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2019-136

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT is between the CITY OF JACKSONVILLE, FLORIDA, a body politic and corporate, whose address is 117 W. Duval Street, Suite 400, Jacksonville, Florida 32202, as "Seller" and the HARBOUR WATERWAY SPECIAL DISTRICT, a dependent Special District created by the City of Jacksonville, Florida, through Ordinance No. 2010-725-E, whose mailing address is 11554 Starboard Drive, Jacksonville, Florida, 32225 as "Buyer".

1. **PURCHASE AND SALE.** For good and valuable consideration, the receipt of which is hereby acknowledged, Seller hereby agrees to sell to Buyer and Buyer agrees to purchase from Seller the real property located in Duval County, Florida, described in Exhibit "A" lying, together with all timber, transferable development rights, improvements, easements, appurtenances, hereditaments, and riparian and littoral rights, if any (the "Property"), and subject to a restrictions that the Property be used for residential non-commercial dredge spoil disposal and reclamation or for conservation, and for no other purposes, all in accordance with the provisions of this Agreement. This restriction, together with the covenants referenced in Section 3.B below, shall be covenants and restrictions in the deed from Seller to Buyer described in paragraph 8. This Agreement becomes legally binding on approval of each party's governing board and due execution of same, the latest date of which will be the "Effective Date" of this Agreement).

2. **USE OF THE PROPERTY.** The Property will be used only as a residential non- commercial dredge spoil disposal site by Buyer, who will allow others who are similarly situated, such as residential property owners, homeowner associations and special districts , to use the Property as a dredge spoil site for residential, non-commercial users on such commercially reasonable terms as Buyer may choose, provided, the rates charged to such users by Buyer for dredge spoil disposal shall not exceed the rates shown on the attached Exhibit "B" for three (3) years following the closing of the sale of the Property to the Buyer. Buyer agrees to reserve and make available up to 250,000 cubic yards of spoil material disposal to other residential, non-commercial users described herein.

3.A. **PURCHASE PRICE.** The purchase price for the Property shall be Eight-Eight Thousand Dollar (\$88,000.00) ("Cash"), consistent with the appraisal done for Seller of the Property. Said sum shall be due and payable at closing.

3.B. **ADDITIONAL CONSIDERATION FOR PURCHASE.**

(i) Three areas of tidal marsh (approximately 25 acres) within adjacent lands already owned by Buyer are subject to recorded conservation easements as shown on the map attached hereto as Exhibit F. Buyer agrees to ensure that such areas are maintained in current condition in perpetuity. In addition, no later than three years following closing, Buyer will record a conservation easement consistent with the terms of Section 704.06, Florida Statutes, over 20 acres within Buyer's current ownership that is not already encumbered by a conservation easement also as shown on Exhibit F.

(ii) To make the Property suitable as a dredge spoil disposal site, Buyer intends to clear and grub the Property, and as part of that activity, eradicate invasive and nuisance plant species, particularly Tamarix plants. Prior to conducting that activity, Buyer will contract with an appropriate professional to conduct a survey of invasive and nuisance plant species, particularly Tamarix, plants ("Plant Survey"), on the adjacent park property over which Seller retains ownership as shown on the map attached as Exhibit C ("Park Property"), for the purpose of identifying areas within the Park Property requiring eradication of such plants. Thereafter, and in conjunction with Buyer's clearing, grubbing and eradication of invasive and nuisance plant species on the Property, Buyer will also treat within 12 months of the Closing of the sale of the property (sometimes hereinafter referred to as the "Closing Date"), the same invasive and nuisance plant species, in the areas the Plant Survey shows same to exist

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on the Park Property. The initial treatment shall be followed up with at least two follow up treatments also within 12 months of the Closing Date.

(iii) For purposes of conducting the invasive and nuisance plant removal activity, it is understood that Buyer or its agents will clear and burn or allow the debris to decay naturally, on-site. Buyer will follow best management practices in conducting this activity and where appropriate and necessary will utilize herbicide(s) to fully eradicate target plants. Where Buyer uses the same equipment to clear and grub on the Property to clear and remove vegetation on the Park Property, Buyer will thoroughly clean such equipment before using said equipment within the Park Property to prevent the spread of seeds from one area to another. Buyer agrees to continue to collaborate with the City of Jacksonville, U.S. Army Corp of Engineers, and the First Coast Invasive Working Group to work towards eradication of Tamarix from the Buyer's Property and the Park Property.

(iv) While conducting clearing and grubbing activities at the Property and/or the Park Property, Buyer will cut a nature trail up to 4000 linear feet in length, not to exceed eight (8) feet in width on the Park Property and place the debris adjacent to the trail to decay naturally. Buyer will also at that time level up to 1000 linear feet, not to exceed 100 feet in width, of the south berm of the small dredge spoil site on the Park Property. Exhibit C shows the area in which such nature trail shall be cut and where the berm will be leveled. Buyer will continuously maintain the nature trail in perpetuity and the deed described in Section 8 shall contain this covenant and an easement for access for such maintenance which also requires that Buyer cause Buyer's contractors to provide Seller with the indemnification and insurance coverages called for in Exhibit "D" hereto. The Seller plans to construct additional amenities (e.g. dock and picnic area) which together with a portion of the nature trail constructed by the Buyer between the dock and the picnic area shall be ADA accessible similar to the ADA accessible park amenities constructed by the City on Exchange Island.

