

**OPTION CONTRACT TO PURCHASE CONSERVATION  
EASEMENT BETWEEN  
ALACHUA COUNTY AND RUSSELL W. ELLIOTT**

**THIS OPTION CONTRACT** (the “**Contract**”) is made and entered into by and between RUSSELL W. ELLIOTT, an unmarried individual, whose address is P.O. Box 791, Archer, FL, 32618 (the “**Seller**”) and ALACHUA COUNTY, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is c/o Alachua County Office of Land Conservation and Management, 12 S.E. 1<sup>st</sup> Street, Gainesville, Florida, 32601 (“**County**”). Collectively, the **Seller** and the **County** shall be referred to herein as the “**Parties**”.

**WITNESSETH:**

**WHEREAS**, Seller owns fee simple title to the property as more fully described in **EXHIBIT “A”**, which is attached hereto and incorporated by reference into this Contract, and is more particularly described in Paragraph 3 (a) below. (the “**Property**”); and

**WHEREAS**, Seller intends that the conservation values of the Property be preserved and maintained by the continuation of land use patterns existing at the time of this grant that maintain the Property’s conservation values; and

**WHEREAS**, the Parties have negotiated and reached an agreement on all of the conservation easement deed’s terms, conditions, prohibitions, and restrictions and have attached to this Contract as **EXHIBIT “B”** the agreed upon Conservation Easement Deed that shall be delivered to and purchased by the County; and

**WHEREAS**, Seller further intends to execute and deliver to the County a conservation easement deed encumbering all or a portion of the Property (the “**Protected Property**”) (all references herein made to the “Property” include the “Protected Property”), which conservation easement will grant the County certain rights to preserve and protect the conservation values of the Protected Property in perpetuity; and

**WHEREAS**, the County is authorized to acquire conservation easements pursuant to Section 704.06, *Florida Statutes* for the purpose of protecting natural, scenic or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality; and

**WHEREAS**, the boundaries of the Protected Property lie within the Property, and said boundaries will be located and identified by a final survey according to the terms of this Contract; and

**NOW THEREFORE**, in consideration of the covenants and promises contained herein, and other good and valuable consideration the receipt and sufficiency of is hereby acknowledged by the Parties, the Parties agree as follows:

1. **EFFECTIVE DATE.** This Contract shall become effective as of the day and year upon which both Seller and the County have executed this Contract as set forth on the signature page hereof (“**Effective Date**”).

2. **DEFINITIONS.** The capitalized terms below shall have the following meanings herein:

*Closing Agent* shall mean the law firm of Salter Feiber, P.A., a Florida Corporation, with offices at 3940 NW 16<sup>th</sup> Boulevard, Building B, Gainesville, Florida, 32605; Phone (352) 376-8201. The Closing Agent is the attorney for the County notwithstanding its other duties herein and shall continue to act as attorney for the County only, and not the Seller, regarding the Contract and this transaction.

*Title Commitment* shall mean the written commitment of a Florida licensed title insurance company to insure and provide title insurance policies to the County. The Closing Agent shall ensure the County is the named insured for the Property.

*Surveyed Acres* For the purposes of this Contract the definition of “Surveyed Acres” shall only apply to the net acres, as ratably adjusted by the Survey (as defined below), to determine the final purchase price as described in Paragraph 4. “*Surveyed Acres*” shall mean the total number of acres of the Property excluding: (1) public rights of way; (2) railroad rights of way; (3) cemeteries; (4) lands under control or possession of anyone other than the Seller; and/or (5) lands below the ordinary high water line (OHWL), mean high water line (MHWL), of any river, lake or stream that are state sovereign submerged lands, if any, however if neither an OHWL nor MHWL has been determined for any river, lake, or stream, the safe upland line may be utilized by the Surveyor to determine the net acreage amount that shall be utilized to calculate the Purchase Price described in Paragraph 4 below.

*Survey* shall mean the boundary survey of the Property made by a Florida licensed surveyor who the County shall select from its list of approved surveyors. The surveyor shall: (1)

certify the Survey to the County, the Seller, the Closing Agent, and the Florida licensed title insurance company issuing the Title Commitment; (2) meet the requirements of Chapter 472, Florida Statutes; (3) provide a “metes and bounds” legal description of the Property; and (4) list the exact number of Surveyed Acres to the hundredth decimal place or as reasonably practical.

*Environmental Reports* shall mean any and all environmental site assessments, audits, reports, and/or correspondence relating to any potential environmental matters on any portion of the Property.

*Conservation Easement* shall mean the same as defined by Section 704.06, *Florida Statutes*, being a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses and which prohibits or limits certain real property rights.

### 3. **OPTION TO PURCHASE THE PROPERTY.**

a. GRANT OF OPTION. Seller hereby grants to County the exclusive option to purchase a perpetual conservation easement consisting of approximately Forty (40) acres, more or less, over all or portions of the Property (including Alachua County Tax Parcel ID’s 02711-006-010) and being more particularly described in **Exhibit “A”** attached hereto and expressly made a part of this Contract. The option may be exercised by no later than May 31, 2024, unless extended by other provisions of this Contract (“**Option Period**”). This Contract becomes legally binding upon execution by the Parties, but exercise of the option is subject to approval by the Alachua County Board of County Commissioners (“**Board**”) and is thereafter effective only if the County gives written notice of the Board’s exercise to Seller.

b. OPTION TERMS, EXERCISING THE OPTION. The option payment is One Thousand Dollars (\$1,000) (“**Option Payment**”), which shall be paid by the County to Seller as consideration for the irrevocable right to elect to purchase the conservation easement during the Option Period pursuant to the terms herein. The County shall deposit the Option Payment with the Closing Agent within Fifteen (15) days of the Effective Date. To exercise this option, the Alachua County Board of County Commissioners must approve the election to exercise the option, and the County must deliver written “**Notice of Exercise of Option**” to Seller (form of which is attached hereto as **EXHIBIT “C”**) pursuant to the notice provisions contained within Paragraph 30 herein prior to the expiration of the Option Period (“**Exercise Date**”). The Option Payment shall be

applicable to and credited against the Purchase Price at closing. The Seller shall retain the Option Payment if the option is not exercised within the Option Period.

