

~~MAR 29 1994~~ *Ad/ple*

CONTRACT # 94-CT-07-91-1A-J1-009

FLORIDA COMMUNITIES TRUST  
PIA AWARD# 91-009-PIA

GRANT AWARD AGREEMENT

THIS AGREEMENT is entered into this 29<sup>th</sup> day of MARCH, 1994, by and between the FLORIDA COMMUNITIES TRUST ("FCT"), a nonregulatory agency within the State of Florida Department of Community Affairs, and OSCEOLA COUNTY, a political subdivision of the State of Florida and ORANGE COUNTY, a political subdivision of the State of Florida ("FCT Recipient"), in order to impose terms, conditions, and restrictions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds and as described in Exhibit "A" attached hereto and made a part hereof ("Project Site"), as shall be necessary to ensure compliance with applicable Florida Law and federal income tax law and to otherwise implement provisions of Chapters 253, 259, and 380, Florida Statutes.

WHEREAS, Part III Chapter 380, Florida Statutes, the Florida Communities Trust Act, creates a nonregulatory agency within the Department of Community Affairs, which will assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans and in otherwise conserving natural resources and resolving land use conflicts by providing financial assistance to local governments to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, Section 259.101(3)(c), Florida Statutes, provides for the distribution of ten percent (10%) of the net Preservation 2000 Revenue Bond proceeds to the Department of Community Affairs to provide land acquisition grants and loans to local governments through the FCT;

WHEREAS, the Governor and Cabinet authorized the sale and issuance of State of Florida Department of Natural Resources Preservation 2000 Revenue Bonds (Bonds);

WHEREAS, the Bonds were issued as tax-exempt bonds, meaning that the interest on the Bonds is excluded from the gross income of Bondholders for federal income tax purposes;

WHEREAS, Rule 9K-4.010(2)(e), F.A.C., authorizes FCT to impose conditions for funding on those FCT applicants whose

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MEL WILLS JR., CLERK OF THE CIRCUIT COURT - OSCEOLA CTY  
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projects have been selected for funding in accordance with Rule Chapter 9K-4, F.A.C.;

WHEREAS, the FCT has approved the terms under which the Project Site is acquired and the deed whereby the FCT Recipient acquires title to the Project Site 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 shall contain clauses providing for the conveyance of title to the Project Site to the Board of Trustees of the Internal Improvement Trust Fund upon the failure of the FCT Recipient to use the Project Site acquired thereby for such purposes; and

WHEREAS, such covenants and restrictions shall be imposed by an agreement which shall describe with particularity the real property which is subject to the agreement and shall be recorded in the county in which the real property is located; and

WHEREAS, the purpose of this Agreement is to set forth the covenants and restrictions that are imposed on the Project Site subsequent to its acquisition with the FCT Preservation 2000 Bond Proceeds.

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 FCT Recipient do hereby contract and agree as follows:

#### **I. GENERAL CONDITIONS.**

1. Upon execution and delivery by the parties hereto, the FCT Recipient shall cause this Agreement to be recorded and filed in the official public records of Orange County, Florida, and in the official public records of Osceola County, Florida, and referenced by the warranty deeds vesting fee simple title to the Project Site in the FCT Recipient, and in such manner and in such other places as FCT may reasonably request, and shall pay all fees and charges incurred in connection therewith.

2. The FCT Recipient and FCT agree that the State of Florida Department of Environmental Protection will forward this Agreement to Department of Environmental Protection Bond Counsel for review. In the event Bond Counsel opines that an amendment is required to this Agreement so that the tax exempt status of the Preservation 2000 Revenue Bonds is not jeopardized, FCT and FCT Recipient shall amend the Agreement accordingly.

3. This Agreement may be amended at any time. Any amendment must be set forth in a written instrument and agreed to by both the FCT Recipient and FCT.