(v) Buyer will seek to gain access to the Property by a service road south of the Buyer's property as shown on the Map attached as Exhibit C. If and to the extent Buyer does secure legal access to the Property via a roadway, (i) it will permit and authorize Seller to utilize use such access for purposes of servicing the Park Property and (ii) Seller will grant a permanent easement and authorize Buyer to access the Property via the existing road through the Park Property on the north berm extending east to west 2175 feet by 30 feet; and a permanent easement on the eastern property line extending south to north 1800 feet by 60 feet on the Park Property as shown on Exhibit C. Buyer agrees to maintain the easements to insure usability. The terms and conditions of these easements shall be mutually agreeable to the Seller and Buyer, all of which will require Seller's City Council approval.

(vi) Buyer agrees to install a three strand barbed wire fence within 24 months of the Closing Date along the shared property boundary adjacent to the dredge material management area to control park visitors from gaining access to the dredge spoil site.

(vii) For the activities in paragraphs 3.B. (ii), (iii), (iv) and (vi), on the Closing Date, Buyer and Seller shall (a) enter into the Temporary Construction Easement attached hereto as Exhibit I, (b) cause Buyer's contractors to provide Seller with the indemnification and insurance coverages called for in Exhibit "D" hereto, and (c) provide Seller a payment and performance bond pursuant to Section 255.05, Florida Statutes.

(viii) The foregoing subsections 3.B.(i)-(vi), shall survive the closing of the sale of the Property to Buyer and shall be covenants in the deed described in paragraph 8.

4. **INSPECTION PERIOD/ENVIRONMENTAL SITE ASSESSMENT.** Buyer shall have the right, at its sole cost and expense, to inspect the Property and to conduct an environmental site assessment of the Property to determine the existence and extent, if any, of any Hazardous Materials on the Property during the thirty (30) day period following the Effective Date of this Agreement (the "Inspection Period"). Prior to expiration of Inspection Period, Buyer may cancel this Agreement for any reason

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without penalty, except that Buyer shall restore any property disturbed by its inspections and assessments to the condition the property was in prior to Buyer's inspections and assessments. If further investigations, testing, monitoring or environmental site assessments are required by Buyer to determine the existence or extent of Hazardous Materials on the Property, Buyer may conduct such procedures at the Buyer's sole cost and expense, and shall cause Buyer's contractor to provide Seller with the indemnification and insurance coverages called for in Exhibit "D" hereto. For purposes of this Agreement "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste of any kind or any other substance which is regulated by any Environmental Law (as hereinafter defined in paragraph 5.)

5. **HAZARDOUS MATERIALS.** If the environmental site assessment provided for in paragraph 4 confirms the presence of Hazardous Materials on the Property, Buyer, at its sole option, may elect to terminate this Agreement and neither party shall have any further obligations under this Agreement. Should Buyer elect not to terminate this Agreement or fails to obtain an environmental site assessment of the Property, then Buyer shall accept the Property "as is, where is, and with all faults", together with all defects, latent and patent, if any. Seller shall have no duty to pursue and or accomplish any clean-up of the Hazardous Materials or to otherwise bring the Property into compliance with Environmental Law. "Environmental Law" shall mean all federal, state and local laws, including statutes, regulations, ordinances, codes, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to the protection of the environment or human health, welfare or safety, or to the emission, discharge, seepage, release or threatened release of any contaminant, solid waste, hazardous waste, pollutant, irritant, petroleum product, waste product, radioactive material, flammable or corrosive substance, carcinogen, explosive, polychlorinated biphenyl, asbestos, hazardous or toxic substance, material or waste of any kind into the environment, including, without limitation, ambient air, surface water, ground water, or land including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource and Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments of 1984, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Federal Superfund Amendments and Reauthorization Act of 1986, Chapters 161, 253, 373, 376 and 403, Florida Statutes, Rules of the U.S. Environmental Protection Agency, Rules of the Florida Department of Environmental Protection, and the rules of the Florida water management districts now or at any time hereafter in effect.

No later than thirty (30) days following the Effective Date, Seller will provide Buyer with any information, reports, or data requested by Buyer and after reasonable inquiry by Seller found to be in Seller's possession regarding soil or water quality on the Property or the presence of hazardous materials, as defined above, on the Property.

