Draft: for 7-27-09
Project Name:
Evans/Flagler

This instrument prepared by
and should be returned to:
Donald F. Wright, Esquire
Wright, Fulford, Moorhead
& Brown, P.A.
P.O. Box 2828
Orlando, Florida 32802-2828

DEED OF EASEMENT

THIS GRANT OF EASEMENT is made this _____ day of _____, 2009, by MILTON EUGENE EVANS, SR., A/K/A MILTON E. EVANS AND MARILYN J. EVANS, HUSBAND AND WIFE, whose address is 1195 East Washington Street, Pierson, Florida 32180("Grantor"), in favor of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a public body existing under chapter 373, Florida Statutes, as to an undivided fifty percent (50%) interest, whose address is P.O. Box 1429, Palatka, Florida 32178-1429 ("District") and the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA ("Trustees"), as to an undivided fifty percent (50%) interest, whose address is Florida Department of Agriculture and Consumer Services ("DACS") 3125 Conner Blvd, Tallahassee, Florida 32399-1650, (District and Trustees collectively "Grantee").

The terms "Grantor" and "Grantee" shall include the singular and the plural, and the heirs, successors and assigns of Grantor and Grantee, and the provisions of this easement shall be binding upon and inure to the benefit of Grantor, Grantee and their heirs, successors and assigns.

NOTICES

All notices required to be given pursuant to this Easement shall be sent to the parties at the following addresses.

Grantor: 1195 East Washington Street, Pierson, Florida 32180;

Grantee St. Johns River Water Management District: P.O. Box 1429, Palatka, Florida 32178-1429;

Grantee Board of Trustees if the Internal Improvement Trust Fund: Florida Department of Agriculture and Consumer Services, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650.

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RECITALS

A. Grantor is the sole owner in fee simple of certain real property in Flagler County, Florida, more particularly described in Exhibit A attached hereto and incorporated by reference (hereinafter, the "Property").

B. Grantor and the Grantee mutually recognize the special character of the Property as a working landscape that has traditionally been used for agriculture, as that term is defined in Section 570.02(1), Florida Statutes, and have the common purpose of conserving certain values and character of the Property by conveyance to the Grantee of a perpetual easement on, under, over, and across the Property, to conserve the character of the Property, continue certain land use patterns that do not significantly impair the character of the Property, and prohibit certain further development activities on the Property.

C. The existing agricultural uses and conservation values of the Property are documented in the "Baseline Documentation Report for the Evans Easement Tract in Flagler County, Florida", dated _____ ("Baseline Documentation Report" or "BDR"), which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this Easement and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement. The Baseline Documentation Report has been prepared and approved by the parties in advance of closing on the acquisition of the Easement over the Property by Grantee, is maintained in the offices of the District and the Florida Department of Agriculture and Consumer Services ("Department"), and is incorporated in this Easement by this reference. A copy of the Baseline Documentation Report is available on request from the District at the address above or from the Department at the address above.

D. Special Natural Areas. There are certain significant naturally occurring ecosystems within the boundaries of the Property, more particularly identified as Special Natural Areas ("SNAs") in the BDR. Notwithstanding any other provision to the contrary, there shall be no construction or improvements in any Special Natural Area, nor any use of the Property which would impair or destroy the Special Natural Areas. Prior to any timbering in a Special Natural Area, Grantor shall consult with Grantee concerning methods to minimize damage. The SNAs are identified in the map in Exhibit B attached hereto and incorporated by reference herein.

E. Each Grantee is an agency authorized under either the provisions of Section 570.71 or 704.06, Florida Statutes, or both, to hold easements for the preservation and protection of agricultural lands threatened by conversion to other uses, as well

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as the promotion and improvement of wildlife habitat, protection and enhancement of water bodies, aquifer recharge areas, wetlands, and water sheds, and perpetuation of open space on lands with significant natural areas.

F. Grantee agrees by accepting this Easement to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the values of the Property for the benefit of this generation and the generations to come.

G. The fact that any use of the Property that is expressly prohibited by the terms of this Easement may become greatly more economically valuable than uses allowed by the terms of this Easement, or that neighboring properties may, in the future, be put entirely to uses that are not allowed by this Easement has been considered by Grantor in granting this Easement and by Grantee in accepting it.