4. **PURCHASE PRICE.** In the event that the County exercises its option, Seller agrees to sell and the County agrees to purchase the conservation easement for the amount equal to the product of the Surveyed Acres multiplied by sum of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) per acre; subject to adjustments, credits, and prorations as set forth herein (the “**Purchase Price**”). The balance of the Purchase Price, less the Option Payment actually paid by the County prior to closing, shall be paid by County at closing.

5. **DOCUMENTS AND INFORMATION SELLER SHALL PROVIDE.** The Seller shall furnish to the County, within Seven (7) days of the Effective Date, the following documents and information:

- a. Copies of all title insurance policies, commitments, abstracts, opinions, searches and/or reports for any portion of the Property in the Seller’s possession or control.
- b. Copies of all Environmental Reports in the Seller’s possession or control.
- c. Copies of all surveys of any portion of the Property in the Seller’s possession or control.
- d. Copies of all engineering reports, reports on water and utility availability and quality, site plans, zoning or other land use applications or stipulations or agreements, and copies of any permits or licenses which relate to the Property.
- e. Copies of all leases, contracts, options, easements, licenses, mortgages, financing statements, security agreements, judgments, liens, claims of lien, tax assessment records, and all similar documents, known to the Seller, which are then in effect and may affect the title to the Property or the Seller’s ability to convey fee simple title to the Property.
- f. The Seller’s social security or Federal Tax ID number.

6. **INSPECTIONS.** The County shall have 120 days from delivery of Notice of Exercise of Option (“**Inspection Period**”) to conduct any surveys, surface and subsurface explorations, soil tests, engineering studies, environmental site assessments, and any other inspections of the Property which the County may elect to make (“**Inspections**”).

a. The County and its agents, servants, employees, representatives, consultants, contractors, or licensees shall have the right of entry upon the Property during the Inspection Period for all lawful purposes associated with this Contract. Such lawful purposes shall include, but not be limited to inspecting, surveying, photographing, appraising, cruising timber, conducting environmental assessments and taking soil, water and plant samples using borings, probes and test wells.

b. The County shall return the Property to its existing condition to the extent possible, shall repair any and all damage to the Property that occurs as a result of the County's acts on the Property for any Inspections.

7. **EVIDENCE OF TITLE AND TITLE INSURANCE.** During the Inspection Period, the County shall obtain the Title Commitment for an ALTA Owner's Title Insurance Policy insuring the marketable title of the Property from a recognized title insurance company doing business in the Alachua County area. The Title Commitment shall describe the Property, shall be dated later than the Exercise Date, shall be in the full amount of the Purchase Price, shall have attached legible copies of all instruments referred to therein, and shall disclose the title to the Property to be good, marketable, and insurable, subject only to the exceptions set forth in **EXHIBIT "D"** (the "**Permitted Exceptions**"). Any exceptions shown on the Title Commitment other than the Permitted Exceptions, and other than those matters that shall be discharged by the Seller at or before closing, shall constitute "**Title Defects**" for purposes of this Contract.

8. **SURVEY.** The County shall perform and obtain the Survey during the Inspection Period. If the Survey shows (i) any encroachments on the Property, or that improvements, if any, on the Property encroach on other lands, or (ii) that the Property is not contiguous to a publicly dedicated right of way, or (iii) any other facts that affect the marketability of the title to the Property, then any such facts or matters so shown shall constitute a "**Title Defect**" for purposes of Paragraph 9.

9. **TITLE DEFECTS.** If either the Survey or the Title Commitment reveals any Title Defects, the County shall give written notice to Seller of any such Title Defects prior to the expiration of the Inspection Period. Should the County provide such notice, Seller shall have a period of 60 days after the date of said notice to cure the Title Defects (the "**Cure Period**"). Seller shall use reasonable diligence in curing said Title Defects. In that event, the Closing Date shall be extended 70 days after the date of such notice (the "**Extended Closing Date**"). If any Title Defects, other than those that shall be cured or satisfied at closing, remain un-cleared by Seller at the end of Cure Period, the Seller shall then give the County written notice of Seller's failure to cure the Title Defects and describe with specificity in that notice the Title Defects that remain uncured. The County may either: (a) accept the Title Defects and close this transaction according to the terms of

this Contract no later than the end of the Extended Closing Date, or (b) terminate this Contract by written notice to the Seller, as may be determined and elected by the County Manager without further approval by the Board, whereupon all Parties shall be relieved of all further obligations under this Contract. Seller's reasonable diligence in curing Title Defects will not include the bringing of legal actions. Notwithstanding anything else herein to the contrary, the Seller shall, at closing, pay off, fully satisfy, and remove all encumbrances on the title to the Property which can be paid off and discharged from the sale proceeds, including, without limitation, mortgages, judgments, claims of lien and similar items.

10. **ENVIRONMENTAL SITE ASSESSMENT.** The County's obligation to purchase the conservation easement is contingent on the County being able to obtain an environmental site assessment of the Property during the Inspection Period, which the County determines, in its sole discretion, to be satisfactory. If the results of the environmental site assessment or any Environmental Reports furnished to the County by a third party consultant or the Seller reveal that any portion of the Protected Property is contaminated or violates applicable federal, state or local laws, ordinances, codes, rules, orders or regulations relating to pollution or protection of the environment or to threatened or endangered species (collectively the "**Environmental Defects**"), the County shall provide written notice to the Seller of the Environmental Defects prior to the expiration of the Inspection Period. Should the County provide such notice, the Seller shall have 60 days after the date of said notice to correct or remove the Environmental Defects. In that event, the Closing Date shall be extended seventy (70) days after the date of such notice (the "**Extended Closing Date**"). If the Seller is unable, after reasonable effort, to correct or remove the Environmental Defects within the 60 day time period, the County may either: (a) accept the Environmental Defects and close this transaction according to the terms of this Contract no later than the end of the Extended Closing Date, or (b) terminate this Contract by written notice to the Seller, as may be determined and elected by the County Manager without further approval by the Board, whereupon all Parties shall be relieved of all further obligations under this Contract.