If Buyer elects not to terminate this Agreement or fails to obtain an environmental site assessment of the Property, and proceeds to Closing as provided above, Buyer shall indemnify to the extent permitted by law, Seller, its officers, servants, agents and employees from and against any and all claims, suits, actions, damages, liabilities, expenditures or causes of action of whatsoever kind arising from Hazardous Materials placed on the Property prior to closing. Buyer shall defend, at Buyer's sole cost and expense, any legal action, claim, or proceeding instituted by any person against Seller as a result of any claim, suit, or cause of action for injuries to body, life, limb, or property for which Hazardous Materials placed on the Property prior to closing are alleged to be a contributing legal cause.

6. **TITLE INSURANCE.** At Buyer's expense, Buyer may obtain a title insurance commitment, to be followed by an owner's title insurance policy insuring title to the Property in the amount of the Purchase Price.

7. **DEFECTS IN TITLE.** If the title insurance commitment or Survey obtained pursuant to this Agreement disclose any defects in title arising from liens against the Property, such liens up to the amount of Seller's net proceeds from the sale shall be satisfied at closing by Seller. If the title insurance

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commitment or Survey disclose any other defects that are not acceptable to Buyer, Buyer shall have the option to either: (a) accept the title as it then is with no reduction in the Purchase Price, or (b) terminate this Agreement, thereupon releasing Buyer and Seller from all further obligations under this Agreement. Seller shall have no duty to cure any title defects arising from other than liens against the Property.

8. **INTEREST CONVEYED; NO WARRANTIES.** At closing, Seller shall execute and deliver to Buyer a quitclaim deed conveying Seller's interest in the Property "as is, where is, and with all faults", and subject to (i) a restriction that the Property be used for residential non- commercial dredge spoil disposal and reclamation or for conservation, and for no other purposes and (ii) the covenants in paragraph 3B of this Agreement. Seller has made no representations or warranties of any nature whatsoever, express or implied, regarding the Property, including but not limited to the physical and environmental condition of the Property, the zoning of the Property, title to the Property, the suitability of the Property or any improvements for Buyer's intended purpose; or Buyer's legal ability to use the Property for Buyer's intended use.

9. **PREPARATION OF CLOSING DOCUMENTS.** Buyer shall prepare the deed described in paragraph 8 of this Agreement and Buyer's and Seller's closing statements. Buyer understands Seller, as an agency of the state, is unable to execute a no-lien affidavit customarily required to delete the standard exceptions from the title insurance policy. Seller will cooperate with the agent for the title insurance company to provide such reasonable, alternative evidence within the Seller's legal capacity to provide and at no expense to Seller to enable the title agent to delete the standard exceptions typically deleted by a no-lien affidavit.

10. **EXPENSES.** Buyer will pay the documentary stamp tax, if any, and all other taxes or costs associated with the conveyance, including the cost of recording the deed described in paragraph 8 of this Agreement.

11. **TAXES AND ASSESSMENTS.** Seller and Buyer are immune from taxation. At closing, Seller shall satisfy any assessments for which it is legally responsible, if any, prorated to the date of Closing, that are or may become a lien against the Property.

12. **CLOSING PLACE AND DATE.** The closing shall be on or before forty-five (45) days after the Effective Date, unless earlier terminated pursuant to the provisions of paragraphs 4 above. The parties shall mutually set the date, time and place of closing.

13. **RISK OF LOSS AND CONDITION OF PROPERTY.** Seller assumes all risk of loss or damage to the Property prior to the date of closing. The Property shall be transferred and conveyed to Buyer in the same or essentially the same condition as of the date of Seller's execution of this Agreement, ordinary wear and tear excepted. If the condition of the Property is altered, by an act of God or other natural force beyond the control of Seller, however, Buyer may elect, at its sole option, to terminate this Agreement and neither party shall have any further obligations under this Agreement.

14. **RIGHT TO ENTER PROPERTY AND POSSESSION.** Seller agrees that from the date this Agreement is executed by Seller, Buyer and its agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with this Agreement; provided, however, (i) Buyer shall provide Seller with a hold harmless agreement in substantially the form as attached at Exhibit "E", (ii) Buyer shall cause Buyer's contractors to provide Seller with the indemnification and insurance coverages called for in Exhibit "D" hereto, and (iii) Buyer or its agents may be accompanied by Seller's designee during such entry. Seller shall deliver possession of the Property to Buyer at closing.

15. **ACCESS.** Seller makes no warranties as to whether there is legal and practical ingress and egress for the Property over public roads or valid, recorded easements for the use and benefit of and as an appurtenance to the Property.

16. **BROKERS.** No persons, firms, corporations or other entities are entitled to a real estate

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commission or other fees as a result of this Agreement or subsequent closing. Buyer shall indemnify and hold Seller harmless from any and all such claims.