To achieve these purposes, and in consideration of $10.00 and other good and valuable consideration, including but not limited to the above, and the mutual covenants, terms, conditions, and restrictions contained herein, the receipt and sufficiency of which is acknowledged, and pursuant to the laws of Florida, and in particular Sections 570.71 and 704.06, Florida Statutes, but without intending the validity of this Easement to be dependent on the continuing existence of such laws, Grantor hereby voluntarily grants and conveys to Grantee an easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

ARTICLE I. DURATION OF EASEMENT

This Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, Grantor's personal representatives, heirs, successors and assigns, lessees, agents, and licensees.

ARTICLE II. PURPOSE OF EASEMENT

It is the purpose of this Easement to assure that the Property will be retained forever in its condition as a working landscape, to preserve the Property as productive agricultural land that sustains for the long term both the economic and conservation values of the Property and its environs, and to provide a relatively natural habitat for fish, wildlife, plants or similar ecosystems, through management guided by the following principles:

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- Maintenance of economically viable agricultural practices that protect the landscape as a working enterprise in harmony with the open space and scenic qualities of the Property;

- Maintenance of soil productivity and control of soil erosion;

- Maintenance or improvement of the overall quality of the timber resource;

- Consistent with the protection of the integrity and function of the working landscape, promotion of a more complete pattern of protection, including buffers to natural areas, ecological greenways, functioning ecosystems, and military installations;

- Promotion of the restoration, enhancement or management of species habitat, consistent with the purposes for which the easement is acquired;

- Protection, restoration or enhancement water bodies, aquifer recharge areas including uplands and springsheds, wetlands, or watersheds;

- Protection of unique and fragile natural areas and rare species habitats;

- Perpetuation of open space on working lands that contain significant natural areas.

- The above purposes are hereinafter referred to as "the Easement Purposes" or "Purposes." Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the Purposes of this Easement.

ARTICLE III. RIGHTS GRANTED TO THE GRANTEE

To accomplish the Purposes of this Easement, subject to the rights and interests of Grantor hereinafter reserved in this Easement by Grantor, the following rights are conveyed to Grantee by this Easement:

A. The right to enforce protection of the values of the Property for which the Easement was acquired;

B. All future residential, commercial, industrial and incidental development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property except as may be specifically reserved to Grantor in this Easement. The parties agree that such rights are hereby terminated and extinguished and may not be used on or transferred to other property. Neither the Property nor any portion

thereof may be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage, or open space requirements, under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise. Nor shall any development rights or density credits be transferred onto the Property from other property.

C. The right to enter upon the Property on an annual basis, and more often if Grantee determines that such entry is warranted, at reasonable times in order to inspect and monitor compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

D. The right to prevent any activity on or use of the Property that is inconsistent with the purpose or provisions of this Easement and to require the restoration of or to restore such areas or features of the Property that may be damaged by any inconsistent activity or use, at Grantor's cost.

E. The right to have the ad valorem taxes, assessments and any other charges on the Property paid by Grantor.

F. A right to prior notice of Grantor's intent to sell or transfer title as provided in Article VIII, Paragraph G. This right of notice shall be triggered by sales or transfers of title by Grantor, including gifts and bequests, as well as transfers to entities in which Grantor owns a majority of the controlling interests.

G. The right to be indemnified by Grantor for any and all liability, loss, damage, expense, judgment or claim (including a claim for attorney fees and costs) arising out of any allegation of negligent or willful action or activity resulting from the Grantor's use and ownership of or activities on the Property or the use of or activities of Grantor's agents, guests, lessees or invitees on the Property.

H. The right to be indemnified by Grantor for any liability for injury or property damage to persons on the Property arising out of any condition of the Property known to the Grantor to the best of Grantor's knowledge.

I. The right to have the Property maintained as reflected on the Baseline Documentation Report, as the Property may develop through the forces of nature hereafter, subject only to the exercise of Grantor's Reserved Rights, and the Rights Granted to the Grantee, as described in this Easement.