11. **PERSONAL PROPERTY.** The County may, at its sole option and expense, perform visual inspections of the Property at any time prior to closing. If the results of a visual inspection reveal that any portion of the Property contains personal property, refuse, garbage, junk, rubbish, trash and debris (the "**Debris**") that would impair the conservation values of the Protected Property or violate the terms or conditions of the conservation easement attached as **Exhibit "B"**, the County may provide written notice to the Seller of the Debris prior to closing. Should the County provide such notice, the Seller shall have 60 days after the date of notice to remove the Debris and shall remove all Debris identified in the written notice within said time period. In that event, the Closing Date shall be extended 70 days after the date of such notice (the "**Extended Closing Date**"). If the Seller fails to remove the Debris within the sixty (60) day time period, the County,

as determined and elected by the County Manager, may either: (a) accept the Property with the Debris and close this transaction according to the terms of this Contract no later than the end of the Extended Closing Date; or (b) terminate this Contract by written notice to the Seller, whereupon all Parties shall be relieved of all further obligations under this Contract.

12. **RISK OF LOSS AND CONDITION OF PROPERTY.** Seller assumes all risk of loss or damage to the Property and warrants that at the time Seller conveys the conservation easement to County, the Protected Property will be 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, County may elect, at its sole option, to terminate this Agreement and neither party shall have any further obligations under this Agreement. Seller represents and warrants that there are no parties other than Seller in occupancy or possession of any part of the Property. Seller warrants that there are no facts known to Seller materially affecting the value of the conservation easement or the Property that are not readily observable by County or which have not been disclosed to County. Seller warrants that Seller will not harvest any timber from the Property prior to the Closing Date.

13. **CLOSING DATE.** This transaction shall be closed at a date and time mutually agreed upon by the Parties no later than 135 days after the Exercise Date (the "**Closing Date**"), as may be extended as provided herein, at or through the offices of the Closing Agent, unless otherwise provided for herein or agreed to by the Parties in writing. The County Manager may agree to terminate this Contract, or to extend the Inspection Period, Cure Period, or the Closing Date, on behalf of the County without further approval by the Board.

14. **EXPENSES.** The Parties shall pay closing costs and expenses as follows:

SELLER:

- Documentary stamp tax on the deed of conveyance;
- Preparation of all closing documents necessary to cure title defects (if any);
- Past-due taxes (if any); and
- Seller's attorney's fees (if any);

COUNTY:

- Environmental site assessment costs;
- Survey;
- Title Insurance policy;
- Closing Agent fees (including the preparation of all closing documents, except

those that are necessary to cure title defects and are thus Seller's responsibility);

- County's attorney's fees;
- Cost of preparing the Baseline Documentation Report; and
- Recording fees.

15. **INTEREST CONVEYED.** At closing, Seller shall execute and deliver to County a perpetual, enforceable conservation easement deed in substantially the same form as attached hereto as **Exhibit "B"**, free and clear of all liens, reservations, restrictions, easements, leases, tenancies and other encumbrances, except for those that are listed in **Exhibit "D"**, and the lien of ad valorem taxes for the year of closing that are not yet due and payable.

16. **SUBORDINATION.** If at the time of conveyance of the Conservation Easement Deed, the Property is subject to a mortgage or other liens and encumbrances not accepted by County and Seller elects to subordinate such encumbrances rather than satisfy them at closing, Seller shall ensure that such liens or encumbrances are subordinated to the County's Conservation Easement by separate instrument, a draft of which shall be provided to the County's Closing Agent as part of the Closing Documents and which shall be fully executed at time of closing and recorded immediately after the Conservation Easement Deed's recordation. Any such subordination instrument shall specifically subordinate its rights in the Protected Property (or any ingress and egress easement rights in the Property) to the County's Conservation Easement to the extent necessary to permit the County to enforce the purpose of the Conservation Easement in perpetuity and to prevent any modification or extinguishment of the Conservation Easement by the exercise of any superior rights of the holder.

17. **AD VALOREM TAXES AND ASSESSMENTS ON THE PROPERTY.** At closing, Seller shall satisfy all real estate taxes and assessments that are a lien against the Property. Ad valorem taxes on the Property and any assessments on the Property for the year of closing and for all subsequent years shall be and remain the expense of Seller.

18. **CLOSING DOCUMENTS:** Except as specifically provided below, the Seller shall deliver or provide the Closing Agent with information necessary to produce the following documents at or prior to closing:

- a. An Affidavit of Non-Foreign Status, Notice of Non-Recognition, or Withholding Certificate to establish compliance with the Foreign Investment and Real Property Tax Act of 1980 "FIRPTA". Any such documents executed and delivered by the Seller must comply with the provisions of FIRPTA and any regulations or rules promulgated thereunder. If the Closing Agent or the County has actual knowledge or have received notice that the information contained or representations made in such document(s)



is false, or if the document(s) does not otherwise comply with FIRPTA, then the Closing Agent shall withhold 10% - 15% of the amount realized by the Seller and shall remit such amount to the IRS at closing along with the properly completed remittance form.

b. Seller shall furnish a Seller's affidavit, in form acceptable to the Closing Agent, the title insurance company, and the County, sufficient to remove standard printed exceptions to title in the Policy regarding (i) rights or claims of parties in possession; and (ii) mechanic's liens.

c. An environmental affidavit affirming the Seller's representations and warranties listed in Paragraph 23.

d. IRS 1099 Form, if required.

e. Incumbency Certificate, Resolution and Affidavit, in form acceptable to the Closing Agent, from the Seller if the Seller is not a natural person.

f. Seller shall deliver satisfaction(s), release(s) or estoppel letters from lenders and others holding mortgages or liens on the Property.

g. Pursuant to the terms and conditions of the Conservation Easement Deed, Seller shall deliver an assignment of all of Seller's rights, title and interest in all development rights, permits, licenses, benefits, consents, or approvals, surveys, soil tests, water, sewer, or other utility capacity verification or reservation, development plans, engineering plans or specifications, tests, reports, studies, appraisals, analyses and similar documents or information.

h. The "Watermelon Pond – Elliott Property Baseline Documentation Report" as referenced in the Conservation Easement Deed must be completed by County and approved by Seller prior to the closing of this transaction. The Baseline Documentation Report will be incorporated by reference into the Conservation Easement Deed.

i. Any other documents or information the Closing Agent reasonably requests or requires to complete the transaction, including subordination agreements necessary to subordinate any other interests in the Property to the County's Conservation Easement.