17. **RECORDING.** This Agreement may not be recorded.
18. **ASSIGNMENT.** This Agreement may not be assigned.
19. **TIME.** Time is of essence with regard to all dates or times set forth in this Agreement.
20. **SEVERABILITY.** If any of the provisions of this Agreement are deemed to be unenforceable and the unenforceability of said provisions does not adversely affect the purpose and intent of this Agreement, the enforceability of the remaining provisions of this Agreement shall not be affected.
21. **SUCCESSORS IN INTEREST.** This Agreement shall bind and inure to the benefit of Seller and Buyer and their respective legal representatives and successors. Whenever used, the singular shall include the plural and one gender shall include all genders.
22. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties.
23. **WAIVER.** Failure of either party to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.
24. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, but all such counterparts, when duly executed, shall constitute one and the same Agreement.
25. **ADDENDUM.** Any addendum attached hereto that is signed by the parties shall be deemed a part of this Agreement.
26. **NOTICE.** Whenever either party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally, transmitted via facsimile transmission, mailed postage prepaid, or sent by overnight courier to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement.
27. **SURVIVAL.** The covenants, warranties, representations, and undertakings of the parties set forth in this Agreement shall survive the closing, the delivery and recording of the deed described in paragraph 8 of this Agreement, and Buyer's possession of the Property.
28. **SOVEREIGN IMMUNITY.** The Parties intend to avail themselves of the benefits of Section 768.28, Florida Statutes, and any other statutes and common law governing sovereign immunity to the fullest extent possible. Neither this provision nor any other provisions of this Agreement shall be construed as a waiver of sovereign immunity by any of the Parties.
29. **NO THIRD PARTY BENEFICIARIES.** Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity.

IF THIS AGREEMENT IS NOT FULLY EXECUTED AS PROVIDED HEREIN ON OR BEFORE DECEMBER 1, 2019,

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NEITHER SELLER NOR BUYER SHALL BE UNDER ANY OBLIGATION TO SELL OR PURCHASE THE PROPERTY. SELLER'S PERFORMANCE AND OBLIGATION TO PAY ANY SUMS DUE UNDER THIS AGREEMENT IS CONTINGENT UPON AN ANNUAL APPROPRIATION FOR SUCH PURPOSE.

Signatures appear on the following page

SELLER

CITY OF JACKSONVILLE

Witness as to Seller

By: _____
Lenny Curry, Mayor

Witness as to Seller

Attest: _____
James R. McCain, Jr.
Corporation Secretary

{OFFICIAL SEAL}

Form Approved:

By: _____
Office of General Counsel

In accordance with the *Ordinance Code*, of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; and that provision has been made for the payment of monies provided therein to be paid.

Director of Finance

BUYER

HARBOUR WATERWAY SPECIAL DISTRICT

Witness as to Buyer

By: _____
Michael Levi
As: Chair, Board of Supervisors

Witness as to Buyer

Date signed by Buyer

EXHIBITS

- Exhibit A** Property
- Exhibit B** Spoil Banking Rates
- Exhibit C** Map showing Trails to be cut, berm to be leveled, Park Property,
potential service road and additional easement areas
- Exhibit D** Indemnity and Insurance
- Exhibit E** Hold Harmless Agreement
- Exhibit F** Map showing 25 acres of existing conservation easements and 20 additional acres
- Exhibit G** Temporary Construction Easement

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EXHIBIT B

TIPPING FEE RATE SCHEDULE

The Buyer adopted the following Tipping Fee Rate Schedule on May 08, 2018 and shall guarantee this marginal rate schedule for a period of three (3) years from the Effective Date:

