

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into this 7th day of July, 2010, between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION ("DEP") and the CITY OF PORT ST. LUCIE ("CITY").

WHEREAS, the CITY is currently pursuing the preparation of an Environmental Impact Statement ("EIS") and the issuance of a Conceptual Environmental Resource Permit ("Conceptual ERP") for the Crosstown Parkway Extension Project ("Crosstown Parkway Extension"), which includes the evaluation of a bridge across the North Fork St. Lucie River ("NFSLR") to complete a major east-west arterial extending from I-95 to US 1 in the City of Port St. Lucie; and

WHEREAS, the new bridge will require crossing state-owned uplands in the Savannas Preserve State Park ("State Park") and the North Fork St. Lucie River Aquatic Preserve ("Aquatic Preserve") and sovereignty lands; and

WHEREAS, DEP manages the State Park and the Aquatic Preserve; and

WHEREAS, the CITY is working on the EIS for the Crosstown Parkway Extension in cooperation with the Federal Highway Administration ("FHWA") and the State of Florida Department of Transportation ("FDOT"); and

WHEREAS, six build alternatives and a no-build alternative are being evaluated in the EIS, and selection of a preferred alternative will be made through the EIS process with FHWA's final approval; and

WHEREAS, the CITY's application for a Conceptual ERP is currently being processed by the South Florida Water Management District ("SFWMD") as suggested by DEP Secretary Michael W. Sole in a letter to Senator Ken Pruitt dated March 22, 2007 (Exhibit "A"); and

WHEREAS, to address the requirements of the Conceptual ERP, the CITY and SFWMD have agreed that SFWMD will review a hybrid corridor developed by the CITY that represents a composite of the greatest impacts from each of the six build alternatives being evaluated in the EIS and, in turn, the hybrid corridor will be used to define the impacts and regulatory mitigation requirements; and

WHEREAS, the CITY must obtain easements from the Governor and Cabinet who sit as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("TRUSTEES") for the use of state-owned uplands and sovereignty lands prior to the CITY's commencement of construction of the Crosstown Parkway Extension; and

WHEREAS, the Acquisition and Restoration Council ("ARC") is required to review the proposed easement over state-owned uplands and make a recommendation to the TRUSTEES; and

WHEREAS, the CITY and DEP have reviewed the impacts that may be created by the proposed hybrid corridor and have formulated and agreed to certain proprietary mitigation projects identified below for the impacts to state lands; and

WHEREAS, DEP and the CITY desire to enter into this MOU for the purpose of setting forth the responsibilities of the parties hereto regarding the Crosstown Parkway Extension.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CITY agrees as follows:

1. Because the Crosstown Parkway Extension will impact state lands, the CITY shall complete the following proprietary mitigation projects ("Proprietary Mitigation Projects"):

A. **Water Quality Improvements:** The CITY agrees to complete four restoration projects as agreed upon by the CITY and DEP. The four restoration projects, outlined in the Aquatic Preserve Management Plan dated August 2009, are Evans Creek, Site 5 West, Riverplace Upstream, and Otter Trail. The location and information on the restoration projects are shown in the attached Exhibit "B." Although DEP prefers that the CITY implement the Roberts Upstream project (shown in Exhibit "C") as one of the four restoration projects, the project is on private property and may not be accessible. If the Roberts Upstream project can be implemented, the CITY will complete the Roberts Upstream project in place of the Otter Trail project.

The water quality improvements will be achieved by reconnecting oxbows and isolated floodplains and deepening the upstream and downstream ends of Evans Creek to improve flushing. Restoration efforts will include dredging shoals or berms, widening or deepening portions of the waterway, and other work identified by DEP and agreed upon by the CITY. The four restoration projects will be conducted under a single contract. The CITY will complete the four restoration projects to the satisfaction of DEP. The costs incurred by the CITY for the design, permitting, construction, and inspection of the four restoration projects shall not exceed \$2,000,000. If the cost is expected to exceed that amount, the CITY will work with DEP to identify a replacement project that will allow the total costs incurred to remain under \$2,000,000.

B. **Land Acquisition:** The CITY agrees to purchase approximately 110 acres of wetlands and uplands and convey marketable fee simple title to the TRUSTEES subject only to such encumbrances as are acceptable to the TRUSTEES. The conveyance shall comply with the requirements of Rule 18-

1.013, Florida Administrative Code, and shall require that the property conveyed be in compliance with all state and federal laws concerning 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. The CITY will enter into negotiations with the property owners in order of priority shown on Exhibit "D". Priorities 1 and 2 have been identified by DEP as the entire Evans property (Parcel ID: 3414-501-4005-000-1) shown in Exhibit "E," and the available undeveloped portions of the Wynne property (Parcel ID: 3427-111-0002-000-5) shown in Exhibit "F." The residents currently living on the Evans property may be granted a life estate as a condition of the sale, subject to the approval of the TRUSTEES. If the Evans and/or Wynne properties cannot be purchased, properties with similar vegetative communities and comparable appraised values will be purchased, as identified in the DEP letter dated May 2009 (Exhibit "G"). All land purchased by the CITY for the TRUSTEES will be enhanced through the removal of exotics for a consecutive period of 5 years after the CITY transfers the property to the TRUSTEES. Removal of exotics can be conducted through mechanical or chemical means from the ground, whichever is most cost-effective. The CITY is responsible for all costs associated with the acquisition and transfer of the property to the TRUSTEES, including, but not limited to, title insurance, survey, and environmental site assessments and cleanup. The costs incurred by the CITY for the removal of exotics and seasonal maintenance shall not exceed \$700,000 for the 5-year period. If the removal of exotics and maintenance of exotics is expected to exceed that amount, the scope of work for the removal and maintenance of exotics will be reduced so as not to exceed \$700,000.