4. This Agreement and the covenants and restrictions contained herein shall run with the Property herein described and shall bind, and the benefits shall inure to, respectively, the FCT and the FCT Recipient and their respective successors and assigns.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, with respect to both substantive rights and with respect to procedures and remedies.

6. Any notice required to be given hereunder shall be given by personal delivery, by registered mail or by registered expedited service at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto, and any such notice shall be deemed received on the date of delivery if by personal delivery or expedited delivery service, or upon actual receipt if sent by registered mail.

FCT:

Florida Communities Trust  
Department of Community Affairs  
2740 Centerview Drive  
Tallahassee, FL 32399-2100  
ATTN: Executive Director

FCT Recipient:

Orange County, a political  
subdivision of the State of Florida  
201 South Rosalind Avenue  
Orlando, FL 32801  
ATTN: Board of County Commissioners

Osceola County, a political  
subdivision of the State of Florida  
17 South Vernon Avenue  
Kissimmee, FL 32741

ATTN: Board of County Commissioners

7. If any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

**II. PROJECT SITE REQUIREMENTS IMPOSED BY CHAPTER 259, CHAPTER 375, AND CHAPTER 380, PART III, FLORIDA STATUTES.**

1. If any essential term or condition of this grant agreement is violated by the FCT Recipient or by some third party with the knowledge of the FCT Recipient and the FCT Recipient does not correct the violation within 30 days of notice of the violation, fee simple title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund. The FCT shall treat such property in accordance with Section 380.508(4)(e), Florida Statutes.

FCT shall investigate any violation of terms and conditions to determine if both FCT Recipients have knowledge of or are a party to the violation. If it is determined that one of the FCT Recipients has no knowledge of, has notified FCT of, or is not a party to the violation, the FCT Recipient not in violation shall not be required to convey fee simple title to its interest in the Project Site to the Board of Trustees of the Internal Improvement Trust Fund.

2. 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 people of Florida.

3. The interest, if any, acquired by the FCT Recipient in the Project Site will not serve as security for any debt of the FCT Recipient unless FCT approves the transaction.

4. If the existence of the FCT Recipient terminates for any reason, title to all interest in real property it has acquired with the FCT award shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, unless FCT negotiates an agreement with another local government or nonprofit organization which agrees to accept title to all interest in and to manage the Project Site.

5. 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 FCT Recipient shall deposit with the 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 Agreement. The FCT shall make any such insurance proceeds or condemnation award moneys available to provide funds for such restoration work. In the event that the FCT Recipient fails to commence or to complete the rebuilding,

repair, replacement or restoration of the Project Site after notice from the FCT, the 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 will have the right to seek specific performance of any of the covenants and restrictions of this Agreement concerning the construction and operation of the Project Site.

### **III. PROJECT SITE OBLIGATIONS IMPOSED BY FCT ON THE FCT RECIPIENT.**

1. The Project Site shall be managed only for the conservation, protection and enhancement of natural and historical resources and for passive, natural resource-based public outdoor recreation which is compatible with the conservation, protection and enhancement of the Project Site, along with other related uses necessary for the accomplishment of this purpose. The proposed uses for the Project Site are specifically designated in the Project Plan as approved by FCT.

2. The FCT Recipient shall prepare and submit to FCT an annual report as required by Rule 9K-4.013, F.A.C.

3. The FCT Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation, or outdoor recreation uses as appropriate. If an amendment to the FCT Recipient's comprehensive plan is required to comply with this paragraph, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the FCT Recipient.

4. FCT Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Agreement 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.

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

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

7. 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/or 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 of the Project Site. The approval by FCT of the FCT Recipient's management plan addressing the items mentioned herein shall be considered written approval from FCT.

8. If archaeological and historic sites are located on the Project Site, the FCT Recipient shall comply with Chapter 267, Florida Statutes. The collection of artifacts from the Project Site or the disturbance of archaeological and historic sites on the Project Site will be prohibited unless prior written authorization has been obtained from the Department of State, Division of Historical Resources.