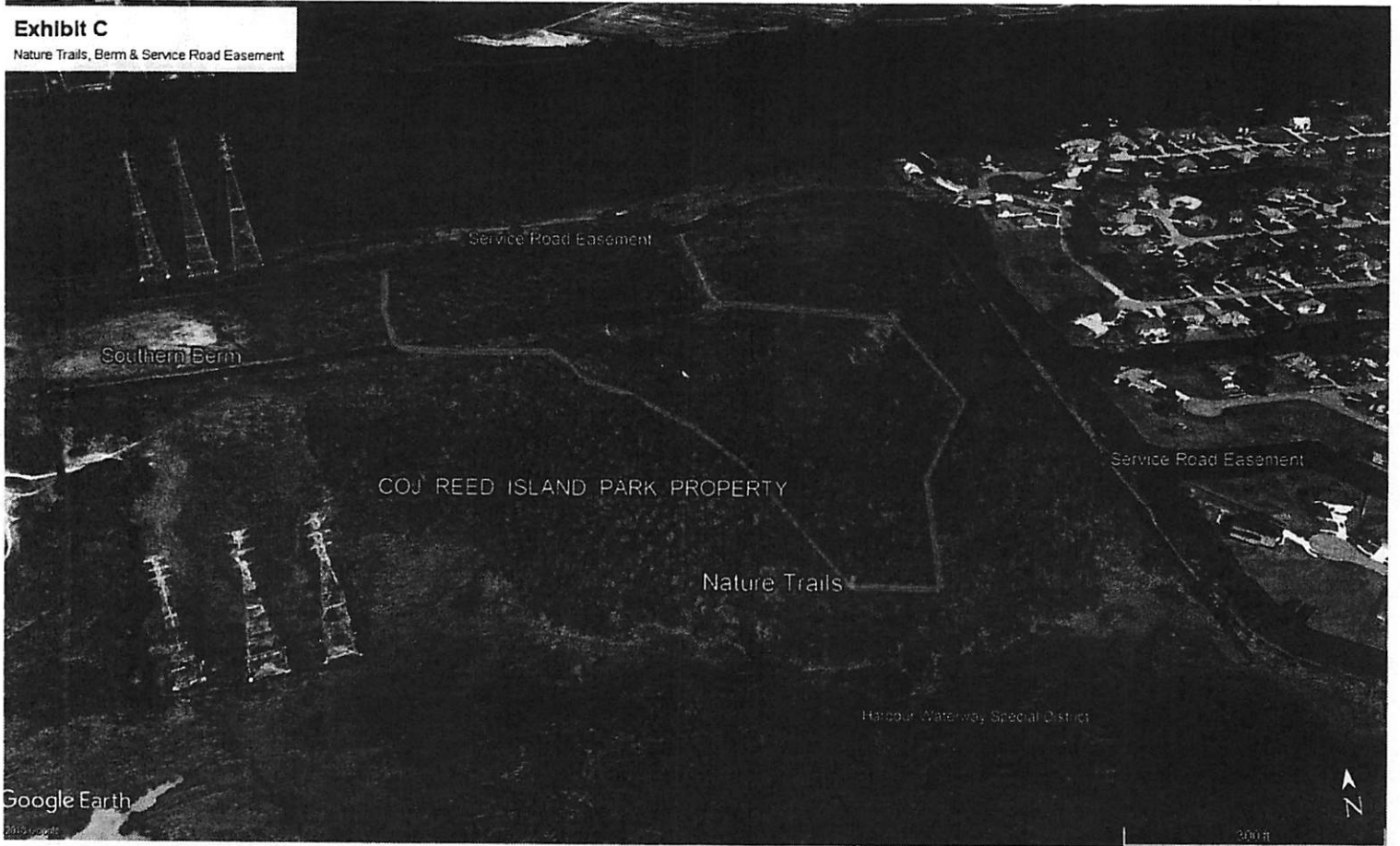
Each residential, non-commercial user shall receive a license agreement for the maximum disposal amount allowed during the term of the license agreement. The total tipping fee is calculated by applying the following rates and volumes by each tier until the maximum disposal amount purchased is satisfied.

Tier 1 - Spoil disposal material between 1 to 25,000 cubic yards is billed at a rate of \$10.00 per cubic yard;

Tier 2 - Spoil disposal material between 25,001 to 50,000 cubic yards is incrementally billed on the volume greater than Tier 1 at a rate of \$7.50 per cubic yard;

Tier 3 - Spoil disposal material in excess of 50,000 cubic yards is incrementally billed on the volume greater than Tier 2 at a rate of \$5.00 per cubic yard.

Exhibit C
Nature Trails, Berm & Service Road Easement



**EXHIBIT D
INDEMNIFICATION**

Contractor shall hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. **General Tort Liability**, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Contract, operations, services or work performed hereunder; and

2. **Environmental Liability**, to the extent this Contract contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Contract; and

3. **Intellectual Property Liability**, to the extent this Contract contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services as contemplated in this Contract, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Buyer, so that the Service or product is non-infringing.

If an Indemnifying Party exercises its rights under this Contract, the Indemnifying Party will (1) provide reasonable notice to the Indemnified Parties of the applicable claim or liability, and (2) allow Indemnified Parties, at their own expense, to participate in the litigation of such claim or liability to protect their interests. The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to the Contract or otherwise. Such terms of indemnity shall survive the expiration or termination of the Contract.

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

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**EXHIBIT D
INSURANCE REQUIREMENTS**

Without limiting its liability under this Contract, Contractor shall at all times during the term of this Contract procure prior to commencement of work and maintain at its sole expense during the life of this Contract (and Contractor shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation Employer's Liability	Florida Statutory Coverage \$ 1,000,000 Each Accident \$ 1,000,000 Disease Policy Limit \$ 1,000,000 Each Employee/Disease

This insurance shall cover the Contractor (and, to the extent they are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Automobile Liability	\$1,000,000	Combined Single Limit
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Contract)		

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

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Professional Liability

\$1,000,000 per Claim and Aggregate

Any entity hired to perform professional services as a part of this contract shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Contract and with a three year reporting option beyond the annual expiration date of the policy.

