to occupy shall be void, and shall be subject to termination of this Agreement at the County's option, pursuant to Paragraph 9. The Tenant's interest in this Agreement is not assignable by operation of law, nor is any assignment of its interest herein, without the County's written consent. Any approved assignment shall be subject to all the terms of this assumption agreement.

14. **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

15. **VENUE.** Venue for any legal action brought by any party to this Agreement to interpret, construe, or otherwise enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

16. **GOVERNING LAW.** This Agreement shall be deemed to have been executed and entered into within the State of Florida, and this Agreement and any dispute arising hereunder, shall be governed, interpreted, and construed according to the laws of the State of Florida.

17. **NOTICE.** Notice under this Agreement shall be given to the County by delivering written notice to the Director, Brevard County Natural Resources Management Office, 2725 Judge Fran Jamieson Way, Viera, Florida 32940 and notice shall be given to the Tenant by delivering written notice to Ric Griffis, 580 West Merritt Island Causeway, Merritt Island, Florida 32952.

18. **UNAUTHORIZED ALIEN WORKERS.** The County shall consider the employment by the Tenant of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the

Tenant of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the County.

19. **PUBLIC ENTITY CRIMES.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime 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 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 the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

20. **COMPLIANCE WITH STATUTES.** The Tenant shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, State and Federal governmental bodies applicable to the Premises, or for the correction, prevention and abatement of nuisances or other grievances in, upon or connected with the Premises, during the term of this Agreement.

21. **MUSIC PERFORMANCE.** The Tenant shall not use, play or perform copyrighted music, video or other material without appropriate licensing or other permission. The Tenant shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music, video or other material. The use or performance of copyrighted music, video or other material without appropriate licensing or other permission shall constitute a breach of this Agreement. The Tenant agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Mary Bolin, Chairman

AS APPROVED BY THE BOARD ON:

~~April 6, 2010~~ June 28, 2010 ~~TEN~~ / MB

Reviewed for legal form and content:

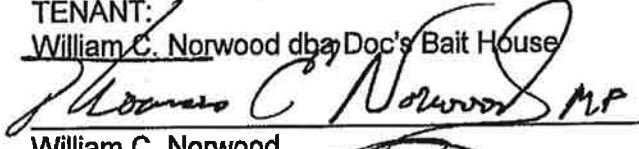


Deputy County Attorney

WITNESS:



DIANNE M. HOLINDA

TENANT:
~~William C. Norwood dba Doc's Bait House~~


William C. Norwood

Approval of lease and lease assumption and finding of compliance with applicable regulations

Florida Communities Trust

Ken Reecy as Community Program Manager

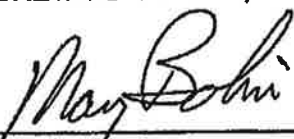
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on
the day and year first above written.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Mary Bolin, Chairman

AS APPROVED BY THE BOARD ON: / MB

~~April 6, 2010~~ June 28, 2010

Reviewed for legal form and content:



Deputy County Attorney

WITNESS:

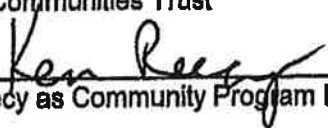
TENANT:

William C. Norwood dba Doc's Bait House

William C. Norwood

Approval of lease and lease assumption and finding of compliance with applicable regulations

Florida Communities Trust



Ken Reedy as Community Program Manager

Commercial Lease

DA TEU / TEU MS

This Lease is made on 6 February 2010, between Merritt Island Land Trust
Landlord, of 580 W. Merritt Island Causeway, Merritt Island, Florida 32954 and, William C. Norwood, dba.
Doo's Brit House, Tenant, of 588 W. Merritt Island Causeway Merritt Island, Florida 32954., State of Florida.

1. The Landlord agrees to rent to the Tenant and the Tenant agrees to rent from the Landlord the following property: The building known as "Doo's Brit House" and that parcel of land lying ten feet (10) immediately west of the building together with the dock area immediately behind and to the north of the building. Lease Area and common parking in non leased areas for business operations is identified in Exhibit "A".
The rental payments will be \$1,600.00 per month and will be payable by the Tenant to the Landlord on the 5th day of each month, beginning on 5 March 2010. If any rental payment is not paid within five (5) days of its due date, the Tenant agrees to pay an additional late charge of 5% (five percent) of the rental payment due.

2. The term of this Lease will be from 18 February 2010, until 17 February 2015. If Tenant is in full compliance with all of the terms of this Lease at the expiration of this term, Tenant shall have the option to renew this Lease for an additional term of five years (5), with all terms and conditions of this Lease remaining the same, except that the rent shall be \$1,700.00. Following this period, Landlord agrees to enter negotiations for an additional five-year (5) at same terms but at market rate for the rent. If the Tenant remains as tenant after the expiration of this Lease with the consent of the Landlord but without signing a new lease, a month-to-month tenancy will be created with the same terms and conditions as this Lease, except that such new tenancy may be terminated by ninety (90) days written notice from either the Tenant or the Landlord, and that a continuation of that being paid at the end of the

lease. The Tenant has paid the Landlord a security deposit of \$100.00. This security deposit will be held as security for the repair of any damages to the property by the Tenant. This deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any amounts needed to repair the property, but without interest.

3. The Tenant has paid the Landlord an additional month's rent in the amount of \$1,600.00. This rent deposit will be held as security for the payment of rent by the Tenant. This rent payment deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any rent still due upon termination, but without interest.

TEU

4-6. The Tenant agrees to use the property only for the purpose or carrying on the following lawful business: The business as presently constituted. There will be no sale or preparation of food on the property or in the building without the consent of the landlord. This clause does not restrict the sale or consumption, on or about the property, of prepackaged or picnic type food. Food may be purchased from the "Crab Shack" and eaten on the property.

5-7. The Landlord agrees that the Tenant may install the following equipment and fixtures for the purpose of operating the Tenant's business and that such equipment and fixtures shall remain the property of the Tenant: A list of Tenant's property will be prepared by Tenant and submitted to the Landlord. Tenant, upon notification to the Landlord, may from time to time add to this list.

6-8. The Tenant has inspected the property and has found it satisfactory for its intended purposes. The Landlord shall be responsible for the repair and upkeep of the exterior of the property, including the roof, exterior walls, parking areas, landscaping, and building foundation. The Tenant shall be responsible for the repair and upkeep of the interior of the property, including all electrical, mechanical, plumbing, heating, cooling, or any other system or equipment on the property. Tenant agrees to maintain the interior of the property and the surrounding outside area in a clean, safe, and sanitary manner and not to make any alterations to the property without the Landlord's written consent. At the termination of this Lease, the Tenant agrees to leave the property in the same condition as when it was received, except for normal wear and tear. Tenant also agrees to comply with all rules, laws, regulations and ordinances affecting the property or the business activities of the Tenant.

7-9. The Tenant agrees to obtain and pay for all necessary utilities for the property.

8-10. The Tenant agrees not to sub-let the property or assign this Lease without the Landlord's written consent, which shall not be unreasonably withheld. Tenant agrees to allow the Landlord reasonable access to the property for inspection and repair. Landlord agrees to enter the property only after notifying the Tenant in advance, except in an emergency.

9-11. If the Tenant fails to pay the rent on time or violates any other terms of this Lease, the Landlord will provide written notice of the violation or default, allowing 15 business days to correct the violation or default. If the violation or default is not completely corrected within the time proscribed, the Landlord may extend the time or will have the right to terminate this Lease with 30 days notice and in accordance with state law. Upon termination of this Lease, the Tenant agrees to surrender possession of the property. The Landlord will also have the right to re-enter the property and take possession of it, remove Tenant and any equipment or possessions of Tenant, and to take advantage of any other legal remedies available.

10-12. The Landlord agrees to carry fire and casualty insurance on the property, but shall have no liability for the operation of the Tenant's business. The Tenant agrees not to do anything that will increase the Landlord's insurance premiums and, further agrees to indemnify and hold the Landlord harmless from any liability or damage, whether caused by Tenant's operations or otherwise. The Tenant agrees to carry and pay all premiums for casualty insurance on any equipment or fixtures that Tenant installs at the property. In addition, the Tenant agrees to carry business liability insurance, including bodily injury and property damage coverage, covering all Tenant's business operations in the amount of \$200,000.00 with the Landlord named as a co-insured party. *10/10/10*
Tenant agrees to furnish Landlord copies of the insurance policies and to not cancel the policies without notifying the Landlord in advance. Tenant agrees to provide Landlord with a Certificate of Insurance which indicates that Landlord is a co-insured party and that Landlord shall be provided with a minimum of ten (10) days written notice prior to cancellation or change of coverage. The Tenant is responsible for the premium cost incurred by the Landlord for the fire and casualty insurance coverage on the property. The Tenant shall remit payment of the premium under the same conditions set forth in paragraph 1 of this agreement. *10/10/10*

13. This Lease is subject to any mortgage or deed of trust currently on the property or which may be made against the property at any time in the future. The Tenant agrees to sign any documents necessary to subordinate this Lease to a mortgage or deed of trust for the Landlord.

14. With neither the Landlord or Tenant being arbitrary or capricious, this Lease may only be terminated by 90 days written notice from either party, except in the event of a violation of any terms or default of any payments or responsibilities due under this Lease, which are governed by the terms in Paragraph 11 of this Lease.