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K. If Grantor fails to cut and remove timber damaged by natural disaster, fire, infestation or the like, then Grantee has the right, but not the duty, in its sole discretion to cut and remove said timber. Any such cutting and removal by Grantee shall be at the expense of Grantee and all proceeds from the sale of any such timber shall inure to the benefit of Grantee.

ARTICLE IV. PROHIBITED USES

The Property shall be maintained to preserve the Purposes of this Easement. Without limiting the generality of the foregoing Grantor agrees that the following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are expressly prohibited or restricted on the Property, except for those rights and practices reserved by Grantor under Article V. below, and as otherwise retained by Grantor herein:

A. Dumping of biodegradable or nonbiodegradable, toxic, unsightly, offensive, or hazardous substances, trash garbage, wastes, abandoned vehicles, appliances, machinery, toxic wastes or substances, pollutants or contaminants, or similar material including , but not limited to those defined by the Federal Solid Waste Disposal Act ("SWDA"), the Federal Clean Air Act ("CAA"), the Federal Clean Water Act ("CWA"), the Federal Resource Conservation and Recovery Act of 1976 ("RCRA"), the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Federal Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Federal Emergency Planning and Community Right-To-Know Act ("EPCRA"), the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), the Toxic Substances Control Act ("TSCA"), Chapters 161, 253, 373, 376, and 403, Florida Statutes, and the rules and regulations of the (i) United States Environmental Protection Agency, (ii) the Florida Department of Environmental Protection, and (iii) the St. Johns River Water Management District, now or at any time hereafter in effect, or any Florida Statute defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants (hereinafter collectively referred to as "Contaminants") on the Property. This prohibition shall not be construed to include reasonable amounts of waste generated in accord with allowed uses, including agriculture or game management, conducted in accordance with the provisions of this Easement, and that is disposed of in accordance with applicable local, state and federal requirements, and Best Management Practices adopted by the Florida Department of Agriculture and Consumer Services or its successor agency. There shall also be no dumping, placing or application of sludge and sludge products on the Property.

B. The mining, excavation of surface or subsurface materials, the exploration for and extraction of oil, gas, minerals, dolostone, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances either directly or indirectly by Grantor or on Grantor's behalf or

with the joinder or consent of Grantor in any application for a permit so to do, under and by virtue of the authority of a grant or reservation or other form of ownership of or interest in or control over or right to such substances, except for the drilling for and extraction of oil, gas, and all other hydrocarbons under the property by slant or directional drilling from adjacent properties, so not to damage or interfere with the easement area or property, and except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully allowed for the conduct of allowed activities.

C. Activities that affect the hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, except those required for environmental restoration, federal, state or local regulatory programs, or best management practices. Activities that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation unless otherwise provided in this Easement. There shall be no dredging of new canals, construction of new dikes, manipulation of natural water courses, or disruption, alteration, pollution, of existing surface or subsurface water flow or natural water sources, fresh water lakes, ponds and pond shores, marshes, creeks or any other water bodies except as consistent with Best Management Practices for the type of agricultural activities being conducted. Provided, however, Grantor may continue to operate, maintain, or replace existing ground water wells incident to allowed uses on the Property, subject to legally required permits and regulations.

D. Planting or taking any action to encourage the spread of nuisance exotic or non-native plants as listed in Category I or II by the Florida Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property. Grantor hereby grants to Grantee the right, in Grantee's sole discretion and at Grantee's expense, to develop and implement an exotic plant removal plan for the eradication of exotics, or non-native wild plants, on the Property. Under no circumstances shall this right conveyed to Grantee be construed to diminish Grantor's responsibilities under this paragraph or as an obligation of the Grantee.

E. Concentrated and confined animal feed lot operations.

F. New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for in this Easement. For purposes of this paragraph the term "emergency" shall mean those situations that will have an immediate and irreparable adverse impact on the Purposes for which this Easement was acquired.

G. Construction or placing of roads, billboards or other advertising, utilities, or

structures, except those structures and roads otherwise authorized herein necessary for the agricultural operations on the Property or structures necessary for other activities allowed under the Easement, and except for linear facilities described in section 704.06(11), Florida Statutes. Provided, however, Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.