Builders Risk/Installation Floater

%100 Completed Value of the Project

Such insurance shall be on a form acceptable to the CITY's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$10,000 deductible for other than windstorm and hail. For windstorm and hail coverage, the maximum deductible applicable shall be 2% of the completed value of the project. Named insured's shall be: CONTRACTOR, the CITY, and respective members, officials, officers, employees and agents, the ENGINEER, and the PROGRAM MANAGEMENT FIRM(S) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

Additional Insurance Provisions

- A. **Additional Insured:** All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. **Waiver of Subrogation.** All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.
- C. **Contractor's Insurance Primary.** The insurance provided by the Contractor shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.
- D. **Deductible or Self-Insured Retention Provisions.** All deductibles and self-insured retentions associated with coverages required for compliance with this Contract shall remain the sole and exclusive responsibility of the named insured Contractor. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Contract.
- E. **Contractor's Insurance Additional Remedy.** Compliance with the insurance requirements of this Contract shall not limit the liability of the Contractor or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise.
- F. **Waiver/Estoppel.** Neither approval by City nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide insurance as required under this Contract.
- G. **Certificates of Insurance.** Contractor shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. **Carrier Qualifications.** The above insurance shall be written by an insurer holding a current

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certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

- I. Notice. The Contractor shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Contractor, as applicable, shall provide said a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Contractor under this Contract shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Agreement, Contractor shall present this Contract and Exhibit D to its Insurance Agent affirming: 1) That the Agent has personally reviewed the insurance requirements of the Contract Documents, and(2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Contractor.

Exhibit "E"

City of Jacksonville
214 North Hogan Street,
Jacksonville, Florida 32202

**HOLD HARMLESS AGREEMENT BETWEEN
HARBOUR WATERWAY SPECIAL DISTRICT
AND THE CITY OF JACKSONVILLE**

**(for access to land owned by the City of Jacksonville pursuant to that Agreement
for Sale and Purchase dated _____).**

In consideration for the privilege of access to land owned by the City of Jacksonville ("City"), the undersigned party agrees to cause its contractors and/or agents to access the facility strictly in accordance with all City rules and regulations governing such use as may be promulgated by the City.

In further consideration of this privilege, the undersigned party agrees to the extent permitted by law to hold harmless and indemnify the City from and against all liabilities, claims or causes of action of every kind and nature and all expenses incidental thereto based upon or arising out of any loss, damage or injury suffered by its contractors and/or agents which is occasioned by their access to land of the City, without limitation.

The undersigned hereby specifically waives any and all claims, causes of action, rights or privileges of any kind and nature that it may have or could assert against the City, its elected officials, officers, employees or agents arising in connection with any loss, claim or injury sustained by contractors and/or agents occurring as a result of such party's use and access to land of the City.

Dated this ____ day of _____ 2019.

HARBOUR WATERWAY SPECIAL DISTRICT

Michael Levi
As Chair, Board of Supervisors

Exhibit F
Conservation Easements



EXHIBIT G

Prepared By:
Emerson M. Lotzia
Assistant General Counsel
Office of General Counsel
117 West Duval Street, Suite 480
Jacksonville, Florida 32202

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT ("Easement Agreement") is made and entered into as of the ____ day of _____, 2019 (the "Effective Date") between **CITY OF JACKSONVILLE**, a municipal corporation, whose address is 214 N. Hogan Street, 10th Floor, Jacksonville, Florida 32202; Attention: Real Estate Division ("Grantor") and **HARBOUR WATERWAY SPECIAL DISTRICT**, a Florida dependent Special District created by the City of Jacksonville, Florida, through Ordinance No. 2010-725-E, whose mailing address is 11554 Starboard Drive, Jacksonville, Florida 32225 ("Grantee").

RECITALS:

A. Grantor and Grantee have previously entered into that certain Agreement for Sale and Purchase dated _____ (the "Purchase Agreement") that, in part, authorizes the Grantee to remove invasive plant species and construct on behalf of the City certain park trails and fencing and perform some modifications to berms together with other ancillary improvement on Easement Property, as hereinafter defined, now owned by the Grantor (collectively referred to herein as the "Improvements"), in conjunction with the Grantee construction or modification of a spoil site which Grantor has conveyed to Grantee ("Project").

B. Grantor owns certain property which is used as a passive park and which property is described in Exhibit "A", attached hereto (the "Easement Property").

C. Grantee acquired from Grantor certain real property adjacent to the Easement Property, as described in Exhibit "B" (the "Spoil Parcel"), on which Grantor intends to construct the Project.

D. Grantee has requested, and Grantor has agreed to grant, all as provided in the Purchase Agreement, a temporary construction easement to Grantee over the Easement Property so that Grantee may construct the Improvements and take and perform such actions as Grantee may be required to perform pursuant to the Purchase Agreement on the Easement Property.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor and Grantee, the parties agree as follows:

1. Recitals. The Recitals set forth above are true and correct and incorporated herein by this reference. Any capitalized terms not otherwise defined herein shall have the

meaning as set forth in the Purchase Agreement.

2. **Grant of Easement Rights.** Grantor hereby bargains, sells, grants and conveys unto Grantee a non-exclusive temporary construction easement upon the Easement Property over which Grantee, and Grantee's employees, agents and contractors may pass and repass with vehicles, equipment and materials to be used in the construction of the Improvements in accordance with the terms and conditions of the Purchase Agreement and the documents attached thereto. The easement granted herein is personal to Grantee and is subject to all matters of public record.