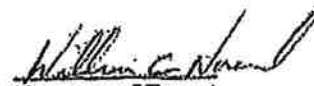
15. Tenant agrees that if any legal action is necessary to recover the property, collect any amounts due under this Lease, or correct a violation of any term of this Lease, Tenant shall be responsible for all costs incurred by Landlord in connection with such action, including any reasonable attorney's fees

16. As required by law, the Landlord makes the following statement: "Radon gas is a naturally-occurring radioactive gas that, when accumulated in sufficient quantities in a building, may present health risks to persons exposed. Levels of radon gas that exceed federal and state guidelines have been found in buildings in this state. Radon gas and radon gas testing may be obtained from your county health department.

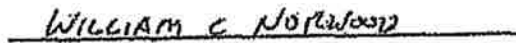
17. The following are additional terms of this lease. None.

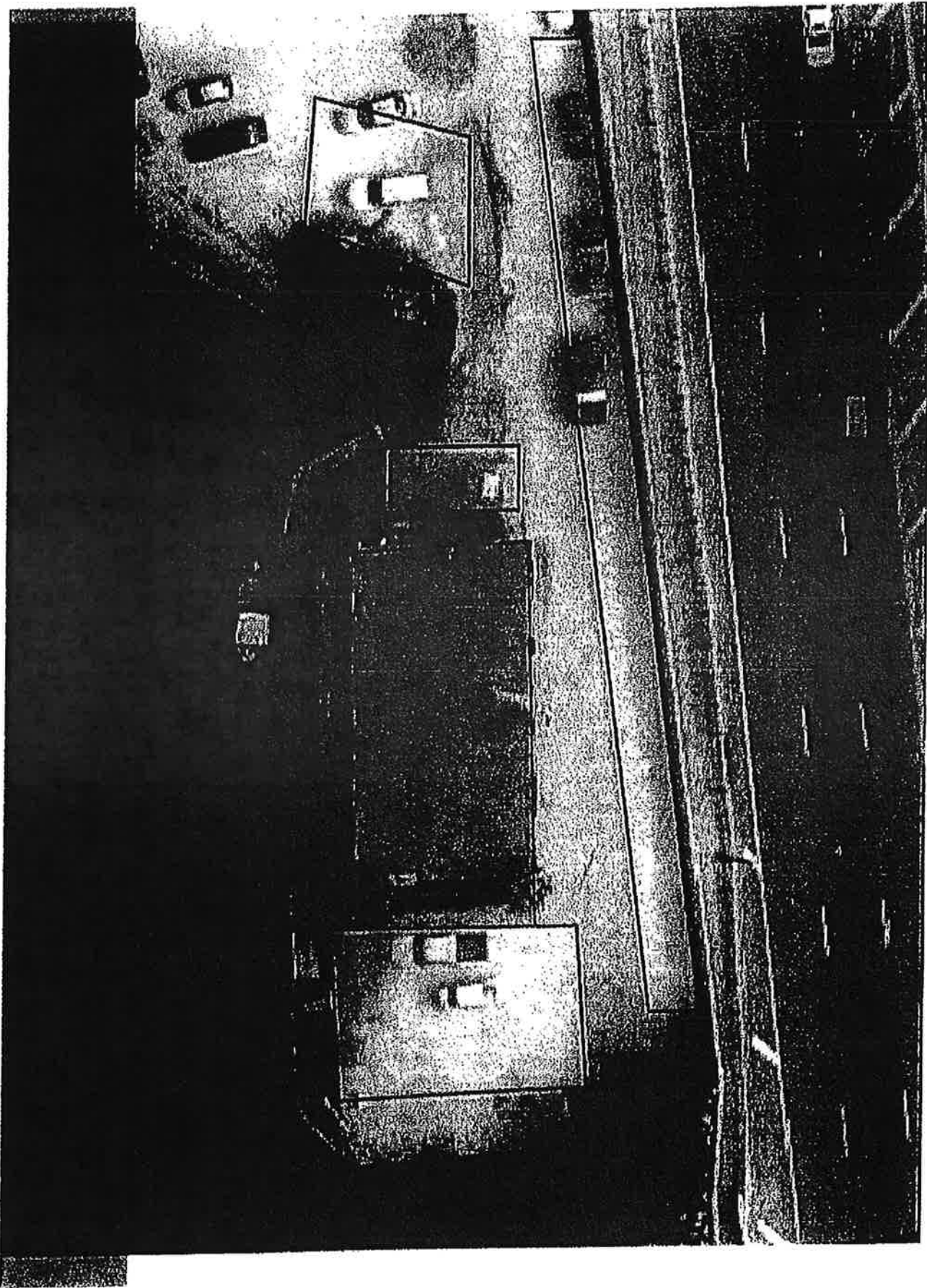
18. The parties agree that this Lease, including the following attachments is the entire agreement between them and that no terms of this Lease may be changed except by written agreement of both parties. This Lease is intended to comply with any and all applicable laws relating to landlord and tenant relationships in this state. This Lease binds and benefits both the Landlord and Tenant and any heirs, successors, representatives, or assigns. This Lease is governed by the laws of the State of Florida.


Signature of Landlord


Signature of Tenant


Name of Landlord


Name of Tenant





Florida Communities Trust

June 19, 2009

Mr. Ernie Brown
Brevard County
2725 Judge Fran Jamieson Way, Bldg A-219
Viera, FL 32940

**RE: FCT Project Number: 08-002-WW1
Brevard County
Blue Crab Cove**

Dear Mr. Brown:

Enclosed please find a fully executed original of the Grant Contract and Confidentiality Agreement for the above-referenced Florida Communities Trust / Stan Mayfield Working Waterfront Project.

If you have any questions, please contact me at (850) 922-1692.

Sincerely,

A handwritten signature in cursive script that reads "Jay Sircy".

Jay Sircy
Grants Specialist IV

js\

Enclosures

FCT Contract Number ~~07-CT- E1-08-FB-A1-002~~ ⁰⁰⁰⁴ *JP*
FLORIDA COMMUNITIES TRUST ₀₀₂ *ch*
08-002-WW1
BLUE CRAB COVE
CSFA # 52.013

STAN MAYFIELD WORKING WATERFRONT
GRANT CONTRACT

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

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

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

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

WHEREAS, FCT is funded through either Section 259.105(3)(c), Fla. Stat. of the Florida Forever Act, which provides for the distribution of two point five percent (2.5%), less certain reductions, of the net Florida Forever Revenue Bond proceeds to the Department, or any other revenue source designated by the Florida Legislature, to provide land acquisition grants to local governments and nonprofit working waterfront organizations for the acquisition of working waterfronts;

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

WHEREAS, Rule 9K-9, Florida Administrative Code ("F.A.C.") sets forth the procedures for the evaluation and selection of lands proposed for acquisition and Rule 9K-10, F.A.C. sets forth the acquisition procedures;

WHEREAS, on January 29, 2009, the FCT Governing Board evaluated and scored the applications to develop a ranking list of projects to present to the Board of Trustees of Internal Improvement Trust Fund;

WHEREAS, on April 13, 2009, the Board of Trustees of Internal Improvement Trust Fund selected and approved the projects which will receive funding;

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

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

WHEREAS, the purpose of this Agreement is to set forth the conditions that must be satisfied by the Recipient prior to the disbursement of any FCT Florida Forever funds awarded, as well as the restrictions that are imposed on the Project Site subsequent to its acquisition. Since the entire Project Site has not yet been negotiated for acquisition, some elements of the project are not yet known such as the purchase price, other project costs, and the terms upon which an owner will voluntarily convey the property.

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

I. PERIOD OF AGREEMENT

1. This Agreement shall begin upon the Recipient's project being selected for funding and shall end April 15, 2010 ("Expiration Date"), unless extended as set forth below or unless terminated earlier in accordance with the provisions of Article XIII of this Agreement.

2. FCT may extend this Agreement beyond the Expiration Date if FCT determines that significant progress is being made toward the acquisition of the Project Site or that extenuating circumstances warrant an extension of time. If FCT does not grant an extension the Recipient's award shall be rescinded and this Agreement shall terminate.

II. MODIFICATION OF AGREEMENT

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

III. DEADLINES

1. At least two original copies of this Agreement shall be executed by the Recipient and returned to the FCT office at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, as soon as possible and before June 15, 2009. If the Recipient requires more than one original document, the

Recipient shall photocopy the number of additional copies needed and then execute each as an original document. Upon receipt of the signed Agreements, FCT shall execute the Agreements, retain one original copy and return all other copies that have been executed to the Recipient.

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

4. No later than June 15, 2009, the Recipient shall deliver to FCT a written statement from the Project Site property owner(s) evidencing that the owner(s) is willing to entertain an offer from the Recipient and FCT, if not previously provided in the Application. No acquisition activity shall be commenced prior to FCT receipt of this statement.

6. No later than June 15, 2009, the Recipient shall deliver to FCT the executed Confidentiality Agreement provided to the Recipient by FCT, pursuant to Rule 9K-8.008(3), F.A.C. No acquisition activity shall be commenced prior to FCT receipt of the executed Confidentiality Agreement.

IV. FUNDING PROVISIONS

1. The FCT Florida Forever award granted to the Recipient ("FCT Award") will in no event exceed the lesser of Sixty Five Percent (65%) of the final Project Costs, as defined in Rule 9K-9.002(17), F.A.C., or Two Million Six Hundred Sixty Five Thousand Dollars And Zero Cents (\$2,665,000.00) unless FCT approves a different amount after determination of the Maximum Approved Purchase Price (MAPP), which shall be reflected in an addendum to this Agreement. FCT will not participate in Project Costs that exceed the grant award amount.