H. Fertilizer use for agriculture activities shall be in accordance with agricultural best management practices recommended by the Natural Resources Conservation Service or the Florida Department of Agriculture and Consumer Services, whichever is more stringent, as those best management practices may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits, except as provided in the applicable best management practices. There shall be no grazing of cattle within 200 feet of the waters edge of Lake Disston, and no improved agricultural operations within 750 feet of the waters edge of Lake Disston.

I. Actions or activities that may reasonably be expected to adversely affect threatened or endangered species.

J. Any subdivision of the Property.

K. There shall be no commercial water wells on this property.

L. There shall be no cutting of cypress trees anywhere on the property.

M. There shall be no mitigation banks pursuant to section 373.4135, et. seq., Florida Statutes.

N. There shall be no conversion of Special Natural Areas to more improved areas.

O. There shall be no conversion of areas not in improved pasture to improved pasture.

P. There shall be no acts or uses of the Property detrimental to the preservation of the structural integrity or physical appearance of sites on the Property of historical, architectural, archaeological, or cultural significance.

Q. There shall be no new non-game-friendly fencing, except in those areas identified for security as shown in the BDR.

R. There shall be no conversion of forested areas to non-forested areas as shown in the BDR.

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ARTICLE V. GRANTOR'S RESERVED RIGHTS

Grantor reserves to themselves, and to Grantor's personal representatives, heirs, successors, and assigns, the following specified rights, which are deemed to be consistent with the purpose of the Easement. The exercise of the Reserved Rights shall be in full accordance with all applicable local, state and federal law, as amended from time to time, as well as in accordance with the purposes of this Easement.

A. Grantor has, and shall be deemed hereby to have retained, the underlying fee simple title absolute in the Property. Further, Grantor retains and reserves all rights of, in and to the Property not expressly conveyed to Grantee under Article III or prohibited by Article IV.

B. The right to conduct prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with Best Management Practices ("BMPs") and a prescribed fire authorization from the Florida Division of Forestry of the Florida Department of Agriculture and Consumer Services or its successor agency.

C. The right to control access and conduct commercial forestry (silviculture) operations. Silviculture may be expanded only in improved pasture areas as shown on the BDR. There will be no harvesting in jurisdictional wetlands areas of the Property as shown in the BDR. Silvicultural activities will be conducted in accordance with current BMPs, which include, but are not limited to, site preparation, use of fertilizers, prescribed burning, size of clear cuts, and setbacks from wetlands areas. All wetlands areas will be identified in the BDR. Prior to any timbering in a Special Natural Area, Grantor shall consult with Grantee concerning methods to minimize damage.

D. The right to construct one (1) single family residence for onsite security and management purposes not to exceed 10,000 square feet of rooftop, in size, including outbuildings on the Property.

E. The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Easement. The right to contest tax appraisals, assessments, taxes and other charges on the Property. The right to continue to use, maintain, repair, and reconstruct all existing buildings, barns, dog pens, outbuildings, fences, roads, ponds, drainage ditches and such other facilities on the Property as depicted in the Baseline Documentation, except on Special Natural Areas.

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F. The right to sell, devise or otherwise transfer ownership of the Property to a third party. This right, however, does not include the right to sell the remaining property rights on the Property for the purposes of a conservation easement or other restriction that would divest the property of its use under the terms and conditions of this Easement.

G. The right to exclusive use of the improvements on the Property.

H. The right to continue cattle operations and hay production and the right to pursue other agricultural practices on the Property pursuant to Florida Department of Agriculture and Consumer Services ("FDACS") BMPs. Grantor may use commonly accepted fertilizers, pesticides and herbicides, so long as Grantor uses BMPs as may be adopted from time to time by FDACS,or its successor, and follows label instructions. Grantor shall obtain and comply with all permits for management of stormwater, for water wells and consumptive uses as may be required by the water management district or any successor agency having jurisdiction over those activities.

I. The right to maintain existing and construct new farm buildings for hay/pole-barns/hanger incident to agricultural uses carried on in accordance with sound agricultural practices. New construction of farm buildings shall not exceed 15,000 square feet of rooftop. Grantor also retains the right to construct up to two (2) docks on the Property, subject to applicable permitting. Such buildings and docks shall not be used as residences.