3. **Reserved Rights.** Grantor reserves unto itself, and its successors and assigns, the right to use, and to grant to others the right to use the Easement Property for any and all purposes that do not unreasonably interfere with the rights granted herein.

4. **Term.** The term of this Easement Agreement ("**Term**") shall commence on the Effective Date and automatically expire upon such time as Grantee completes the construction of the Improvements in accordance with the Purchase Agreement, without the need for further action on the part of either party. Notwithstanding the foregoing, the parties agree to execute and record an instrument terminating this Easement Agreement if so requested by either party.

5. **Use of Easement Property.** Grantee agrees that in utilizing the Easement Property, Grantee will not unreasonably interfere with any existing or future use of the Easement Property by the Grantor, its successors and assigns. Any property of Grantor disturbed or damaged by the Grantee in the exercise of the rights granted herein will be restored as soon as reasonably practical following such activity to its previously existing condition by the Grantee, at its sole cost and expense.

6. **Improvements.** Grantee shall not place or allow the placement of any items, structures or anything else on the Easement Property at any time without prior written permission from the Grantor, which permission may be denied in the Grantor's sole discretion.

7. **Maintenance and Use.** Grantee shall keep the Easement Property in good condition and repair, excluding ordinary wear and tear and damage by the elements or by Grantor, or Grantor's employees, contractors, agents and/or invitees. Grantee and Grantee's employees, agents and contractors shall not use the Easement Property for any unlawful purpose. Grantee shall comply with all applicable governmental laws, ordinances, rules and regulations while using the Easement Property for the purposes granted herein.

8. **Purchase Agreement.** All of the terms and conditions set forth in the Purchase Agreement relating to the Easement Property and the construction by Grantee of the Improvements are hereby made a part hereof. Any inconsistencies between this Temporary Easement and the Purchase Agreement shall be resolved in favor of the provisions of the Purchase Agreement.

9. **Survival.** The provisions of Sections 6 shall survive the expiration or termination of this Easement Agreement.

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10. **Amendment.** Except as otherwise provided herein, this Easement Agreement may only be modified or amended with the written consent of Grantor and Grantee.

11. **Further Assurances.** The parties agree to mutually cooperate and to execute such other documents as may be reasonably required to effectuate the uses described herein and as otherwise may be reasonable and necessary to carry out the terms of this Easement Agreement, provided that the same does not expose any such party to material additional cost or liability.

12. **Title to Improvements.** Upon expiration or termination of this Easement Agreement the Improvements and other improvements built on, or made to, the Easement Property by the Grantee shall remain on the Easement Property and shall immediately become the exclusive property of the Grantor. Upon surrender of the Easement Property, Grantee shall remove all equipment, trade fixtures and personal property belonging to it or leased from third parties which have not assumed the characteristics of a permanent fixture. All personal property of Grantee not removed from the Easement Property upon termination or natural expiration of this Agreement shall be deemed abandoned and shall become property of the Grantor, unless the Grantor elects not to assume ownership, and in such case Grantee shall remove such items and immediately upon Grantor's request, and if Grantee fails to do so, Grantor may dispose of the same or store the same for Grantee's benefit, in either case at Grantee's sole cost and expense.

13. **Notices.** Any notice required or permitted to be given pursuant to the terms of this Easement Agreement shall be in writing, and hand delivered, or sent via overnight delivery or via certified mail, return receipt requested, postage prepaid, by U.S. Mail. Notices shall be effective upon delivery in the case of hand delivery or overnight courier. Notice sent via certified mail shall be effective on the second business day after being placed in the U.S. Mail. The address for notices pursuant to this Easement Agreement shall be as follows:

To Grantor: Department of Parks and Recreation
City of Jacksonville
214 N. Hogan Street
Jacksonville, Florida 32202
Attention: Real Estate Division

Copy to: Office of General Counsel
Government Operations
117 West Duval Street, Suite 480
Jacksonville, Florida 32202
Attention: Corporation Secretary

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To Grantee: Harbour Waterway Special District
11554 Starboard Drive
Jacksonville, Florida 32225__
Attention: _____

Addresses for notices pursuant to this Easement Agreement may be changed by written notice given in accordance with the terms of this Easement Agreement.

14. **Severability.** All provisions herein are intended to be severable. If any provision or part hereof is deemed void or unenforceable by any court of competent jurisdiction, then the remaining provisions shall continue in full force and effect.

15. **Successors and Assigns Bound.** All the covenants, agreements, conditions and restrictions set forth in this Easement Agreement are intended to be and shall be construed as covenants, appurtenant to the land affected, binding upon, inuring to the benefit of and enforceable by the parties hereto, their respective successors and assigns in title with respect to the Grantor's Property, upon the terms, provisions and conditions therein set forth.

16. **Attorneys' Fees.** In connection with any litigation, including appellate proceedings, arising out of this Easement Agreement, each party shall be responsible for its own attorneys' fees and costs.