19. **BASELINE DOCUMENTATION.** County shall prepare baseline documentation report adequately documenting the condition of the Protected Property at the date of closing. The cost of the baseline documentation shall be borne by County. If the form of conservation easement

provides for use of a management plan or stewardship plan, the management plan or stewardship plan shall be prepared as a part of the baseline documentation.

20. **TIME IS OF THE ESSENCE.** In all matters relating to this Contract, **TIME IS OF THE ESSENCE.**

21. **NO ALTERATIONS PRIOR TO CLOSING.** After the Effective Date, the Seller will not, without prior written consent from the County:

a. Cut any timber from the Property or otherwise alter the Property in any manner that is or would be prohibited or restricted by the terms of the conservation easement deed, or

b. Execute or enter into any lease, contract, option, easement, license, mortgage, financing statement, security agreement, or similar document concerning or affecting the Property, unless necessary to carryout existing agricultural uses which are permitted by the Conservation Easement terms and conditions.

22. **GENERAL CONDITIONS TO OBLIGATIONS OF THE COUNTY.** The obligations of the County are, at the option of the County, contingent upon these conditions:

a. The representations and warranties made by Seller herein shall be correct statements of fact as said facts exist as of the Closing Date, and at all times between the Effective Date and the Closing Date.

b. All terms, covenants, agreements and provisions of this Contract to be complied with and performed by the Seller on or before the Closing Date shall have been duly complied with or performed.

23. **REPRESENTATIONS, WARRANTIES, AND COVENANTS OF SELLER.** The Seller hereby represents, warrants, and covenants to and with the County as follows:

a. Except for those matters that will be discharged at closing, the Seller, and only the Seller, holds fee simple title to the Property and neither the Seller nor any other party has a common law or statutory way of necessity over or across the Property pursuant to §704.01, Florida Statutes.

b. From and after the Effective Date, Seller shall not enter into any contracts, agreements, encumbrances, liens, or other documents or instruments for or regarding the sale, transfer, disposition, assignment, conveyance, encumbrance, lien, pledge, of any Property, or any part thereof or any interest therein, or which may result in any lien or encumbrance with regard to the Property, or any part thereof, or an interest therein, without the prior written consent of the County.

c. The person executing this Contract on behalf of the Seller is fully and duly authorized to do so by Seller, and any and all actions required to make this Contract and the performance thereof legally binding obligations of Seller, have been duly and legally taken. No further consent, authorization or approval of any person or entity is required for Seller to enter into or perform this transaction.

d. Seller has paid (or covenants that he will pay prior to Closing) any and all taxes (excluding taxes not yet due) which have or could become a lien or charge against the Property, subject to the proration therein provided.

e. Except for the liens, encumbrances, or charges against the Property specifically disclosed in this Contract, there are no other liens, encumbrances, unpaid bills to vendors, outstanding obligations or charges (contingent or absolute) in existence against such Seller or any businesses conducted thereon, or any existing undisclosed or unrecorded liens, encumbrances or charges, which could adversely affect title to the Property after the Effective Date or the Closing Date, and Seller has no knowledge of any matters pending that could result in a lien against the Property, or in any way substantially adversely affect title to the Property.

f. From and after the Effective Date, Seller will not cause, permit, suffer, or allow any change, modification or alternation to be made to the Property, or any part or portion thereof, or its physical condition without the prior written consent of County.

g. There are no leases of the Property, or any portion thereof.

h. Seller represents that during its ownership the Property has never been used for the dumping, disposal, manufacture, handling, transportation, storage, or usage of any toxic or hazardous wastes or materials, and no such toxic or hazardous waste or materials are present on, in, or under the Property. As used herein "hazardous or toxic wastes or materials" shall mean and refer to any substance or matter giving rise to liability or regulations under any federal, state, or local law, statute, regulation, rule or ordinance.

i. To the best of the Seller's actual information and belief, no party has ever used the Property as a dump, landfill or garbage disposal site.

j. To the best of the Seller's actual information and belief, the Property presently complies with all applicable environmental laws, rules and regulations.

k. The Seller is unaware of any previous violations of applicable environmental laws, rules and regulations regarding the Property.

l. The Seller has not received notice from any government agency that the Property violates any federal, state or local laws, ordinances, codes, rules, orders or regulations or that any remedial action is required on the Property. The Seller shall, after closing, indemnify, defend and hold the County harmless from and against any and all claims, demands, suits, losses, damages, assessments, fines, penalties, costs and other expenses, (including but not limited to attorney's fees, court costs, and agency costs of investigation) for actual damage to the environment, personal injury or death, or damage to property, due to a release or alleged release of hazardous materials on or under the Property or in the surface or ground water located on or under the Property, or gaseous emissions from the Property or any other adverse environmental condition existing on the Property, occurring prior to closing, that is caused by, arising from or any way related to the invalidity of the foregoing representations.

m. The Seller is not a "foreign person" as that term is defined in 26 U.S.C.A. §1445(f)(3), nor is the sale of the Property subject to any withholding requirements imposed by the Internal Revenue Code, including but not limited to 26 U.S.C.A. §1445.

n. Upon closing, sole and exclusive possession of the Property shall transfer to the County.

o. There are no actions, suits or proceedings of any kind or nature whatsoever legal or equitable, actual or threatened, affecting the Property, or any portion thereof, or relating to or arising out of the ownership of the Property, in any court or before or by any Federal, state, county or municipal department, commission, board, bureau, or agency or other government instrumentality.

p. No commitments have been made, to the best of Seller's knowledge, to any governmental authority, utility company, school board, church or other religious body, or any homeowner's association, or to any other organization, group, or individual, relating to the Property which would impose an obligation upon County, or its successors or

assigns, to make any contribution or dedications or money or land, or to construct, install, or maintain any improvements of a public or private nature on or off the Property, and no governmental authority has imposed any requirement that any developer of the Property pay directly or indirectly any special fees or contributions or incur any expenses or obligations in connection with any development of the Property, or any part thereof.

q. No person, firm or other legal entity other than County has any right or option whatsoever to acquire the Property or any portion thereof, or any interest therein.

r. The execution and delivery of this Contract and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Seller of any provision of any agreement or other instrument to which Seller is a party or to which Seller may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Seller.

s. Seller is not aware of any information or facts concerning the physical condition or the Property, or the existing or proposed governmental regulation of the use or development of the Property, which would materially or adversely affect the value or use thereof which has not been disclosed to County in writing. In the event that changes occur as to any information, documents, or exhibits referred to in any part of this Contract, Seller will immediately disclose same to County when first available to Seller.

t. No representation, warranty or covenant in this Contract, nor any document, certificate or exhibit given or delivered to County pursuant to this Contract, when read singularly or together as a whole, contains any untrue statement of a material fact, or omits a material fact necessary to make the statements contained therein true in the light of the circumstances under which they were made, to the best of Seller's knowledge.

u. Seller is not subject to any bankruptcy proceeding, assignment for benefit of creditors, receivership or similar proceedings and that the conveyance of the Property as set out herein will not result in the Seller becoming bankrupt or insolvent.