J. Boundary Maintenance. Nothing herein shall prohibit Grantor from establishing (by survey, fencing or marking) and maintaining property lines around the perimeter of the Property to protect the Property from trespassing and to assist Grantor in the management of the Property in accordance with this Easement. Fencing shall be wildlife friendly except in areas identified in the BDR.

K. The right to observe, maintain, photograph, introduce and stock native fish or wildlife on the Property, to use the Property for hiking, and horseback riding, and the right to develop eco-tourism and agri-tourism on the Property, including the right to construct trails and wildlife viewing platforms. Access to the Property will be limited to no more than 40 persons per day. Grantor reserves, and shall continue to own, the hunting and fishing rights on or related to the Property, consistent with the Florida Fish and Wildlife Conservation Commission guidelines. Grantor may create and maintain 50 acres of food plots located in the improved pasture areas identified in the BDR and planted in Florida native plant species. Hunting will be limited to Grantor and guests. There shall be no leasing of hunting rights to individuals or groups, except personally guided paid hunts of no more than two (2) persons per day during hunting season..

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L. Grantor reserves the right to continue row crop farming on an established area of not to exceed 10 acres as shown in the BDR.

M. Grantor reserves the right to harvest sod in existing improved pasture areas as shown on the BDR, with maximum acreage of not more than ten percent (10%) of currently existing improved pasture areas as shown on the BDR.

N. Grantor reserves the right to conduct aquaculture uses, and construct associated improvements pursuant to FDACS standards. New sites shall be limited to an area north of the present aquaculture operation, as shown on the BDR, not to exceed 30 acres.

O. Grantor reserves the right to continue to use the existing airstrip as shown on the BDR, that currently is approximately 4,000 feet long and 200 feet wide. The airstrip may be improved and maintained with a surface of recycled concrete pavement, not to exceed it's currently existing size.

P. Grantor reserves the right to develop the county line road, as shown on the BDR, up to twenty (20) feet in width and pave said road pursuant to all applicable rules and regulations.

Q. Grantor reserves the right to construct additional ponds in the improved pasture areas of the Property as shown on the BDR, subject to all applicable permits, rules and regulations. Such ponds shall not exceed an aggregate total of 5 acres of impacted uplands area.

R. Grantor reserves all carbon credits, oil, gas, other hydrocarbons and mineral rights, and the right to drill and excavate for oil, gas, and all other hydrocarbons under the property by slant or directional drilling from adjacent properties, so not to damage or interfere with the easement area or property. Grantor reserves the right to use seismograph, gravitometer, magnetometer, or other non destructive methods of asserting the location of possible oil, gas and other hydrocarbonous deposits.

S. Grantor reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement.

ARTICLE VI. GRANTEE'S REMEDIES

A. **Remedies.** If Grantee determines that Grantor is in violation of the terms of this Easement, including any amendments, modifications, updates or revisions thereto, or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the

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violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee or, under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury.

B. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the values of the Property, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire.

C. Grantee's rights under this Article apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Article shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

D. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

E. **Waiver of Certain Defenses.** Grantor hereby waives any defense of estoppel, adverse possession or prescription.

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F. **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

G. **Hold Harmless.** Grantor shall hold harmless, indemnify, and defend Grantee and its directors, officers, employees, agents, and contractors and the personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in paragraph VIII.A. and VIII.B.; and (3) the existence or administration of this Easement.

ARTICLE VII. PUBLIC ACCESS

A. **No General Public Access.** The granting of this easement does not convey to the public the right to enter the Property for any purpose whatsoever, and Grantee will cooperate with Grantor in the enforcement of this prohibition.

B. **Scientific, Environmental, Conservation, Educational Organizations.** Not withstanding the foregoing, Grantor in it's sole discretion, shall grant to scientific, environmental, conservation and educational organizations the right to enter upon the property or adjoining property of Grantor for conducting scientific or educational investigations or studies, on such terms as Grantor, in it's sole discretion may determine.

ARTICLE VIII. MISCELLANEOUS

A. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

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B. **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon or incurred as a result of this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.