- C. **Recreational Opportunities - Trails:** The CITY agrees to design, permit, construct and provide inspection services for the Savannahs Recreation Area Trail (the "Trail") to the satisfaction of DEP and St. Lucie County. The Trail is located within the Savannahs Recreation Area between Savannah Road and Midway Road (Exhibit "H"). The Trail is to be a paved multi-use trail approximately 2.5 miles long and a minimum width of 10 feet with five (5) boardwalk crossings over low, wet areas and drainage ditches with no appreciable elevation above the Trail surface. The Trail will serve as a segment within the East Coast Greenway, a multi-state trail that connects Calais, Maine, to Key West, Florida, and will also be a segment of the St. Lucie North-South Trail that connects to the Green River Parkway Trail. The costs incurred by the CITY for the design, permitting, construction, and inspection of the Trail shall not exceed \$1,500,000. If the cost is expected to exceed that amount, the scope of work for the trail project will be reduced so as not to exceed \$1,500,000.

- D. **Recreational Opportunities - Other:** The CITY agrees to construct three recreation projects identified by DEP and shown and outlined on the attached Exhibit "f" to the satisfaction of DEP. The three projects are referred to as the Halpatokee Canoe Access Replacement, Improvements to Existing Savannas Preserve State Park Education Center, and Improvements to Savannas Preserve State Park Canoe/Kayak Launch. The costs incurred by the CITY for the design, permitting, construction, and inspection of the three recreational projects described below shall not exceed \$2,000,000. If the cost is expected to exceed that amount, the scope of work for the projects will be reduced so as not to exceed \$2,000,000.
- a. *Halpatokee Canoe Access Replacement* consists of a new canoe and kayak launch south of the existing launch, a 200-foot boardwalk, pavilion, restroom, interpretive kiosk, paved parking for 20 vehicles, paved entrance road approximately 0.25 miles long, and road signage. The boardwalk will be 10 feet wide.
 - b. *Improvements to the Existing Savannas Preserve State Park Education Center* consists of a 3,000-square-foot addition to the existing structure for classrooms and a laboratory, and a 200-foot boardwalk with observation platform to replace the existing path. The boardwalk will be 6 feet wide. The CITY will not be responsible for providing any ADA upgrades to the existing facility.
 - c. *Improvements to Savannas Preserve State Park Canoe/Kayak Launch* consists of an entrance road, parking area, composting restroom, roadside information, and entrance signs.
2. The CITY is obligated to undertake the commitments set forth in this MOU only if a build alternative is approved by FHWA through the EIS process and all necessary permits required to authorize said alternative are granted. All work described herein will commence by the CITY immediately upon approval of the EIS by FHWA and receipt of any necessary permits for the Proprietary Mitigation Projects. With the exception of the exotic removal, the CITY will complete all of the Proprietary Mitigation Projects prior to the commencement of construction of the Crosstown Parkway Extension across the NFSLR.
 3. The CITY commits to the completion of the Proprietary Mitigation Projects regardless of which build alternative is chosen as the preferred alternative through the EIS process, even if the impacts from the preferred alternative are less than the proprietary mitigation stipulated in this MOU.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is expected that DEP would agree as follows:

1. On December 11, 2009, prior to the actual easement location being determined through the EIS process and FHWA approval, DEP took all six build alternatives (easements) that are depicted on Exhibit "J" to ARC for its review and recommendation to the TRUSTEES.
2. The easements granted by the TRUSTEES together with the environmental resource permit issued by SFWMD shall authorize the construction of the Crosstown Parkway Extension in its entirety, including the bridge, roadway and stormwater management facilities.
3. If the TRUSTEES grant the requested easements and concur with the Proprietary Mitigation Projects, the CITY will complete the Proprietary Mitigation Projects prior to commencement of construction of the Crosstown Parkway Extension across the NFSLR. If the TRUSTEES do not grant the easements, the CITY will not be required to complete the Proprietary Mitigation Projects.
4. The easements granted by the TRUSTEES will comply with all applicable statutory and administrative rule requirements and contain those general and special easement conditions that are approved by the TRUSTEES.
5. The term of the easement over sovereignty lands shall not exceed the life of the Crosstown Parkway Extension or amortization of the improvements. The term of the easement over state-owned uplands shall not exceed the existing or planned life cycle or amortization of the improvements, except the TRUSTEES may grant an easement in perpetuity if the improvement is a transportation facility.
6. Should the no-build alternative be selected as the preferred alternative, the CITY will not be required to complete the Proprietary Mitigation Projects, and the CITY will not require the easements.

The parties hereto have caused this MOU to be executed through their duly authorized signatories on the day and year first above written.

"DEP"

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

By:  _____

Bob Ballard, Deputy Secretary, Land and Recreation

APPROVED AS TO FORM AND LEGALITY

31:

 DEP Attorney

Q1:

13, 16

"CITY"

CITY

By: /s. -- (SEAL)

PATRICIA P CHRISTENSEN
Print/Type Name

Title: 22L2 JO/C.
----- (OFFICIAL SEAL) -----