24. **REPRESENTATIONS AND WARRANTIES OF THE COUNTY.** County hereby represents and warrants to Seller as follows:

a. No consent to the transaction contemplated by this Contract by any person or entity other than County is required.

b. No representation, warranty or covenant in this Contract, nor any document, certificate or exhibits given or delivered to Seller pursuant to this Contract, when read singularly or together as a whole, contains any untrue statement of material fact, or omits a material fact necessary to make the statement contained therein true in light of the circumstances under which they were made.

25. **CONTINUING REPRESENTATION AND WARRANTIES.** The representations and warranties of the Parties contained herein shall be continuing up to and including the Closing Date and at all times between the Effective Date hereof and the Closing Date, with the same force and effect as though such representations and warranties had been made as of Closing.

26. **EMINENT DOMAIN.** The Seller has no knowledge of any threatened or pending eminent domain proceedings affecting the Property. In the event eminent domain proceedings are pending (without Seller's knowledge) or instituted after the Effective Date, to acquire all or any part of Property, the Parties agree that:

a. The Seller shall, upon discovery, immediately notify the County of such threatened or pending eminent domain proceedings and provide to the County copies of all written correspondences, pleadings or other papers concerning the eminent domain proceeding as the Seller receives them.

b. The County may either: (i) Terminate the Contract by written notice to the Seller, whereupon the Parties shall be relieved of all further obligations under the Contract; or (ii) the County may elect to keep the Contract in full force and effect and assume sole control and direction (including settlement authority) of the eminent domain proceedings. The County shall receive the eminent domain award and the Purchase Price shall remain as defined above. The Seller shall execute all assignments or documents as are necessary to accomplish the same.

27. **REAL ESTATE COMMISSIONS.** The Seller represents and notifies the County that it has not engaged the services of a real estate broker in this transaction.

28. **AUTHORITY; COUNTY MANAGER AUTHORITY.** Each party hereby represents and warrants to the other party, which representations and warranties shall be true and shall be deemed to be restated at the closing:

a. Each party has full authority to bind itself to the obligations stated herein, including but not limited to, providing any necessary resolutions or like documents

indicating consent and approval.

b. The execution and delivery of this Contract and consummation of the transaction contemplated hereby shall not (i) constitute a default under any instrument, document or obligation to which it is now, or may become a party, or by which it may be bound or affected, or (ii) violate any order, writ, injunction or decree of any court in any litigation to which it is a party.

c. In addition to other authority granted to the County Manager elsewhere in this Contract, the County Manager may terminate this Contract, or to extend the Inspection Period, any Cure Periods, or the Closing Date, by and on behalf of the County without further approval by the Board. Any instrument or other written document amending or modifying this Contract, except those that increase the per acre price set forth in Paragraph 4, may be executed by the County Manager without further authorization from the Board.

29. **FURTHER ASSURANCES.** The Parties shall execute such further documents and do any and all such further things as may be necessary to implement and carry out the intent of this Contract.

30. **NOTICES.** Any notice, demand, request, or other communication required or permitted by this Contract or by law shall be in writing, and shall be deemed to be given when (a) delivered in person with signed proof of delivery, (b) delivered by United States certified or registered mail, return receipt requested, postage prepaid, or (c) delivered by a commercial courier service (such as Federal Express), or (d) delivered via e-mail to the following addresses:

Seller:  
Russell W. Elliott  
P.O. Box 791  
Archer, FL 32618  
(352) 441-4406

County:  
ALACHUA COUNTY BOARD OF COMMISSIONERS  
12 SE 1<sup>st</sup> Street  
Gainesville, FL 32601  
Attention: Michele Lieberman, County Manager  
Telephone: (352) 374-5204  
Facsimile: (352) 338-7363  
Email: [mlieberman@alachuacounty.us](mailto:mlieberman@alachuacounty.us)

and

Alachua County Land Conservation & Management Program  
14 NE 1<sup>st</sup> Street  
Gainesville, Florida 32601  
Attention: Andi Christman, Environmental Program Manager  
Telephone: (352) 264-6803  
Email: [achristman@alachuacounty.us](mailto:achristman@alachuacounty.us)

To change or update any of the addresses above, the notifying party shall provide notice of the change in writing to the other party using the methods set out above. The date of notice shall be the date the notifying party sends notice to the receiving party. If the notifying party delivers personal notice to the receiving party, the receiving party shall have received notice upon receipt thereof.

31. **DEFAULT.**

a. If the County fails to consummate the purchase of the Property in accordance with the terms of this Contract for any reason other than Seller's default or the County's termination of this Contract as allowed herein, Seller's sole remedy against the County shall be to retain the Property without being encumbered by a conservation easement and the Option Payment (including any interest earned thereon) paid by the County as liquidated and agreed upon damages, and all Parties shall be relieved from any further obligations under this Contract. It is agreed by the Parties that such amount is a fair and reasonable measure of the damages to be suffered by Seller in the event of such default and that the exact amount thereof is incapable of ascertainment.

b. In the event Seller breaches its covenant to convey the conservation easement to the County or otherwise fails to perform its obligations under this Contract, for any reason except for the County's default, the County shall be entitled (a) to receive a prompt and complete return of the Option Payment (including any interest earned thereon), in which event the Parties shall be relieved from any further obligations under this Contract, or (b) to pursue any and all remedies available under law or equity, including specific performance, and to seek and recover any and all damages available to the County under law or in equity. However, specific performance is not available as a remedy for failure to cure (i) Title Defects that cannot be cured by a payment of a portion of the Payment Price at closing, or (ii) failure to cure Environmental Defects.