The FCT Award is based on the Recipient's estimate of final Project Costs in its application. When disbursing the FCT Award, FCT shall recognize only those Project Costs consistent with the definition in Rule 9K-9.002(17), F.A.C. FCT shall participate in the land cost at either the actual purchase price or the MAPP, whichever is less, multiplied by the percent stated in the above paragraph.

2. The FCT Governing Board ranked and the Board of Trustees of the Internal Improvement Trust Fund ("Trustees") selected the Recipient's Application for funding in order to acquire the entire Project Site identified in the Application. FCT reserves the right to withdraw or adjust the FCT Award if the acreage that comprises the Project Site is reduced or the project design is changed so that the objectives of the acquisition cannot be achieved. FCT shall consider any

request for Project Site boundary modification in accordance with the procedures set forth in Rule 9K-9.009, F.A.C.

If the Project Site is comprised of multiple parcels and multiple owners, then FCT reserves the right to withdraw or adjust the FCT Award if the priority parcel(s) or a significant portion of the Project Site 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 Comptroller 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 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, 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 9K-9.002(15), F.A.C. 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, 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 financially perform under this Agreement is contingent upon an annual appropriation by the Florida Legislature, and is subject to any modification in accordance with Chapter 216, Fla. Stat. or the Florida Constitution.

8. FCT's performance and obligation to financially perform under this Agreement is contingent upon the issuance of Florida Forever Revenue Bonds issued by the State of Florida and of the proceeds of the Florida Forever Revenue Bonds being released to the Department.

V. NOTICE AND CONTACT

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

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

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

Name: Ernie Brown

Title: Director of Natural Resources

Address: 2725 Judge Fran Jamieson Way, Bldg - A-219
Vienna, FL 32940

Phone: 321-633-2016 Fax: 321-633-2029

E-mail: _____

3. The Recipient authorizes the administrator, employee, officer or representative named in this paragraph to execute all documents in connection with this project on behalf of the Recipient, including, but not limited to, the Grant Contract or any addenda thereto, purchase agreement(s) for the property, grant reconciliation statement, closing documents and Declaration of Restrictive Covenants.

Name: _____

Title: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

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

5. The Recipient hereby notifies FCT that the Recipient's Federal Employer Identification Number(s) is 59-600523.

VI. PRE-CLOSING REQUIREMENTS

1. Prior to FCT approval of the signed purchase agreement(s), closing(s) of the real estate transaction(s) to acquire the Project Site and final disbursement of the FCT Award, the Recipient shall submit to FCT:

- a. Supporting documentation that the conditions imposed as part of this Agreement have been satisfied.
- b. 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.
- c. A signed statement by the Recipient that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the applicable adopted and approved comprehensive plan.
- d. Additional documentation as may be requested by FCT to provide Reasonable Assurance, as set forth in paragraph VII.4. below.

2. FCT shall approve the terms under which the interest in land is acquired pursuant to Section 380.510(3), Fla. Stat. Such approval is deemed given when FCT approves and executes the purchase agreement for acquisition of the Project Site, further described in paragraph VI.1.a. above.

3. All real property shall be obtained through a Voluntarily-Negotiated Transaction, as defined in Rule 9K-9.002(42). The use of or threat of condemnation is not considered a Voluntarily-Negotiated Transaction.

4. Any invoices requested, along with proof of payment, shall be submitted to FCT and be in a detail sufficient for a proper audit thereof.

5. Interest in the Project Site shall be titled in the Recipient.

6. The transfer of interest to the Recipient for the Project Site shall not occur until the requirements for the acquisition of lands, as specified in Section 380.507(11), Fla. Stat. and Rule Chapter 9K-10, F.A.C., have been fully complied with by the Recipient and FCT and the Recipient has complied with all Purchase Agreement requirements.

7. The deed transferring interest of the Project Site to the Recipient shall set forth the executory interest of the Board of Trustees of the Internal Improvement Trust Fund.

VII. MANAGEMENT PLAN; ANNUAL STEWARDSHIP REPORT

1. Prior to the signature of the purchase agreement(s), closing(s) of the real estate transaction(s) and final disbursement of the FCT Award, the Recipient shall submit to FCT and have approved a Management Plan that complies with Rule 9K-9.010, F.A.C. and addresses the criteria and conditions set forth in Articles VII, VIII, IX, X and XI herein. The Recipient is strongly urged to coordinate with FCT staff in order to ensure that FCT approval of the Management Plan occurs prior to the closing date of the real estate transaction(s) associated with the Project Site and the disbursement of the FCT Award.

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

- a. An introduction containing the project name, location and other background information relevant to management.
- b. The stated purpose for acquiring the Project Site as proposed in the Application and a prioritized list of management objectives.
- c. A detailed description of all proposed uses including existing and proposed physical improvements and the impact on natural resources.
- d. A scaled site plan drawing showing the Project Site boundary, existing and proposed physical improvements.
- e. A description of proposed educational displays and programs to be offered, if applicable.
- f. A schedule for implementing the development and management activities of the Management Plan.
- g. Cost estimates and funding sources to implement the Management Plan.

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

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

4. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105 and Chapter 380, Part III, Fla.Stat., the Recipient(s) shall be required to provide FCT with Reasonable Assurance, pursuant to Rule 9K-9.002(19), 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 is a Non-profit Working Waterfront Organization and does not include at least one Local Government partner, FCT will require the Recipient to establish a management endowment in an amount sufficient to ensure performance; and provide a guaranty or pledge by the Local Government, the Water Management District in which the project is located, or a managing agency of the Board of Trustees to act as a backup manager to assume responsibility for management of the Project Site in the event the Recipient is unable to continue to manage the Project Site.

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. 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 or land alterations will not adversely impact the management of the Project Site. FCT's approval of the Recipient's Management Plan addressing the items mentioned herein shall be considered written approval from FCT.

7. As required by Rule 9K-9.012, F.A.C., each year after FCT closes on the Project Site, the Recipient shall prepare and submit to FCT an annual stewardship report that documents the progress made on implementing the Management Plan.

VIII. SPECIAL MANAGEMENT CONDITIONS

In addition to the Management Plan conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the project site and result from either representations made in the application that received scoring points or observations made by FCT staff during the site visit described in Rule 9K-9.007, F.A.C.:

1. The future land use and zoning designations of the project site shall be changed to Working Waterfronts or other similar category.
2. 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 that the project site was purchased with funds from the Florida Communities Trust Program and the Recipient.
3. At closing, the existing submerged land lease will be transferred to the Recipient.

4. Prior to closing, the Recipient will provide a letter from the Department of Environmental Protection stating the current land owner is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wetslip certification forms are current or that the facilities or structures are not subject to a state sovereignty submerged land lease.

5. Annually the Recipient will provide a letter from the Department of Environmental Protection stating the Recipient is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wetslip certification forms are current or that the facilities.

6. The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing dilapidated docking facility at the project site.

7. The existing buildings on the project site will be used as a working waterfront building.

8. The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing boat ramp at the project site.

9. The Recipient will set aside a storage area for traps, nets, or other gear need for commercial fishing or aquaculture operations.

10. Permanent structured displays of artifacts and other items shall be provided that provides information about the economic, cultural or historic heritage of Florida's traditional Working Waterfronts.

11. Interpretive kiosk or signs shall be provided that educate the public about the economic, cultural, or historic heritage of Florida's traditional Working Waterfronts.

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

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

2. The Declaration of Restrictive Covenants shall also restate the conditions that were placed on the Project Site at the time of project selection and initial grant approval. The Declaration of Restrictive Covenants shall be executed by FCT and the Recipient at the time of the closing 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 can not be reasonably completed within the specified thirty (30) day time frame, the Recipient shall submit a timely written request to the FCT Program Manager that includes the status of the current activity, the reasons for the delay and a time frame for the completion of the curing activities. FCT shall submit a written response within thirty (30) days of receipt of the request and approval shall not be unreasonably withheld. It is FCT's position that all curing activities shall be completed within one hundred twenty (120) days of the Recipient's notification of the violation. However, if the Recipient can demonstrate extenuating circumstances exist to justify a greater extension of time to complete the activities, FCT shall give the request due consideration. If the Recipient fails to correct the violation within either (a) the initial thirty (30) day time frame or (b) the time frame approved by FCT pursuant to the Recipient's request, all interest in the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, Nonprofit Working Waterfront Organization, Water Management District in which the project is located, or a managing agency of the Board of Trustees who agrees to accept interest and manage the Project Site. FCT shall treat such property in accordance with Section 380.508(4)(e), Fla. Stat.

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

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

2. If the existence of the Recipient terminates for any reason, interest to the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, Nonprofit Working Waterfront Organization, Water Management District in which the project is located, or a managing agency of the Board of Trustees who agrees to accept interest and manage the Project Site.

3. Following the acquisition of the Project Site, the Recipient shall ensure that the future land use and zoning designation assigned to the Project Site is for a category dedicated to working waterfronts. 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 recognizing FCT's role in the acquisition of the Project Site.

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

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

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

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

3. If the Project Site, after its acquisition by the Recipient and/or the Trustees, is to remain subject to any of the disallowable activities, the Recipient shall provide notice to FCT, as

provided for in paragraph V.1., at least sixty (60) calendar days in advance of any such transactions, events or circumstances, and shall provide to FCT such information as FCT reasonably requests in order to evaluate for approval the legal and tax consequences of such disallowable activities.