17. **Miscellaneous.** This Easement Agreement shall be construed under the laws of the State of Florida. Venue for any action for the interpretation or enforcement of this Easement Agreement shall lie only in Duval County, Florida. There are no third party beneficiaries to this Easement Agreement. This agreement may be executed in counterparts, each of which is an original, and all of which together constitute one and the same instrument.

[Signature pages and exhibits follow.]

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first written above.

WITNESSES:

GRANTOR:

CITY OF JACKSONVILLE

By: _____
Name: _____

By: _____
Lenny Curry, Mayor

By: _____
Name: _____

ATTEST:

By: _____
James R. McCain, Jr., Corporation Secretary

**STATE OF FLORIDA
COUNTY OF DUVAL**

The foregoing instrument was acknowledged before me this _____ day of _____, 201_, by Lenny Curry, Mayor and James R. McCain, Jr., Corporation Secretary, both on behalf of the City of Jacksonville, a Florida municipal corporation. Such person is *(notary must check applicable box)*:

- is personally known to me; or
- produced a current _____ driver's license as identification; or
- produced _____ as identification.

Print name: _____
Notary Public, State of Florida
My commission Expires: _____
Commission No.: _____
(NOTARIAL SEAL)

Form Approved:

By: _____
Office of General Counsel

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WITNESSES:

GRANTEE:

HARBOUR WATERWAY SPECIAL DISTRICT, a Florida dependent special district

By: _____
Name: _____

By: _____
Print Name: _____
Title: _____

By: _____
Name: _____

**STATE OF FLORIDA
COUNTY OF DUVAL**

The foregoing instrument was acknowledged before me this _____ day of _____, 201_, by _____ the Chairman of Harbour Waterway Special District, a Florida dependent special district, on behalf of the district. Such person is *(notary must check applicable box)*:

- is personally known to me; or
- produced a current _____ driver's license as identification; or
- produced _____ as identification.

Print name: _____
Notary Public, State of Florida
My commission Expires: _____
Commission No.: _____
(NOTARIAL SEAL)

Exhibit A

Easement Property

Parcel 160258 0000 as described in Official Records Volume 4321, page 1170, current public records of Duval County, Florida, excluding the portion described in Exhibit B.

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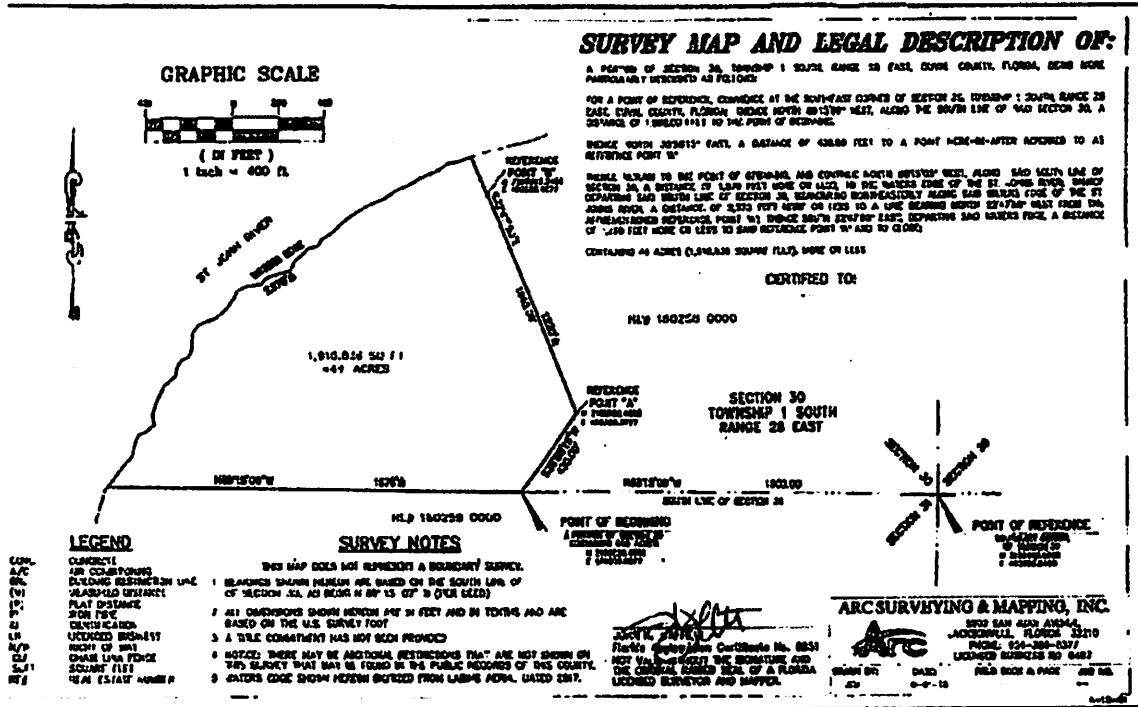
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Exhibit B

Spoil Parcel



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March 20, 2019 - Finance
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