32. **TERMINATION.** If this Contract is terminated by either party as allowed herein, all Parties shall be released from any further obligation under this Contract.



33. **ASSIGNMENT.** This Contract may not be assigned by either party without the written consent of the other party.

34. **PERSONS BOUND.** This Contract shall be binding upon, and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, legal representatives, successors, and permitted assigns.

35. **ESCROW.** Any escrow agent receiving funds or equivalent is authorized and agrees by acceptance thereof to deposit promptly and to hold same in escrow and subject to clearance thereof to disburse same in accordance with the terms and conditions of this Contract. Failure of clearance of funds shall not excuse performance by the County, and may be treated as a default by the County at the option of the Seller. In the event of doubt as to the escrow agent's duties or liabilities under the provisions of this Contract, the escrow agent may in agent's sole discretion, continue to hold the funds in escrow until the Parties mutually agree to the disbursement thereof, or until a judgment or a court of competent jurisdiction shall determine the rights of the Parties thereto, or escrow agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute, and upon notifying all Parties concerned of such action, all liability on the part of the escrow agent shall fully terminate, except to the extent of accounting for any items theretofore delivered out of escrow. In the event of any suit between County and Seller wherein the escrow agent is made a party by virtue of acting as an escrow agent hereunder, or in the event of any suit wherein escrow agent interpleads the subject matter of this escrow, the agent shall be entitled to recover reasonable attorney's fees and costs incurred, said fees and costs to be charged and assessed as court costs in favor of the prevailing party. All Parties agree that the escrow agent shall not be liable to any party or person whomsoever for misdelivery to County or Seller of items subject to escrow, unless such misdelivery shall be due to willful breach of this Contract or gross negligence on the part of the agent.

36. **ENTIRE AGREEMENT.** This Contract contains all of the agreements, representations and warranties of the Parties hereto with respect to the Property, and supersedes all other discussions, understandings or agreements in respect to the subject matter hereof. All prior discussions, understandings and agreements are merged into this Contract, which alone fully and completely expresses the agreements and understandings of the Parties hereto. This Contract may be amended, superseded, extended or modified only by an instrument in writing referring hereto signed by all Parties. County Manager may extend any of the dates herein if so requested by the Seller.

37. **APPLICABLE LAW; VENUE.** This Contract shall be interpreted, construed, and enforced in accordance with the laws of the State of Florida. Sole and exclusive venue shall be in Alachua County, Florida.

38. **WAIVER OF RIGHT TO TRIAL BY JURY.** Each party waives its rights to demand trial by jury.

39. **SOVEREIGN IMMUNITY.** The County fully retains all sovereign immunity protections afforded to it as a charter county and a political subdivision of the State of Florida. The County waives nothing by entering into this Contract. All claims against the County that are permissible pursuant to the partial waiver of sovereign immunity set forth in §768.28, Florida Statutes, must strictly comply with the procedures found in §768.28, Florida Statutes.

40. **SEVERABILITY.** In the event any portion of this Contract is found to be unenforceable, the remainder of this Contract shall remain in full force and effect if the deletion of such portion shall neither affect the overall intent of this Contract, nor materially impair the benefits negotiated by each party hereunder.

41. **CONSTRUCTION.** The provisions of this Contract have been carefully and fully negotiated between the Parties, each of which has relatively equal bargaining power. The terms of this Contract are to be construed in accordance with their fair meaning and intent and are not to be construed against either party merely because such party or its counsel drafted this Contract. In the event a day of performance falls on a Saturday, Sunday or legal holiday under the laws of the State of Florida, the day of performance shall be automatically extended to the next day which is not a Saturday, Sunday or legal holiday and the County is open for regular business.

42. **NO RECORDING OF CONTRACT.** The Parties agree that neither the County nor the Seller shall cause this Contract to be recorded in any public records relating to the Property.

43. **COUNTERPARTS.** This Contract may be executed by the Parties hereto individually or in combination, in one or more counterparts, each of which shall be an original, and all of which shall constitute one and the same contract. This Contract may be executed and delivered by facsimile and/or email transmission, with the intention that such facsimile and/or email signature and delivery shall have the same effect as an original signature and actual delivery.

44. **HEADINGS.** The captions and headings contained in this Contract are for reference purposes only, and shall not in any way affect the meaning or interpretation hereof.

45. **WAIVER.** No provision of this Contract or any rights hereunder may be waived unless such waiver is in writing and is signed by the party waiving such provision or right. The waiver by one party of the performance of any covenant or condition herein shall not invalidate this Contract, nor shall it be considered to be a waiver by such party of any other covenant or condition herein. The waiver by either or both Parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided by law or in the provisions of this Contract shall not exclude other remedies unless they are expressly excluded.

46. **SURVIVAL OF REPRESENTATION AND WARRANTIES.** The respective representations, warranties, covenants, and agreements of Seller and County contained in this Contract shall survive the closing of this transaction and remain in effect.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

EXECUTED this 27 day of MARCH, 2024, by the Seller, Russell W. Elliott, an individual.

SELLER:

By: Russell W. Elliott  
Russell W. Elliott

Emily Uhlmann  
Signature of first witness

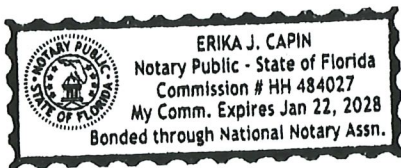
Emily Uhlmann  
Printed name of first witness  
Address: 2600 SW Williston Rd. #324  
City, State, Zip: Gainesville, FL 32608

Julie Pocklington  
Signature of second witness

Julie Pocklington  
Printed name of second witness  
Address: 8417 NW 226<sup>th</sup> St.  
City, State, Zip: ALACHUA, FL 32615

STATE OF FLORIDA  
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me by means of physical presence on March 22, 2024 by Russell W. Elliott, an individual. He/she is [ ] personally known to me or [] has produced a Florida Driver's License as identification.



Erika J. Capin  
Notary Public - State of Florida  
Print Name: Erika J. Capin  
Commission Number: HH 484027  
Commission Expiration Date: 1/22/2028

**EXECUTED** this \_\_\_\_ day of \_\_\_\_\_, 2024, by the County Manager, on behalf of Alachua County, a charter county and political subdivision of the State of Florida, acting within his/her signature authority as granted by the Board of County Commissioners.