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

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

XII. RECORDKEEPING; AUDIT REQUIREMENTS

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

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

In connection with the audit requirements addressed herein, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Fla. Stat. This includes submission of a reporting package as defined by Section 215.97(2)(d), Fla. Stat. and Chapter 10.550 (local government entities) or 10.650 (nonprofit organizations), Rules of the Auditor General.

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

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

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

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

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

and

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

State of Florida Auditor General at the following address:

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

5. If the audit shows that any portion of the funds disbursed hereunder were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to FCT of all funds not spent in accordance with the applicable regulations and

Agreement provisions within thirty (30) days after FCT has notified the Recipient of such non-compliance.

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

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

XIII. DEFAULT; REMEDIES; TERMINATION

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

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

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

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

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

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

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

XIV. LEGAL AUTHORIZATION

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

XV. STANDARD CONDITIONS

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

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

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

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

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

This Grant Contract embodies the entire agreement between the parties.

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

BREVARD COUNTY
By: Chuck Nelson
Chuck Nelson, Chairman
As approved by the Board on 5/19/09

FLORIDA COMMUNITIES TRUST
By: Ken Reecy
Ken Reecy
Community Program Manager
Date: 6-18-09

ATTEST: Scott Ellis
By: Scott Ellis
Scott Ellis, Clerk of Court

Approved as to Form and Legality:
By: Kristen L. Coons
Kristen L. Coons, Trust Counsel

Approved as to legal form and content:
Christine Lepore
Christine Lepore, Assistant County Attorney

Contract No. 09-CT-61-08-FB-A1-002
FCT Project No: 08-002-WW1

CONFIDENTIALITY AGREEMENT

This is a Confidentiality Agreement ("Agreement") pursuant to Rule 9K-10.005(3), Florida Administrative Code (F.A.C.).

Parties to the Confidentiality Agreement: BREVARD COUNTY ("Recipient"), a local government of the State of Florida, and the FLORIDA COMMUNITIES TRUST ("FCT"), a non-regulatory agency within the Department of Community Affairs.

Parcels Covered by this Agreement: This Agreement covers all parcels identified as part of the project site in SMWW application 08-002-WW1 that was selected for funding and is governed by a Grant Contract for FCT Project Number 08-002-WW1 ("Project Site").

Confidentiality:

- a) Pursuant to Rule 9K-10.002(8), F.A.C., the term "Confidential" refers to information that shall not be available for public disclosure or inspection and is exempt from the provisions of Section 119.07, Florida Statutes (F.S.).
- b) The Recipient and its agents shall maintain the confidentiality of all appraisals, offers, and counteroffers as required by Section 125.355(1)(a), F.S., for counties, or Section 166.045(1)(a), F.S., for municipalities, and Chapter 9K-10, F.A.C. The Recipient may disclose such confidential information only to the individuals listed herein below.
- c) Requests to add persons to the disclosure list shall be made in writing. Upon the written consent of the FCT Community Program Manager, the Recipient shall execute an Addendum to the Agreement. All confidentiality requirements outlined above shall apply to individuals added to the list.
- d) The undersigned board members and staff of the Recipient and its agents, if any, agree to maintain the confidentiality of appraisal information, offers and counter-offers concerning FCT Project Number 08-002-WW1, as required by Section 125.355 (1)(a), F.S., for counties or Section 166.045 (1)(A), F.S., for municipalities, Chapter 9K-10, F.A.C., and this Confidentiality Agreement between the Recipient and FCT.

e) The undersigned certify that they have no legal or beneficial interest in the Project Sita.

Date	Recipient Board Member, Staff or Agent Name	Signature
<u>6/3/09</u>	<u>Stockton Whitten, Interim Co Mgr.</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Mel Scott, Assistant Co. Mgr.</u>	<u>[Signature]</u>
<u>6/2/09</u>	<u>Ernie Brown, Director, NRMCO</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Greg Lugar, Dir, Econ. & Fin. Prog.</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Scott Knox, County Attorney</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Scott Ellis, Clerk of the Court</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Robin Sobrino, Dir. Planning & Dev</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Holly Pardi, Public Works Office</u>	<u>[Signature]</u>
<u>6-2-09</u>	<u>Matt Culver, Natural Res. Mgt Off.</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Carie Exline, Clerk of Court Off.</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Christine Lepore, County Atty. Off.</u>	<u>[Signature]</u>
<u>6-5-09</u>	<u>Trudie Infantini, Commissioner, D-3</u>	<u>[Signature]</u>

BREVARD COUNTY

By: Chuck Nelson
 Title: Chuck Nelson, Chairman

As approved by the Board on
 Date: May 19, 2009

Approved as to form and legality:
[Signature]

By: Christine Lepore,
 Title: Assistant County Attorney

FLORIDA COMMUNITIES TRUST

By: Ken Reecy
 Ken Reecy
 Community Program Manager

Date: 6-18-09

Approved as to form and legality:

By: Kristen L. Coons
 Title: Trust Counsel

ATTEST:
[Signature]
 Scott Ellis, Clerk of Court



LEASE ASSUMPTION AGREEMENT

This Agreement made and entered into this ^{28th}~~6~~ day of ~~April~~ ^{June}, 2010, by and between INDIAN RIVER TRADING COMPANY dba Ms. APPLES CRAB SHACK, hereinafter referred to as "Tenant," and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision to the State of Florida, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, the County intends to purchase and maintain a Historic Working Waterfront known as the Blue Crab Cove in accordance with the Florida Communities Trust Stan Mayfield Working Waterfront Grant (hereinafter "the Grant") for the purpose of providing public access, maintaining and preserving commercial fisheries and associated water dependent activities in Brevard and providing education regarding the historic and economic importance of these activities for the general public; and

WHEREAS, the property will be subject to a Declaration of Restrictive Covenants recorded in the Official Records of Brevard County and a management plan pursuant to the requirements of the Grant; and

WHEREAS, all activities by Landlord and Tenant shall be consistent with the Declaration of Restrictive Covenants and Management Plan required by the Grant; and

WHEREAS, the Blue Crab Cove property is currently occupied by two tenants each of whom operate water dependent and fishery related businesses meeting the intent of the Grant; and,

WHEREAS, the County is working to allow both businesses to remain in place for a period of time; and

WHEREAS, the County wishes to assume the existing lease between Seller, Merritt Island Land Trust and the Tenant, Ms. Apples Crab Shack attached hereto as Exhibit "A"; and

WHEREAS, the County wishes to assure that the tenant, Ms. Apples Crab Shack agrees to operate the business as a Historic Working Waterfront subject to the requirements of the Stan Mayfield Working Waterfront Grant Contract executed by the County on May 19, 2009 a copy of which is attached hereto as Exhibit "B" and any state approved Management Plan, and the proposed deed restrictions required by the Grant and

WHEREAS, the existing lease provides for payment of current market rate upon renewal and that term, current market rate, requires clarification; and

WHEREAS, the duties between the parties also require clarification,

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. The recitals above are hereby incorporated into this agreement.

2. The lease between Merritt Island Land Trust and Ms. Apples Crab Shack dated February 1, 2010 and attached hereto as Exhibit "A" is hereby assumed by Brevard County as the Landlord. The parties agree to the additional terms and clarifications provided herein as an amendment to the lease agreement assumed.

3. The paragraph relating to the term of the lease currently states:

The term of this Lease will be from 1 February, 2010 until 31, January 2015. If Tenant is in full compliance with all of the terms of this Lease at the expiration of this term, and if the Tenant remains as tenant after the expiration of this Lease with the consent of the Landlord but without signing a new lease, a new year to year tenancy will be created with the same terms and conditions as this Lease, except that the rent shall be at the current market rate in each year and such new tenancy may be terminated by ninety (90) days written notice from either the Tenant or the Landlord.

The following language is added:

Current market rate is defined as the lease rates charged by the Canaveral Port Authority for property. There are different lease rates charged by the Canaveral Port Authority for different areas in the Port's jurisdiction. The rate charged pursuant to this agreement may change based on improvements that may be made to the subject property by the County. Specifically, if the waterfront improvements described in the management plan have not been completed, the current market rate rental for Mrs. Apple's Crab shack will be the Port Canaveral lease rate for Marinas/Fishing Fleet, currently \$1.20 per sq ft, or whatever that amount is determined to be by the Canaveral Port Authority at the time of renewal, if any. If the prescribed waterfront improvements described in the management plan are substantially completed, the current market rate for Mrs. Apple's Crab shack rental will be the cove rate along Glen Cheek Drive, currently, \$1.90 per sq. ft, or whatever that amount is determined to be by the Canaveral Port Authority for the Glen Cheek Drive area at the time of renewal, if any.

4. **PAYMENT DELIVERY.** The Tenant, in transmitting payments to the County hereunder, shall make all checks payable to Brevard County Board of County Commissioners, in care of Natural Resources Management Office, 2725 Judge Fran Jamieson Way, Building A, Room 219, Viera, Florida 32940.

5. **RIGHT TO AUDIT RECORDS, ACCOUNTING PROCEDURES AND REPORTS.** In the performance of this Agreement, the Tenant shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the County upon reasonable advance notice and shall be retained by the Tenant for a period of three years after termination of this agreement. The Tenant shall cooperate with and provide the County, or its duly authorized representative, any information or reports concerning its activities, income, revenues, expenses, and disbursements as may be necessary under the provisions of the Grant or as otherwise may reasonably be required, when so requested.

6. **PUBLIC RECORDS.** All records or documents created by the Tenant, or provided to the Tenant by the County, in connection with the activities or services provided by the Tenant under the terms of this Agreement, are public records and the Tenant shall comply with any

request for such public records or documents made in accordance with Section 119.07, Florida Statutes.