C. **Extinguishment.** If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Florida law at the time, in accordance with paragraph VIII.D. Grantee shall use all such proceeds in a manner consistent with the Purposes of this Easement or the purposes of the bond or statutory program under which Grantee obtained the purchase money for this Easement. Grantor believes that any changes in the use of neighboring properties will increase the benefit to the public of the continuation of this Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement. In addition, the inability of Grantor to conduct or implement any or all of the uses allowed under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment.

D. **Proceeds.** This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph VIII.C., the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

E. **Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.

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F. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to a governmental entity with the capacity to monitor and enforce the provisions of this Easement. As a condition of such transfer, Grantee shall require that the terms and conditions of this Easement continue and are carried out in perpetuity.

G. **Subsequent Transfers.** Grantor further agrees to give written notice to Grantee of the transfer of any interest in the Property. The failure of Grantor or Grantee to perform any act required by this paragraph shall not impair the validity or priority of this Easement or limit its enforceability in any way.

1. Right of Grantee to Negotiate in Advance of Sale. The terms of this right are such that if Grantor intends to sell the Property, or any interest therein or portion thereof, Grantor shall deliver to Grantee notice of such intent, including the names and addresses of any party to whom the Property is to be transferred at least thirty days prior to execution of a contract for such sale, and shall, in good faith, afford Grantee an opportunity to negotiate the acquisition of the Property, or such portion thereof or interest therein that Grantor intends to sell. If Grantee desires to negotiate the acquisition of the Property, or such portion thereof or interest therein, Grantee shall so notify Grantor within 30 days after receipt of Grantor's notice of intent. If Grantor and Grantee are unable, in good faith to agree to terms of an acquisition of the Property, or such interest therein or portion thereof as applicable, within 120 days thereafter, Grantor may sell the Property free of the right granted herein. Provided, however, that closing on such sale shall occur within one year of the date of Grantor's notice to Grantee. If the Property, or such portion thereof or interest therein as is applicable, has not sold within one year after Grantee's notice to Grantor that Grantee does not intend to negotiate acquisition of the property or within one year after failure to reach agreement to terms of an acquisition, then any intent to sell the Property thereafter shall require renewed notice to Grantee. This right of notice shall not be triggered by sales or transfers between Grantor and lineal descendants of Grantor or entities in which Grantor owns a majority of the controlling interests.

2. Subsequent Transfers. Grantor agrees to notify Grantee of the names and addresses of any party to whom the Property, is to be transferred at least sixty (60) days prior to the date of such transfer, and to agrees to incorporate the terms of this Easement in any deed or other legal instrument by which Grantor divests any interest in the Property, including, without limitation, a lease, or other legal instrument by which any interest in the Property is conveyed.

3. Statement of Compliance. Grantor hereby agrees to request in writing at least forty-five (45) days prior to sale, mortgage, transfer or long term (five years or longer) lease of the Property, or any portion thereof, a written statement from Grantee stating that Grantor is in compliance with the terms and conditions of this

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Easement, or if Grantor is not in compliance with the terms and conditions of this Easement, stating what violations of this Easement exist. Grantee agrees in such cases or at any other time, to acknowledge, execute and deliver to Grantor or to any mortgagee, transferee, purchaser or lessee such a written statement concerning compliance within forty-five (45) days from receipt by Grantee of a written request therefore. Nothing contained in this Easement shall relieve the Grantor from the responsibility to comply with applicable federal, state, and local laws and regulations.

4. Grantor's Liability after Transfer. In the event of the sale, and/or the transfer of title of the Property to a party other than the current legal owner, Grantee will meet with the new owner within 30 days and explain, discuss, and plan the transfer of the responsibility of carrying out the terms of this easement, such that the long-term benefits to everyone concerned and to the terms and conditions of this Easement will not be impaired by default or otherwise. Grantor, and each subsequent owner of the Property shall have no personal liability for the observance or performance of the Covenants and obligations of the Grantor hereunder, with respect to any interest in the Property conveyed, after the Grantor or subsequent owner has conveyed (his or her) interest in the Property.