9. The FCT Recipient shall ensure that the Project Site is identified as being publicly owned and operated as a natural resource-based public outdoor recreational site in all signs, literature and advertising regarding the Project Site. The FCT Recipient shall erect a sign(s) identifying the Project Site as being open to the public and as having been purchased with funds from FCT and FCT Recipient.

#### **IV. OBLIGATIONS INCURRED BY FCT RECIPIENT AS A RESULT OF BOND PROCEEDS BEING UTILIZED TO PURCHASE THE PROJECT SITE.**

1. If the Project Site is to remain subject, after its acquisition by the State and the FCT Recipient, to any of the below listed activities or interests, the FCT Recipient shall provide at least 60 days written notice of any such activity or interest to FCT prior to the activity taking place, and shall provide to FCT such information with respect thereto as FCT reasonably requests in order to evaluate the legal and tax consequences of such activity or interest:

a. any 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 to a non-governmental person or organization;

c. any sales contract or option to buy 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 non-governmental persons other than in such person's capacity as a member of the general public;

e. a management contract of the Project Site with a non-governmental person or organization; and

f. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

2. FCT Recipient agrees and acknowledges that the following transaction, events, and circumstances may not be permitted on the Project Site as they may have negative legal and tax consequences under Florida law and federal income tax law:

a. a sale of the Project Site or a lease of the Project Site to a non-governmental person or organization;

b. the operation of a concession on the Project Site by a non-governmental person or organization;

c. a sale of things attached to the Project Site to be severed from the Project Site to a non-governmental person or organization;

d. 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;

e. any use of the Project Site by non-governmental persons other than in such person's capacity as a member of the general public;

f. a management contract of the Project Site with a non-governmental person or organization; and

g. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE FCT RECIPIENT AND OTHER GOVERNMENTAL BODIES, NOT FOR PROFIT ENTITIES, OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE FCT 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.

**V. CONDITIONS THAT ARE PARTICULAR TO THE PROJECT SITE AS A RESULT OF THE FCT APPROVED MANAGEMENT PLAN.**

1. The FCT Recipient shall ensure that the public has adequate access to the Project Site for resource-based outdoor recreation to the extent that the Project Sites's natural resources are not adversely affected.

2. The timing and extent of a vegetative survey for the Project Site shall be as specified in the management plan to determine the measures the FCT Recipient must take to restore and\or preserve the Project Site.

3. The FCT Recipient shall ensure the preservation and proper management of the native vegetative communities occurring on the Project Site, particularly the xeric oak, dry prairie, hardwood hammock, and longleaf pine communities.

4. The FCT Recipient shall provide to FCT a detailed mitigation plan to restore the degraded wetland and former agricultural areas. An annual status summary on the wetland and upland mitigation activities, including an accounting of the mitigation credits that have been issued which relate to the Project Site, must be provided in the annual report.

5. The Project Site shall be managed in a manner that will optimize habitat conditions for the listed wildlife species that utilize of could potentially utilize the Project Site.

6. The FCT Recipient shall ensure that the surface water resources occurring on the Project Site shall be incorporated into the planned outdoor recreational facilities.

7. Wildlife observation facilities, hiking trails, and environmental education programs shall be incorporated into the Project Site management plan to the extent that such facilities and programs do not interfere with restoration efforts or adversely affect the natural resources occurring on the site.

THIS GRANT AWARD AGREEMENT embodies the entire Agreement between the parties.