7. **COPYRIGHT.** No reports, data, programs or other material produced, in whole or in part for the benefit and use of the County, under this Agreement, shall be subject to copyright by Tenant in the United States or any other Country.

8. **SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

9. **OPERATION AND MAINTENANCE.** In addition to the duties provided in the existing lease, Tenant shall comply with all requirements of the Stan Mayfield Working Waterfront Grant contract signed by the County on May 19, 2009, attached hereto as Exhibit "B", and any State approved Management Plan and deed restrictions created pursuant to that contract.

10. **COUNTY OBLIGATIONS.** The County's obligations generally remain as defined by the lease being assumed. The lease assumed does not address the payment of sales taxes. The tenant and the Landlord acknowledge sales tax has been paid by the Landlord under the existing lease. The parties to the lease assumption agreement recognize that the new Landlord, the County, will be responsible for the sales tax payments. In addition, clarification is provided herein that the County shall take no action to eliminate the existing ambient water circulation system to ensure live seafood viability.

11. **IMPROVEMENTS.** The Tenant agrees that all requests for improvements and/or changes will be submitted, in writing, for prior approval, to the Director, and if necessary, to the Brevard County Planning and Development Department, the Brevard County Public Health Department, or any other governmental agency requiring approval. The Tenant agrees that any and all improvements and/or changes once approved will be at the expense of the Tenant.

It is hereby mutually agreed and understood that all fixtures permanently attached to the Premises shall become and remain the property of the County. At the time that the County approves the improvements, the County and the Tenant shall agree as to whether the improvements are fixtures which shall remain the County's property at the end of this Agreement or any extension renewal hereof.

The Tenant shall ensure that any contractor which the Tenant may hire to perform any construction, renovation, or repairs to the Premises, shall not be entitled to file any liens, mechanic's or otherwise, against the Premises or any County property to secure the contractor's interests or payments. Any contract which the Tenant signs or executes with a contractor shall include a provision which requires the contractor to waive the right to file any such liens against County property and a provision which requires the contractor to include the same waiver by any subcontractor which the contractor may hire in an agreement/contract the contractor executes with the subcontractor. Minor work, not required to be performed by a licensed contractor per County code, may be performed by the Tenant.

12. **INDEMNIFICATION AND INSURANCE.** In addition to provision 12 of the lease, the Tenant agrees that it will indemnify and save harmless the County from any and all liability claims, damages, losses, expenses including attorney's fees, proceedings, and causes of action of every kind and nature, arising out of or in connection with the Tenant's use, occupation, management, or control of the Premises, or any improvements thereon, or the furniture, furnishings, equipment and fixtures used in connection with the Premises. The Tenant agrees that it will, at its own expense, defend any and all actions, suits, or proceedings, which may be brought against the County in connection with the Tenant's use, occupation, management, or control of the Premises. The Tenant agrees that it will satisfy, pay and discharge any and all judgments that may be entered against the County in any such action or proceeding. The parties agree that specific consideration has been paid for this hold harmless/indemnification agreement. Insurance policies

provided under the existing lease shall provide that the County shall be entitled to thirty (30) days prior written notice (instead of 10 day notice provided in the lease) of any changes in or cancellation of such policies and shall name the County as an additional insured.

A certificate of insurance indicating that the Tenant has coverage in accordance with the requirements of the lease agreement shall be furnished by the Tenant to the Director within ten (10) days from the date of the execution of this Agreement. The certificate shall include an endorsement specifically providing coverage for the Tenant's liability for indemnifying the County the lease and this assumption agreement.

13. **ASSIGNMENT.** The Tenant, its successors, assigns, and representatives, agree not to assign or sublease the leased Premises, any part thereof, or any right or privilege connected therewith, or to allow any other person, except the Tenant's agents or employees, to occupy the Premises or any part thereof, without first obtaining the County's written consent and the written consent of Florida Communities Trust. The County expressly covenants that such consent shall not be unreasonably or arbitrarily refused. One consent by the County shall not constitute consent to any subsequent assignment, sublease or occupation by other persons or parties. The Tenant's unauthorized assignment, sublease or license to occupy shall be void, and shall be subject to termination of this Agreement at the County's option, pursuant to Paragraph 9 of the lease. The Tenant's interest in this Agreement is not assignable by operation of law, nor is any assignment of its interest herein, without the County's written consent. Any approved assignment shall be subject to all the terms of this assumption agreement.

14. **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

15. **VENUE.** Venue for any legal action brought by any party to this Agreement to interpret, construe, or otherwise enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

16. **GOVERNING LAW.** This Agreement shall be deemed to have been executed and entered into within the State of Florida, and this Agreement and any dispute arising hereunder, shall be governed, interpreted, and construed according to the laws of the State of Florida.

17. **NOTICE.** Notice under this Agreement shall be given to the County by delivering written notice to the Director, Brevard County Natural Resources Management Office, 2725 Judge Fran Jamieson Way, Viera, Florida 32940 and notice shall be given to the Tenant by delivering written notice to Ric Griffis, 580 West Merritt Island Causeway, Merritt Island, Florida 32952.

18. **UNAUTHORIZED ALIEN WORKERS.** The County shall consider the employment by the Tenant of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Tenant of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the County.

19. **PUBLIC ENTITY CRIMES.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime 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 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 the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

20. **COMPLIANCE WITH STATUTES.** The Tenant shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, State and Federal governmental bodies applicable to the Premises, or for the correction, prevention and abatement of nuisances or other grievances in, upon or connected with the Premises, during the term of this Agreement.

21. **MUSIC PERFORMANCE.** The Tenant shall not use, play or perform copyrighted music, video or other material without appropriate licensing or other permission. The Tenant shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music, video or other material. The use or performance of copyrighted music, video or other material without appropriate licensing or other permission shall constitute a breach of this Agreement. The Tenant agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

ATTEST:




Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA




Mary Bolin, Chairperson

Reviewed for legal form and content:




Deputy County Attorney

AS APPROVED BY THE BOARD ON:

~~April 6, 2010~~ June 28, 2010 

WITNESS:



DIANE M. VOLUNDA

TENANT: Indian River Trading Company


Print Name: RIC E. GRIFFIN President

Approval of lease and lease assumption agreement and finding of compliance with applicable regulations by Florida Communities Trust

Florida Communities Trust

Ken Reecy, Community Program Manager

21. MUSIC PERFORMANCE. The Tenant shall not use, play or perform copyrighted music, video or other material without appropriate licensing or other permission. The Tenant shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music, video or other material. The use or performance of copyrighted music, video or other material without appropriate licensing or other permission shall constitute a breach of this Agreement. The Tenant agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

ATTEST:




Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Mary Bolin, Chairperson

Reviewed for legal form and content:



Deputy County Attorney

AS APPROVED BY THE BOARD ON: / 113

~~April 6, 2010~~ June 28, 2010

WITNESS:

TENANT: Indian River Trading Company

Print Name: _____, President

Approval of lease and lease assumption agreement and finding of compliance with applicable regulations by Florida Communities Trust

Florida Communities Trust



Ken Reecy, Community Program Manager

Commercial Lease

RG-1 MB

This Lease is made on 1 February 2010, between Merritt Island Land Trust, a Florida Corporation 580 W. Merritt Island Causeway Landlord and Island Trading Company a Florida Corporation dba, Ms Apples Crab Shack, Tenant, of 580 W. Merritt Island Causeway, Merritt Island, Florida 32954, State of Florida.

1. The Landlord agrees to rent to the Tenant and the Tenant agrees to rent from the Landlord the following property: The building known as "Ms Apples Crab Shack" and business support areas lying 30 feet east and west of the main building area together with parking adequate to comply with any Brevard County parking regulations as identified in Exhibit "A". Common parking in non-leased areas for business operations is also identified in Exhibit "A"

RG-1 MB

RG-1 MB

The rental payments will be ~~\$410.00~~ ^{\$300.00} per month and will be payable by the Tenant to the Landlord on the 5th day of each month, beginning on 5 March 2010. If any rental payment is not paid within five (5) days of its due date, the Tenant agrees to pay an additional late charge of 5% (five percent) of the rental payment due.

2.4. The term of this Lease will be from 1 February 2010, until 31 January 2015. If Tenant is in full compliance with all of the terms of this Lease at the expiration of this term, ^{and if} Tenant shall have the option to renew this Lease for an additional term of five years (5); with all terms and conditions of this Lease remaining the same, except that the rent shall be ~~\$710.00~~. Following this period, Tenant shall have the option to renew this lease for an additional term of five year (5) with all terms and conditions of this lease remaining the same, except that the rent shall be \$1,010.00.

RG-1 MB

If the Tenant remains as tenant after the expiration of this Lease with the consent of the Landlord but without signing a new lease, a ^{new year to year} month-to-month tenancy will be created with the same terms and conditions as this Lease, except that such new tenancy may be terminated by ninety (90) days written notice from either the Tenant or the Landlord, and that a continuation of that being paid at the end of the lease. The Tenant has paid the Landlord a security deposit of \$100.00. This security deposit will be held as security for the repair of any damages to the property by the Tenant. This deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any amounts needed to repair the property, but without interest.

RG-1 MB

3.5: The Tenant has paid the Landlord an additional month's rent in the amount of ~~\$410.00~~ ^{\$300.00}. This rent deposit will be held as security for the payment of rent by the Tenant. This rent payment deposit will be returned to the Tenant within ten (10) days of the termination of this Lease, minus any rent still due upon termination, but without interest.