5. Subdivision of the Property. The Property shall not be subdivided and shall remain a single tract as described in Exhibit "A" and as shown in the BDR.

6. Continuation of Agricultural Production. Grantor shall obtain assurances in writing from the prospective transferee that the Property will continue to be used for bona fide agricultural production purposes in accordance with the purposes for which the easement was originally acquired.

H. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed to the parties as set forth above, or to such other addresses such party may establish in writing to the other. If time is of the essence, initial notice by electronic mail is acceptable, but shall be followed by written notice as provided in this paragraph as soon as possible.

I. Recordation. Grantee shall record this instrument and any amendments in timely fashion in the official records of Flagler County, Florida, and may re-record it at any time as may be required to preserve its rights in this Easement.

J. Non-Homestead Certification. Grantor hereby certifies that if a Grantor who is married signs this Easement without the joinder of his or her spouse, the Property is neither the homestead of Grantor nor the primary physical residence of Grantor, nor is the Property contiguous to the homestead or primary physical residence of Grantor.

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K. Amendments. The terms and provisions of this Easement may be amended by the mutual consent of the parties hereto. No amendment shall be effective until executed with the formality of this Easement and recorded in the public records of Flagler County, Florida.

L. Controlling Law. The laws of the State of Florida shall govern the interpretation and performance of this Easement.

M. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Grantee to effect the Purpose of this Easement and the policy and purpose of §§704.06 and 570.71, Florida Statutes. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

N. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

O. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

P. Joint Obligation. The obligations imposed by this Easement upon Grantor shall be joint and several.

Q. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

R. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

S. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

T. References. References to statutes or rules in this Easement shall be to the text of the statute or rule on the date of execution of this Easement.

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TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

Witnesses:

GRANTOR

_____
Signature of first witness

_____
MILTON EUGENE EVANS SR.
A/K/A MILTON EUGENE EVANS

_____
Printed name of first witness

_____
Signature of second witness

_____
Printed name of second witness

_____
Signature of first witness

_____
MARILYN J. EVANS

_____
Printed name of first witness

_____
Signature of second witness

_____
Printed name of second witness

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared Milton Eugene Evans, Sr., a/k/a Milton Eugene Evans, who is personally

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known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 200__.

_____
Signed

_____
Printed
NOTARY PUBLIC
My Commission Expires:

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared Marilyn J. Evans, who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and she acknowledged before me that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 200__.

_____
Signed

_____
Printed
NOTARY PUBLIC
My Commission Expires:

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GRANTEE
ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

_____
Signature of first witness

_____
KIRBY B. GREEN III
Executive Director

_____
Printed name of first witness

ATTEST:

_____
Signature of second witness

_____
WILLIAM H. CONGDON
Deputy General Counsel

_____
Printed name of second witness

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared Kirby B. Green III, who is personally known to me and known to me to be the Executive Director of the St. Johns River Water Management and who did not take an oath and executed the foregoing instrument and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 200__.

_____
Signed

_____
Printed
NOTARY PUBLIC
My Commission Expires:

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Witnesses:

GRANTEE
BOARD OF TRUSTEES OF THE
INTERNAL IMPROVEMENT TRUST
FUND OF THE STATE OF FLORIDA

BY
FLORIDA DEPARTMENT OF
AGRICULTUARE AND CONSUMER
SERVICES

_____
Signature of first witness

_____
Printed name of first witness

BY:_____
PRINT NAME:_____
AS ITS:_____

_____
Signature of second witness

_____
Printed name of second witness

STATE OF FLORIDA
COUNTY OF LEON

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared_____, who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and he/she/they acknowledged before me that he/she/they executed the same for the purposes therein expressed on behalf of the Board of Trustees.

WITNESS my hand and official seal in the County and State last aforesaid this ____day of _____, 200__.

_____
Signed

_____
Printed
NOTARY PUBLIC
My Commission Expires:

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SCHEDULE OF EXHIBITS

A. Legal Description of Property Subject to Easement

B. Map from Baseline Documentation report showing locations of Special Natural Areas.

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EXHIBIT "A"

LEGAL

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EXHIBIT "B"

MAP FROM BASELINE DOCUMENTATION

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