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



Witness:

Janet L. Carr  
Witness Name: JANET L. Carr  
Arlene Arbitter  
Witness Name: ARLENE ARBITTER

ORANGE COUNTY, a political  
subdivision of the  
State of Florida,  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY: Tom Staley OF ORANGE COUNTY, FLORIDA  
Its: VICE CHAIRMAN FOR THE COUNTY CHAIRMAN

Date: MAR 29 1994

Attest: [Signature]  
Clerk

Accepted as to Legal Form and  
Sufficiency:

Date: 30 MAR 94

Witness:

Marlette K. Kurtz  
Witness Name: Marlette K. Kurtz  
Rebecca K. Duffy  
Witness Name: Rebecca K. Duffy

OSCEOLA COUNTY, a political  
subdivision of the  
State of Florida,  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY: Chuck Summich  
Its: Vice Chairman

Date: 3/28/94

Attest: [Signature]  
Clerk

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

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

FOR THE USE AND RELIANCE  
OF OSCEOLA COUNTY ONLY  
APPROVED AS TO FORM  
3-27 19 94  
Neal D. Bowen  
NEAL D. BOWEN  
COUNTY ATTORNEY

FLORIDA COMMUNITIES TRUST

Jane R. Bass  
Witness Name:  
JANE R. BASS  
Howard Douglas  
Witness Name:  
HOWARD DOUGLAS

MaryDore McMullen  
Linda Loomis Shelley, Chair  
Date: 3/25/94

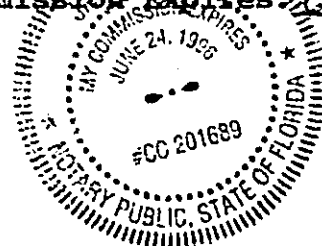
Accepted as to Legal Form and  
Sufficiency.

Ann J. Wild  
Ann J. Wild, Trust Counsel  
Date: 3-23-94

STATE OF FLORIDA  
COUNTY OF LEON

25<sup>th</sup> The foregoing instrument was acknowledged before me this  
day of March, 1994, by Linda Loomis Shelley, as Acting  
Chair of the Florida Communities Trust. She is personally known  
to me.

Jane R. Bass  
Notary Public  
Print Name: Jane R. Bass  
Commission No. BASSC 201689  
My Commission Expires: 6/24/96



STATE OF FLORIDA  
COUNTY OF OSCEOLA

The foregoing instrument was acknowledged before me this  
28th day of March, 1994, by Chuck Dunnick,  
as Vice Chairman. He\She is personally known to  
me.

Beverly G. Downing  
Notary Public

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

Commission No. \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

BEVERLY G. DOWNING  
Notary Public, State of Florida  
My Commission Expires June 26, 1994  
Commission #CC011804

STATE OF FLORIDA  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this  
29th day of March, 1994, by Tom Staley,  
as BCC Vice Chairman. He\She is personally known to  
me.

Cynthia D. Samples  
Notary Public

Print Name: Cynthia D. Samples

Commission No. \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

This instrument prepared by and  
and should be returned to:  
Ann J. Wild  
Florida Communities Trust  
2740 Centerview Drive  
Tallahassee, FL 32399-2100

GAA/009/P1A  
FIN/3-21-94

EXHIBIT A

**LEGAL DESCRIPTION**

All of the South  $\frac{1}{2}$  of Section 27, Township 24 South, Range 31 East, less that portion thereof lying below the Meander line of Lake Hart established by U.S. Government Survey, Orange County, Florida.

All of Section 34, Township 24 South, Range 31 East.

The West  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  and the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 35, Township 24 South, Range 31 East.

And also, all property, if any, located in South  $\frac{1}{2}$  of Section 27, Township 24 South, Range 31 East, lying lakeward of the U.S. Government Survey Meander Line for Lake Hart. Any such property rights shall remain and be appurtenant to the legal title to the real property lying contiguous to such lakeward property.

All in the Orange County, Florida.

**TOGETHER WITH**

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 in Section 3, Township 25 South, Range 31 East according to the NEW AND CORRECTED MAP OF NARCOOSSEE, as filed and recorded in the Office of the Clerk of the Circuit court of Osceola County, Florida, in Plat Book 1, Pages 73 and 74, Public Records of Osceola County, Florida; Together with all land adjoining the above described lots formerly shown as roads on said NEW AND CORRECTED MAP OF NARCOOSSEE which have heretofore been vacated, abandoned, closed and discontinued as public roads.

All in Osceola County, Florida.