RG-1 MB

R E Griffin

- 4-6. The Tenant agrees to use the property only for the purpose or carrying on the following lawful business: The business as presently as presently constituted.
- 5-7. The Landlord agrees that the Tenant may install the following equipment and fixtures for the purpose of operating the Tenant's business and that such equipment and fixtures shall remain the property of the Tenant: A list of Tenant's property will be prepared by Tenant and submitted to the Landlord. Tenant, upon notification to the Landlord, may from time to time add to this list.
- 6-8. The Tenant has inspected the property and has found it satisfactory for its intended purposes. The Tenant shall be responsible for the repair and upkeep of the exterior of the property, including the roof, exterior walls, parking areas, landscaping, and building foundation. The Tenant shall further be responsible for the repair and upkeep of the interior of the property, including all electrical, mechanical, plumbing, heating, cooling, or any other system or equipment on the property. Tenant agrees to maintain the interior of the property and the surrounding outside area in a clean, safe, and sanitary manner and not to make any alterations to the property without the Landlord's written consent. At the termination of this Lease, the Tenant agrees to leave the property in the same condition as when it was received, except for normal wear and tear. Tenant also agrees to comply with all rules, laws, regulations and ordinances affecting the property or the business activities of the Tenant.
- 7-9. The Tenant agrees to obtain and pay for all necessary utilities for the property.
- 8-10. The Tenant agrees not to sub-let the property or assign this Lease without the Landlord's written consent, which shall not be unreasonably withheld. Tenant agrees to allow the Landlord reasonable access to the property for inspection and repair. Landlord agrees to enter the property only after notifying the Tenant in advance, except in an emergency.
- 9-11. If the Tenant fails to pay the rent on time or violates any other terms of this Lease, the Landlord will provide written notice of the violation or default, allowing 15 business days to correct the violation or default. If the violation or default is not completely corrected within the time prescribed, the Landlord may extend the time or will have the right to terminate this Lease with 30 days notice and in accordance with state law. Upon termination of this Lease, the Tenant agrees to surrender possession of the property. The Landlord will also have the right to re-enter the property and take possession of it, remove Tenant and any equipment or possessions of Tenant, and to take advantage of any other legal remedies available.
- 10-12. The Landlord agrees to carry fire and casualty insurance on the property, but shall have no liability for the operation of the Tenant's business. The Tenant agrees not to do anything that will increase the Landlord's insurance premiums and, further agrees to indemnify and hold the Landlord harmless from any liability or damage, whether caused by Tenant's operations or otherwise. The Tenant agrees to carry and pay all premiums for casualty insurance on any equipment or fixtures that Tenant installs at the property. In addition, the Tenant agrees to carry business liability insurance, including bodily injury and property damage coverage, covering all Tenant's business operations in the amount of \$1,000,000.00 with the Landlord named as a co-insured party. Tenant agrees to furnish Landlord copies of the insurance policies and to not cancel the policies without notifying the Landlord in advance. Tenant agrees to provide Landlord with a Certificate of Insurance which indicates that Landlord is a co-insured party and that Landlord shall be provided with a minimum of ten (10) days written notice prior to cancellation or change of coverage. The Tenant is responsible for the premium cost incurred by the Landlord for the fire and casualty insurance coverage on the property. The Tenant shall remit payment of the premium under the same conditions set forth in paragraph 1 of this agreement. *A.L.*

13. This Lease is subject to any mortgage or deed of trust currently on the property or which may be made against the property at any time in the future. The Tenant agrees to sign any documents necessary to subordinate this Lease to a mortgage or deed of trust for the Landlord.

14. With neither the Landlord or Tenant being arbitrary or capricious, this Lease may only be terminated by 90 days written notice from either party, except in the event of a violation of any terms or default of any payments or responsibilities due under this Lease, which are governed by the terms in Paragraph 11 of this Lease.

15. Tenant agrees that if any legal action is necessary to recover the property, collect any amounts due under this Lease, or correct a violation of any term of this Lease. Tenant shall be responsible for all costs incurred by Landlord in connection with such action, including any reasonable attorney's fees

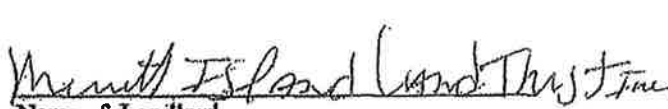
16. As required by law, the Landlord makes the following statement: "Radon gas is a naturally-occurring radioactive gas that, when accumulated in sufficient quantities in a building, may present health risks to persons exposed. Levels of radon gas that exceed federal and state guidelines have been found in buildings in this state. Radon gas and radon gas testing may be obtained from your county health department.


17. The following are additional terms of this lease. None.

18. The parties agree that this Lease, including the following attachments is the entire agreement between them and that no terms of this Lease may be changed except by written agreement of both parties. This Lease is intended to comply with any and all applicable laws relating to landlord and tenant relationships in this state. This Lease binds and benefits both the Landlord and Tenant and any heirs, successors, representatives, or assigns. This Lease is governed by the laws of the State of Florida.

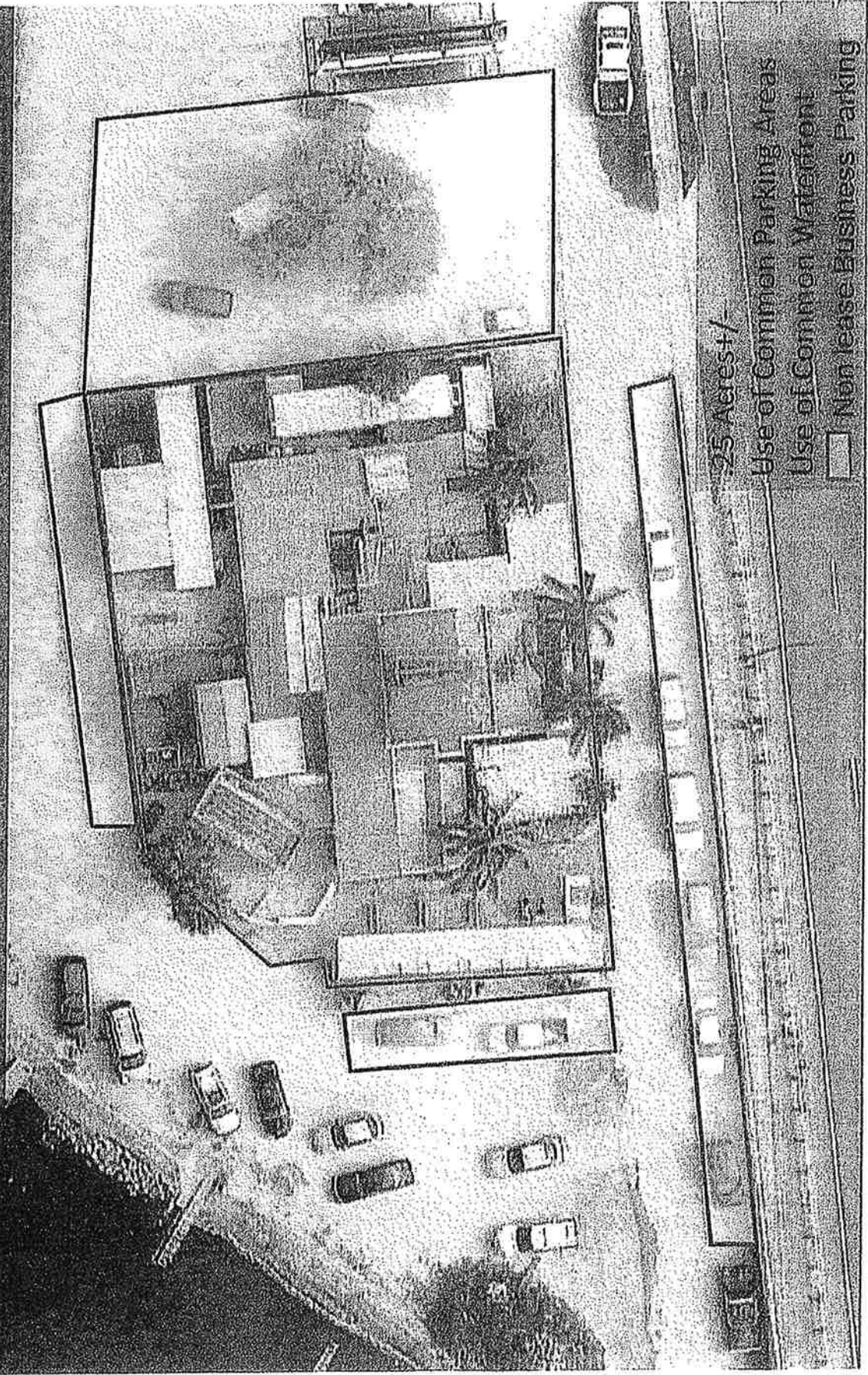

Signature of Landlord


Signature of Tenant


Name of Landlord


Name of Tenant

Use Area for Mrs. Apples Crab Shack



25 Acres +/-

Use of Common Parking Areas

Use of Common Waterfront

Non lease Business Parking



Florida Communities Trust

June 19, 2009

Mr. Ernie Brown
Brevard County
2725 Judge Fran Jamieson Way, Bldg A-219
Viera, FL 32940

RE: FCT Project Number: 08-002-WW1
Brevard County
Blue Crab Cove

Dear Mr. Brown:

Enclosed please find a fully executed original of the Grant Contract and Confidentiality Agreement for the above-referenced Florida Communities Trust / Stan Mayfield Working Waterfront Project.