**ALACHUA COUNTY**

DocuSigned by:  
*Michele Lieberman*  
By: 0E708449BF5743D...  
Michele Lieberman  
\_\_\_\_\_, County Manager  
4/1/2024

**APPROVED AS TO FORM**

DocuSigned by:  
*David Forziano*  
70E5E81DBE1E4D3...  
Alachua County Attorney's Office

**EXHIBIT LIST**

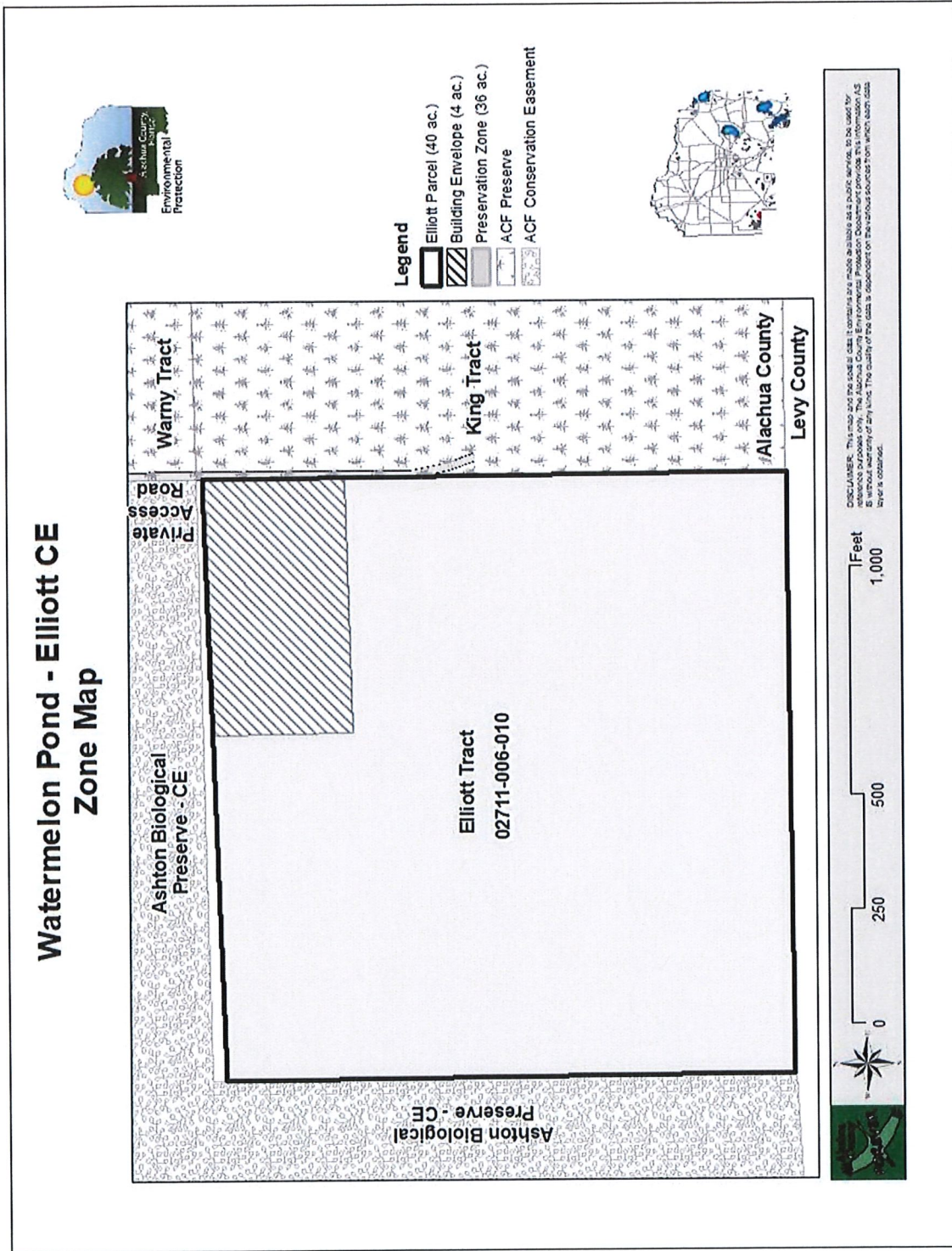
EXHIBIT "A" – Property Description

EXHIBIT "B" – Form Conservation Easement

EXHIBIT "C" – Form Notice of Exercise of Option

EXHIBIT "D" – Permitted Exceptions

## EXHIBIT "A" – PROPERTY DESCRIPTION



**EXHIBIT "B" – FORM CONSERVATION EASEMENT**

[BEGINS ON NEXT PAGE]



This instrument prepared by and returned to:  
Alachua County, FL  
Land Conservation and Management Program  
408 West University Ave., Suite 106  
Gainesville, FL 32601  
Alachua County Property Appraiser Tax Parcel ID:  
02711-006-010

**DEED OF CONSERVATION EASEMENT**

Alachua County Forever’s “Watermelon Pond - Elliott Conservation Easement”

**THIS GRANT OF CONSERVATION EASEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2024, by **RUSSELL W. ELLIOTT, a single person**, whose address is PO BOX 791 Archer, FL 32618 ("Grantor") in favor of **ALACHUA COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is P. O. Box 2877, Gainesville, Florida, 32602-2877 ("Grantee").

