

Prepared by:

Return original or certified recorded document to:  
(Insert name and address  
of WMD or DEP)

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## Deed of Conservation Easement Passive Recreational Uses

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**THIS DEED OF CONSERVATION EASEMENT** ("Conservation Easement") is given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ ("Grantor") whose mailing address is \_\_\_\_\_ to the Choose an item. ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors, or assigns of the Grantor, and all subsequent owners of the "Conservation Easement Area" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

### WITNESSETH

**WHEREAS**, the Grantor is the fee simple owner of certain lands situated in \_\_\_\_\_ County, Florida, and more specifically depicted on the location map in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

**WHEREAS**, Permit No. \_\_\_\_\_ ("Permit") and any modifications thereto issued by the Grantee authorizes certain activities which could affect wetlands or other surface waters in or of the State of Florida; and

**WHEREAS**, the Grantor, in consideration of the consent granted by the Permit or other good and valuable consideration provided to Grantor, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes (F.S.), over the area of the Property described on Exhibit "B" ("Conservation Easement Area"); and

**WHEREAS**, Grantor grants this Conservation Easement as a condition of the Permit, solely to off-set or prevent adverse impacts to natural resources, fish and wildlife, and wetland functions; and

**WHEREAS**, Grantor desires to preserve the Conservation Easement Area in perpetuity in its natural condition, or, in accordance with the Permit, in an enhanced, restored, or created condition; and

**NOW, THEREFORE**, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration provided to the Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the area of the Property described on Exhibit "B" which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. **Recitals.** The recitals hereinabove set forth are true and correct and are hereby incorporated



into and made a part of this Conservation Easement.

2. **Purpose.** It is the purpose of this Conservation Easement to retain land or water areas in their existing, natural, vegetative, hydrologic, scenic, open, or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife in accordance with Section 704.06, F.S. Those wetland and upland areas included in this Conservation Easement which are to be preserved, enhanced, restored, or created pursuant to the Permit (or any modification thereto) and any Management Plan attached hereto as Exhibit "C" ("Management Plan") which has been approved in writing by the Grantee, shall be retained and maintained in the preserved, enhanced, restored, or created condition required by the Permit (or any modification thereto).

To carry out this purpose, the following rights are conveyed to Grantee by this Conservation Easement:

a. To enter upon the Conservation Easement Area at reasonable times with any necessary equipment or vehicles to inspect, determine compliance with the covenants and prohibitions contained in this Conservation Easement, and to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Conservation Easement Area by Grantor at the time of such entry; and

b. To proceed at law or in equity to enforce the provision of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and to require the restoration of such areas or features of the Conservation Easement Area that may be damaged by any activity or use that is inconsistent with this Conservation Easement.

3. **Prohibited Uses.** Except for activities that are permitted or required by the Permit (or any modification thereto) (which may include restoration, creation, enhancement, maintenance, monitoring activities, or surface water management improvements) or other activities described herein or in the Management Plan (if any), any activity on or use of the Conservation Easement Area inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited in or on the Conservation Easement Area:

- a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;
- c. Removing, destroying or trimming trees, shrubs, or other vegetation, except:
  - i. The removal of dead trees and shrubs or leaning trees that could cause damage to property is authorized;
  - ii. The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized;
  - iii. Activities authorized by the Permit or described in the Management Plan or otherwise approved in writing by the Grantee are authorized; and
  - iv. Activities conducted in accordance with a wildfire mitigation plan developed with the Florida Forest Service that has been approved in writing by the Grantee are authorized. No later than thirty (30) days before commencing any activities to implement the approved wildfire mitigation plan, Grantor shall notify the Grantee in writing of its intent to commence such activities. All such activities may only be completed during the time period for which the Grantee approved the plan;
- d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

- e. Surface use except for purposes that permit the land or water area to remain in its natural, restored, enhanced, or created condition;
- f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, clearing, and fencing;
- g. Acts or uses detrimental to such aforementioned retention of land or water areas; and
- h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. **Grantor's Reserved Rights.** Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage or to permit or invite others to engage in all uses of the Conservation Easement Area that are not prohibited herein and which are not inconsistent with the Permit (or any modification thereto), Management Plan, or the intent and purposes of this Conservation Easement.

5. **No Dedication.** No right of access by the general public to any portion of the Conservation Easement Area is conveyed by this Conservation Easement.

6. **Grantee's Liability.** Grantee's liability is limited as provided in Sections 704.06(10) and 768.28, F.S. Additionally, Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep, or maintenance of the Conservation Easement Area.

7. **Enforcement.** Enforcement of the terms, provisions, and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

8. **Taxes.** When perpetual maintenance is required by the Permit, Grantor shall pay before delinquency any and all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Conservation Easement Area, and shall furnish the Grantee with satisfactory evidence of payment upon request.