If you have any questions, please contact me at (850) 922-1692.

Sincerely,

A handwritten signature in cursive script that reads "Jay Sircy".

Jay Sircy
Grants Specialist IV

js\

Enclosures

FCT Contract Number 07-CT- E1-08-FB-A1-002 ⁰⁰² *J*
FLORIDA COMMUNITIES TRUST *002* *ch*
08-002-WW1
BLUE CRAB COVE
CSFA # 52.013

STAN MAYFIELD WORKING WATERFRONT
GRANT CONTRACT

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

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

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

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

WHEREAS, FCT is funded through either Section 259.105(3)(c), Fla. Stat. of the Florida Forever Act, which provides for the distribution of two point five percent (2.5%), less certain reductions, of the net Florida Forever Revenue Bond proceeds to the Department, or any other revenue source designated by the Florida Legislature, to provide land acquisition grants to local governments and nonprofit working waterfront organizations for the acquisition of working waterfronts;

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

WHEREAS, Rule 9K-9, Florida Administrative Code ("F.A.C.") sets forth the procedures for the evaluation and selection of lands proposed for acquisition and Rule 9K-10, F.A.C. sets forth the acquisition procedures;

WHEREAS, on January 29, 2009, the FCT Governing Board evaluated and scored the applications to develop a ranking list of projects to present to the Board of Trustees of Internal Improvement Trust Fund;

WHEREAS, on April 13, 2009, the Board of Trustees of Internal Improvement Trust Fund selected and approved the projects which will receive funding;

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

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

WHEREAS, the purpose of this Agreement is to set forth the conditions that must be satisfied by the Recipient prior to the disbursement of any FCT Florida Forever funds awarded, as well as the restrictions that are imposed on the Project Site subsequent to its acquisition. Since the entire Project Site has not yet been negotiated for acquisition, some elements of the project are not yet known such as the purchase price, other project costs, and the terms upon which an owner will voluntarily convey the property.

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

I. PERIOD OF AGREEMENT

1. This Agreement shall begin upon the Recipient's project being selected for funding and shall end April 15, 2010 ("Expiration Date"), unless extended as set forth below or unless terminated earlier in accordance with the provisions of Article XIII of this Agreement.

2. FCT may extend this Agreement beyond the Expiration Date if FCT determines that significant progress is being made toward the acquisition of the Project Site or that extenuating circumstances warrant an extension of time. If FCT does not grant an extension the Recipient's award shall be rescinded and this Agreement shall terminate.

II. MODIFICATION OF AGREEMENT

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

III. DEADLINES

1. At least two original copies of this Agreement shall be executed by the Recipient and returned to the FCT office at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, as soon as possible and before June 15, 2009. If the Recipient requires more than one original document, the

Recipient shall photocopy the number of additional copies needed and then execute each as an original document. Upon receipt of the signed Agreements, FCT shall execute the Agreements, retain one original copy and return all other copies that have been executed to the Recipient.

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

4. No later than June 15, 2009, the Recipient shall deliver to FCT a written statement from the Project Site property owner(s) evidencing that the owner(s) is willing to entertain an offer from the Recipient and FCT, if not previously provided in the Application. No acquisition activity shall be commenced prior to FCT receipt of this statement.

6. No later than June 15, 2009, the Recipient shall deliver to FCT the executed Confidentiality Agreement provided to the Recipient by FCT, pursuant to Rule 9K-8.008(3), F.A.C. No acquisition activity shall be commenced prior to FCT receipt of the executed Confidentiality Agreement.

IV. FUNDING PROVISIONS

1. The FCT Florida Forever award granted to the Recipient ("FCT Award") will in no event exceed the lesser of Sixty Five Percent (65%) of the final Project Costs, as defined in Rule 9K-9.002(17), F.A.C., or Two Million Six Hundred Sixty Five Thousand Dollars And Zero Cents (\$2,665,000.00) unless FCT approves a different amount after determination of the Maximum Approved Purchase Price (MAPP), which shall be reflected in an addendum to this Agreement. FCT will not participate in Project Costs that exceed the grant award amount.

The FCT Award is based on the Recipient's estimate of final Project Costs in its application. When disbursing the FCT Award, FCT shall recognize only those Project Costs consistent with the definition in Rule 9K-9.002(17), F.A.C. FCT shall participate in the land cost at either the actual purchase price or the MAPP, whichever is less, multiplied by the percent stated in the above paragraph.

2. The FCT Governing Board ranked and the Board of Trustees of the Internal Improvement Trust Fund ("Trustees") selected the Recipient's Application for funding in order to acquire the entire Project Site identified in the Application. FCT reserves the right to withdraw or adjust the FCT Award if the acreage that comprises the Project Site is reduced or the project design is changed so that the objectives of the acquisition cannot be achieved. FCT shall consider any

request for Project Site boundary modification in accordance with the procedures set forth in Rule 9K-9.009, F.A.C.

If the Project Site is comprised of multiple parcels and multiple owners, then FCT reserves the right to withdraw or adjust the FCT Award if the priority parcel(s) or a significant portion of the Project Site 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 Comptroller 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 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, 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 9K-9.002(15), F.A.C. 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, 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 financially perform under this Agreement is contingent upon an annual appropriation by the Florida Legislature, and is subject to any modification in accordance with Chapter 216, Fla. Stat. or the Florida Constitution.

8. FCT's performance and obligation to financially perform under this Agreement is contingent upon the issuance of Florida Forever Revenue Bonds issued by the State of Florida and of the proceeds of the Florida Forever Revenue Bonds being released to the Department.

V. NOTICE AND CONTACT

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

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

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

Name: Emie Brown
Title: Director of Natural Resources
Address: 2725 Judge Fran Jamieson Way, Bldg - A-219
Vienna, FL 32940
Phone: 321-633-2016 Fax: 321-633-2029
E-mail: _____

3. The Recipient authorizes the administrator, employee, officer or representative named in this paragraph to execute all documents in connection with this project on behalf of the Recipient, including, but not limited to, the Grant Contract or any addenda thereto, purchase agreement(s) for the property, grant reconciliation statement, closing documents and Declaration of Restrictive Covenants.

Name: _____
Title: _____
Address: _____

Phone: _____ Fax: _____
Email: _____

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

5. The Recipient hereby notifies FCT that the Recipient's Federal Employer Identification Number(s) is 59-6000523.

VI. PRE-CLOSING REQUIREMENTS

1. Prior to FCT approval of the signed purchase agreement(s), closing(s) of the real estate transaction(s) to acquire the Project Site and final disbursement of the FCT Award, the Recipient shall submit to FCT:

- a. Supporting documentation that the conditions imposed as part of this Agreement have been satisfied.
- b. 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.
- c. A signed statement by the Recipient that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the applicable adopted and approved comprehensive plan.
- d. Additional documentation as may be requested by FCT to provide Reasonable Assurance, as set forth in paragraph VII.4. below.

2. FCT shall approve the terms under which the interest in land is acquired pursuant to Section 380.510(3), Fla. Stat. Such approval is deemed given when FCT approves and executes the purchase agreement for acquisition of the Project Site, further described in paragraph VI.1.a. above.

3. All real property shall be obtained through a Voluntarily-Negotiated Transaction, as defined in Rule 9K-9.002(42). The use of or threat of condemnation is not considered a Voluntarily-Negotiated Transaction.

4. Any invoices requested, along with proof of payment, shall be submitted to FCT and be in a detail sufficient for a proper audit thereof.

5. Interest in the Project Site shall be titled in the Recipient.

6. The transfer of interest to the Recipient for the Project Site shall not occur until the requirements for the acquisition of lands, as specified in Section 380.507(11), Fla. Stat. and Rule Chapter 9K-10, F.A.C., have been fully complied with by the Recipient and FCT and the Recipient has complied with all Purchase Agreement requirements.

7. The deed transferring interest of the Project Site to the Recipient shall set forth the executory interest of the Board of Trustees of the Internal Improvement Trust Fund.

VII. MANAGEMENT PLAN; ANNUAL STEWARDSHIP REPORT

1. Prior to the signature of the purchase agreement(s), closing(s) of the real estate transaction(s) and final disbursement of the FCT Award, the Recipient shall submit to FCT and have approved a Management Plan that complies with Rule 9K-9.010, F.A.C. and addresses the criteria and conditions set forth in Articles VII, VIII, IX, X and XI herein. The Recipient is strongly urged to coordinate with FCT staff in order to ensure that FCT approval of the Management Plan occurs prior to the closing date of the real estate transaction(s) associated with the Project Site and the disbursement of the FCT Award.

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

- a. An introduction containing the project name, location and other background information relevant to management.
- b. The stated purpose for acquiring the Project Site as proposed in the Application and a prioritized list of management objectives.
- c. A detailed description of all proposed uses including existing and proposed physical improvements and the impact on natural resources.
- d. A scaled site plan drawing showing the Project Site boundary, existing and proposed physical improvements.
- e. A description of proposed educational displays and programs to be offered, if applicable.
- f. A schedule for implementing the development and management activities of the Management Plan.
- g. Cost estimates and funding sources to implement the Management Plan.

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

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

4. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105 and Chapter 380, Part III, Fla.Stat., the Recipient(s) shall be required to provide FCT with Reasonable Assurance, pursuant to Rule 9K-9.002(19), 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 is a Non-profit Working Waterfront Organization and does not include at least one Local Government partner, FCT will require the Recipient to establish a management endowment in an amount sufficient to ensure performance; and provide a guaranty or pledge by the Local Government, the Water Management District in which the project is located, or a managing agency of the Board of Trustees to act as a backup manager to assume responsibility for management of the Project Site in the event the Recipient is unable to continue to manage the Project Site.

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. 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 or land alterations will not adversely impact the management of the Project Site. FCT's approval of the Recipient's Management Plan addressing the items mentioned herein shall be considered written approval from FCT.

7. As required by Rule 9K-9.012, F.A.C., each year after FCT closes on the Project Site, the Recipient shall prepare and submit to FCT an annual stewardship report that documents the progress made on implementing the Management Plan.

VIII. SPECIAL MANAGEMENT CONDITIONS

In addition to the Management Plan conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the project site and result from either representations made in the application that received scoring points or observations made by FCT staff during the site visit described in Rule 9K-9.007, F.A.C.:

1. The future land use and zoning designations of the project site shall be changed to Working Waterfronts or other similar category.
2. 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 that the project site was purchased with funds from the Florida Communities Trust Program and the Recipient.
3. At closing, the existing submerged land lease will be transferred to the Recipient.

4. Prior to closing, the Recipient will provide a letter from the Department of Environmental Protection stating the current land owner is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wet slip certification forms are current or that the facilities or structures are not subject to a state sovereignty submerged land lease.

5. Annually the Recipient will provide a letter from the Department of Environmental Protection stating the Recipient is in compliance with Chapters 253, 258, 373 Part IV and 403 Florida Statutes and the submerged land lease for all facilities or structures on the Project Site that are located over state sovereignty submerged land and that applicable fees or wet slip certification forms are current or that the facilities.

6. The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing dilapidated docking facility at the project site.

7. The existing buildings on the project site will be used as a working waterfront building.

8. The Recipient will obtain an environmental resource permit or wetland resource permit and rebuild the existing boat ramp at the project site.

9. The Recipient will set aside a storage area for traps, nets, or other gear need for commercial fishing or aquaculture operations.

10. Permanent structured displays of artifacts and other items shall be provided that provides information about the economic, cultural or historic heritage of Florida's traditional Working Waterfronts.

11. Interpretive kiosk or signs shall be provided that educate the public about the economic, cultural, or historic heritage of Florida's traditional Working Waterfronts.

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

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

2. The Declaration of Restrictive Covenants shall also restate the conditions that were placed on the Project Site at the time of project selection and initial grant approval. The Declaration of Restrictive Covenants shall be executed by FCT and the Recipient at the time of the closing 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 can not be reasonably completed within the specified thirty (30) day time frame, the Recipient shall submit a timely written request to the FCT Program Manager that includes the status of the current activity, the reasons for the delay and a time frame for the completion of the curing activities. FCT shall submit a written response within thirty (30) days of receipt of the request and approval shall not be unreasonably withheld. It is FCT's position that all curing activities shall be completed within one hundred twenty (120) days of the Recipient's notification of the violation. However, if the Recipient can demonstrate extenuating circumstances exist to justify a greater extension of time to complete the activities, FCT shall give the request due consideration. If the Recipient fails to correct the violation within either (a) the initial thirty (30) day time frame or (b) the time frame approved by FCT pursuant to the Recipient's request, all interest in the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, Nonprofit Working Waterfront Organization, Water Management District in which the project is located, or a managing agency of the Board of Trustees who agrees to accept interest and manage the Project Site. FCT shall treat such property in accordance with Section 380.508(4)(e), Fla. Stat.

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

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

2. If the existence of the Recipient terminates for any reason, interest to the Project Site shall be conveyed to the Trustees unless FCT negotiates an agreement with another local government, Nonprofit Working Waterfront Organization, Water Management District in which the project is located, or a managing agency of the Board of Trustees who agrees to accept interest and manage the Project Site.

3. Following the acquisition of the Project Site, the Recipient shall ensure that the future land use and zoning designation assigned to the Project Site is for a category dedicated to working waterfronts. 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 recognizing FCT's role in the acquisition of the Project Site.

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

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

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

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

3. If the Project Site, after its acquisition by the Recipient and/or the Trustees, is to remain subject to any of the disallowable activities, the Recipient shall provide notice to FCT, as

provided for in paragraph V.1., at least sixty (60) calendar days in advance of any such transactions, events or circumstances, and shall provide to FCT such information as FCT reasonably requests in order to evaluate for approval the legal and tax consequences of such disallowable activities.

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

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

XII. RECORDKEEPING; AUDIT REQUIREMENTS

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

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

In connection with the audit requirements addressed herein, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Fla. Stat. This includes submission of a reporting package as defined by Section 215.97(2)(d), Fla. Stat. and Chapter 10.550 (local government entities) or 10.650 (nonprofit organizations), Rules of the Auditor General.

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

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

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

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

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

and

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

State of Florida Auditor General at the following address:

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

5. If the audit shows that any portion of the funds disbursed hereunder were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to FCT of all funds not spent in accordance with the applicable regulations and

Agreement provisions within thirty (30) days after FCT has notified the Recipient of such non-compliance.

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

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

XIII. DEFAULT; REMEDIES; TERMINATION

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

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

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

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

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

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

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

XIV. LEGAL AUTHORIZATION

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

XV. STANDARD CONDITIONS

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

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

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

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

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

This Grant Contract embodies the entire agreement between the parties.

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

BREVARD COUNTY

By: Chuck Nelson
Chuck Nelson, Chairman
As approved by the Board on 5/19/09

FLORIDA COMMUNITIES TRUST

By: Ken Reecy
Ken Reecy
Community Program Manager
Date: 6-18-09

ATTEST

By: Scott Ellis
Scott Ellis, Clerk of Court

Approved as to Form and Legality:

By: Kristen L. Coons
Kristen L. Coons, Trust Counsel

Approved as to legal form and content:

Christine Lepore
Christine Lepore, Assistant County Attorney

Contract No. 09-CT-E1-08-FB-A1-002
FCT Project No: 08-002-WW1

CONFIDENTIALITY AGREEMENT

This is a Confidentiality Agreement ("Agreement") pursuant to Rule 9K-10.005(3), Florida Administrative Code (F.A.C.).

Parties to the Confidentiality Agreement: BREVARD COUNTY ("Recipient"), a local government of the State of Florida, and the FLORIDA COMMUNITIES TRUST ("FCT"), a non-regulatory agency within the Department of Community Affairs.

Parcels Covered by this Agreement: This Agreement covers all parcels identified as part of the project site in SMWW application 08-002-WW1 that was selected for funding and is governed by a Grant Contract for FCT Project Number 08-002-WW1 ("Project Site").

Confidentiality:

- a) Pursuant to Rule 9K-10.002(8), F.A.C., the term "Confidential" refers to information that shall not be available for public disclosure or inspection and is exempt from the provisions of Section 119.07, Florida Statutes (F.S.).
- b) The Recipient and its agents shall maintain the confidentiality of all appraisals, offers, and counteroffers as required by Section 125.355(1)(a), F.S., for counties, or Section 166.045(1)(a), F.S., for municipalities, and Chapter 9K-10, F.A.C. The Recipient may disclose such confidential information only to the individuals listed herein below.
- c) Requests to add persons to the disclosure list shall be made in writing. Upon the written consent of the FCT Community Program Manager, the Recipient shall execute an Addendum to the Agreement. All confidentiality requirements outlined above shall apply to individuals added to the list.
- d) The undersigned board members and staff of the Recipient and its agents, if any, agree to maintain the confidentiality of appraisal information, offers and counter-offers concerning FCT Project Number 08-002-WW1, as required by Section 125.355 (1)(a), F.S., for counties or Section 166.045 (1)(A), F.S., for municipalities, Chapter 9K-10, F.A.C., and this Confidentiality Agreement between the Recipient and FCT.

e) The undersigned certify that they have no legal or beneficial interest in the Project Site.

Date	Recipient Board Member, Staff or Agent Name	Signature
<u>6/3/09</u>	<u>Stockton Whitten, Interim Co Mgr.</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Mel Scott, Assistant Co. Mgr.</u>	<u>[Signature]</u>
<u>6/2/09</u>	<u>Ernie Brown, Director, NRMO</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Greg Lugar, Dir. Econ. & Fin. Prog.</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Scott Knox, County Attorney</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Scott Ellis, Clerk of the Court</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Robin Sobrino, Dir. Planning & Dev</u>	<u>[Signature]</u>
<u>6/3/09</u>	<u>Holly Pardi, Public Works Office</u>	<u>[Signature]</u>
<u>6-2-09</u>	<u>Matt Culver, Natural Res. Mgt Off.</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Carie Exline, Clerk of Court Off.</u>	<u>[Signature]</u>
<u>6-3-09</u>	<u>Christine Lepore, County Atty. Off.</u>	<u>[Signature]</u>
<u>6-5-09</u>	<u>Trudie Infantini, Commissioner, D-3</u>	<u>[Signature]</u>

BREVARD COUNTY

By: Chuck Nelson
 Title: Chuck Nelson, Chairman

As approved by the Board on
 Date: May 19, 2009

FLORIDA COMMUNITIES TRUST

By: Ken Reecy
 Ken Reecy
 Community Program Manager

Date: 6-18-09

Approved as to form and legality:
[Signature]

Approved as to form and legality:

By: Christine Lepore,
 Title: Assistant County Attorney

By: Kristen L. Coons
 Title: Trust Counsel

ATTEST:
[Signature]
 Scott Ellis, Clerk of Court