9. **Assignment.** Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

10. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

11. **Terms and Restrictions.** Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement.

12. **Written Notice.** All notices, consents, approvals, or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

13. **Modifications.** This Conservation Easement may be amended, altered, released, or revoked only by written agreement between the parties hereto or their heirs, assigns, or successors-in-interest, which shall be filed in the public records in \_\_\_\_\_ County, Florida.

14. **Recordation.** Grantor shall record this Conservation Easement in timely fashion in the Official Records of \_\_\_\_\_ County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

15. **Passive Recreational Facilities.** Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage in uses of the Conservation Easement Area that are not prohibited by the Permit (including any modification thereto) or Management Plan, and that are not inconsistent with any rule of the Grantee, and the intent and purposes of this Conservation Easement. Passive recreational uses that are not contrary to the purpose of this Conservation Easement may be constructed with the following limitations:

- a. The Grantor may conduct limited vegetation removal but only to the extent necessary to construct boardwalks, mulched walking trails, observation platforms, or other pervious or pile supported structures which have been approved in advance in the Permit (including any modification thereto) or Management Plan.
- b. The construction and use of the approved passive recreational facilities shall be subject to the following conditions:
  - i. Grantor shall minimize and avoid, to the fullest extent possible, impact to any wetland or upland buffer areas within the Conservation Easement Area and shall avoid materially diverting the direction of the natural surface water flow in such area;
  - ii. Such facilities and improvements shall be constructed and maintained utilizing Best Management Practices;
  - iii. Adequate containers for litter disposal shall be situated adjacent to such facilities and improvements and periodic inspections shall be instituted by the maintenance entity, to clean any litter from the area surrounding the facilities and improvements;
  - iv. This Conservation Easement shall not constitute authorization for the construction and operation of the passive recreational facilities. Any such work shall be subject to all applicable federal, state, Choose an item., and local permitting requirements.

**TO HAVE AND TO HOLD** unto Grantee forever. The covenants, terms, conditions, restrictions, and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Conservation Easement Area.

Grantor hereby covenants with Grantee that Grantor is lawfully seized of said Conservation Easement Area in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; all mortgages and liens on the Conservation Easement Area, if any, have been subordinated to this Conservation Easement; that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends record title to the Conservation Easement Area hereby conveyed against the lawful claims of all persons whomsoever.

**IN WITNESS WHEREOF,** ("Grantor") has hereunto set its authorized hand this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_.

A Florida corporation or  \_\_\_\_\_ (*choose one*)

By: \_\_\_\_\_  
(Signature)

Name:

Title:

Signed, sealed and delivered in our presence as witnesses:

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print)

Name: \_\_\_\_\_  
(Print)

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, the person who subscribed to the foregoing instrument, as the \_\_\_\_\_ (title), of \_\_\_\_\_  (corporation), a Florida corporation, or  \_\_\_\_\_ (choose one) and acknowledged that he/she executed the same on behalf of said  corporation, or  \_\_\_\_\_ (choose one) and that he/she was duly authorized to do so. He/She is personally known to me or has produced a \_\_\_\_\_ (state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

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

### **Mortgagee (Lender) Joinder, Consent, and Subordination**

For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, \_\_\_\_\_, the owner and holder of a mortgage dated \_\_\_\_\_, given by ("Mortgagor/Borrower") to \_\_\_\_\_ ("Mortgagee/Lender"), encumbering the real property described on Exhibit "B" attached hereto ("Conservation Easement Area"), which is recorded in Official Records Book \_\_\_\_\_ at Page \_\_\_\_\_, (together with that certain Assignment of Leases and Rents recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_, and those certain UCC-1 Financing Statement(s) recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_, all in the Public Records of \_\_\_\_\_ County, Florida (said mortgage, assignment of leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement granted to the Choose an item., as said Conservation Easement may be modified, amended, and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Conservation Easement.

**IN WITNESS WHEREOF**, this Mortgagee/Lender Joinder, Consent, and Subordination is made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Mortgagee /Lender)

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

Title: \_\_\_\_\_  
(Print)

**WITNESSES:**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print)

Name: \_\_\_\_\_  
(Print)

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (print name), as \_\_\_\_\_ (title) of \_\_\_\_\_ (Mortgagee/Lender), on behalf of the  corporation, or  (choose one). He/She is personally known to me or has produced a \_\_\_\_\_ (state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

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

**EXHIBIT A**

[LOCATION MAP]



**EXHIBIT B**

[LEGAL DESCRIPTION AND SKETCH OF CONSERVATION EASEMENT AREA]

**EXHIBIT C**

[MANAGEMENT PLAN OR "INTENTIONALLY LEFT BLANK"]