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

**RECITALS**

**WHEREAS**, Grantor is the sole owner in fee simple of certain real property in Alachua County, Florida, shown in the parcel map attached hereto and incorporated by reference as **Exhibit “A”**; and

**WHEREAS**, the boundaries of this conservation easement deed are more particularly described in the metes and bounds legal description attached hereto and incorporated by reference as **Exhibit “B”** (hereinafter, the **“Conservation Easement Area”** or **“Property”**); and

**WHEREAS**, attached hereto and incorporated herein as **Exhibit “C”** is a map depicting the boundaries of the Conservation Easement Area and its internal land management zones that are subject to the terms and conditions of this Deed; and

**WHEREAS**, Grantor and Grantee mutually recognize the natural, scenic and special character of the Property and have the common purpose of conserving certain natural values and character of the Property by conveyance to Grantee of a perpetual Conservation Easement on, under, over, and across the Property, to conserve the Property’s character, ecological integrity, hydrologic integrity, and geologic features and to protect the animal and plant populations on the Property; altogether known as the **“Conservation Values”** of the Property and further described below that make the Property unique and important to protect; and

**WHEREAS**, the property is within Alachua County Forever’s Watermelon Pond Project area and the Property serves as an important buffer to protect the aquifer’s water quality and Watermelon Pond’s ecological systems; and

**WHEREAS**, the Property's Conservation Values include upland forest communities occurring within the Property which consist of sandhill and xeric hammock that support native groundcover species and provide important habitat for federally and State-listed species, including gopher tortoise, fox squirrel, indigo snake, and Florida pine snake; and

**WHEREAS**, the specific Conservation Values of the Property are documented in the Baseline Documentation Report for the Watermelon Pond - Elliott Conservation Easement in Alachua County, Florida, ("Watermelon Pond – Elliott Conservation Easement Baseline Documentation Report"), dated \_\_\_\_\_, 2024 which consists of reports, maps, photographs, and other documentation that the parties agree collectively provide an accurate representation of the Property and its Conservation Values at the time this deed was conveyed to the County (the "**Baseline Documentation Report**"). The parties agree that the Baseline Documentation Report shall serve as an objective information baseline for monitoring compliance with the terms of this Conservation Easement and the condition of the Property. The Baseline Documentation Report described above shall be signed by Grantor and Grantee prior to or contemporaneously with the execution of this Conservation Easement and a copy of the Baseline Documentation Report shall be maintained on file with Grantor and also in the offices of the Alachua County Office of Land Conservation and Management. The Watermelon Pond – Elliott Conservation Easement Baseline Documentation Report is hereby incorporated by reference and a copy is available from the Grantee on request; and

**WHEREAS**, the Grantor and Grantee shall mutually develop and agree upon a plan that describes the stewardship goals, objectives, strategies and management responsibilities of this Conservation Easement (the "**Stewardship Plan**"), as further described in Section VII; and

**WHEREAS**, Grantor intends that the Conservation Values of the Property be preserved and maintained by the continuation of those existing land use patterns that do not impair or interfere with those values; and

**WHEREAS**, the Grantor, in consideration of the purchase price and other good and valuable consideration provide to Grantor by Grantee, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes, over the Property described in **Exhibit "B"**; and

**WHEREAS**, Grantee is an agency authorized under the provisions of §704.06, Florida Statutes, to hold Conservation Easements for the preservation and protection of land in its natural, scenic, historical, agricultural, forested or open space condition; and

**WHEREAS**, Grantee agrees by accepting this grant to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and the generations to come; and

**WHEREAS**, the fact that any use of the Property that is expressly prohibited by the terms of this Conservation Easement may become more economically valuable than uses allowed by the terms of this Conservation Easement, or, that neighboring properties may, in the future, be put

entirely to uses that are not allowed by this Conservation Easement, are factors that have been considered by Grantor in granting this Conservation Easement and by Grantee in accepting it; and

**WHEREAS**, Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity as defined herein as an Alachua County Forever Conservation Easement; and

**WHEREAS**, Grantor further acknowledges and understands that public funds shall be used to acquire this Conservation Easement through the Alachua County Forever land conservation acquisition program and that the Alachua County Board of County Commissioners has a right to protect and preserve the public's interest in Alachua County Forever Conservation Easements.

**NOW, THEREFORE**, to achieve these purposes listed above and to ensure that the Conservation Values of the Property are protected through binding mutual covenants, terms, conditions, restrictions, and prohibitions in perpetuity, and in consideration of \$100.00 and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and pursuant to §704.06, Florida Statutes, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property to the extent hereinafter set forth.

#### **ARTICLE I. DURATION OF CONSERVATION EASEMENT**

This Conservation Easement shall be perpetual. It is a Conservation Easement that 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 CONSERVATION EASEMENT**

The purpose of this Conservation Easement ("**Purpose**") is to ensure the Property will continue forever without substantial adverse change from its present condition of a mosaic of sandhill, scrubby to mesic flatwoods and oak hammock buffering Watermelon Pond. As used herein, "substantial adverse change" is any change, modification, or alteration from or to the Property's condition documented in the Baseline Documentation Report caused by any act or omission of the Grantor that frustrates, hinders, or prevents the course and purpose of the Stewardship Plan or that otherwise contributes to the degradation of the Conservation Values. Changes or alterations to the Property caused by acts of God or nature are not considered a "substantial adverse change" as the term is used herein. The Purpose of this conservation easement is also intended to establish and maintain a balance of natural community and wildlife protection, which shall be achieved by adherence to the terms and conditions of this conservation easement deed, the Baseline Documentation Report, and the Stewardship Plan. The Purpose of this conservation easement and protection of the Property's Conservation Values shall be achieved through land stewardship practices guided by the following land management principles:

- (a) Maintenance, enhancement and ecological restoration of native plant and wildlife habitat;
- (b) Protection of unique and fragile natural areas and rare species habitats, specifically sandhill and scrubby flatwoods;

- (c) Protection and maintenance of natural resource values in avoiding land fragmentation;
- (d) Protection of open space and the scenic and other distinctive natural characteristics of the landscape;
- (e) Maintenance of soil health and control of soil erosion;
- (f) Protection of surface water and ground water quality and recharge to the Floridan Aquifer, wetlands, riparian areas, and specifically Watermelon Pond;
- (g) Maintenance of the health of the forest resources;
- (h) Protection of federal and state listed imperiled species and their habitats;

Grantor hereby affirms that this Conservation Easement will confine the use of the Property to such activities as are consistent with the Purpose of this Conservation Easement as described in this Article.

### **ARTICLE III. RIGHTS GRANTED TO GRANTEE**

To accomplish the Purpose of this Conservation Easement, the following rights are conveyed to Grantee by this Conservation Easement:

#### **A. PROTECTION OF CONSERVATION VALUES**

The right to enforce protection of the "Conservation Values" of the Property. The right to take any legal action necessary to enforce protection of the "Conservation Values" of the Property and to enforce compliance with the terms and conditions of this Conservation Easement. In the event Grantee takes legal action to enforce the terms and conditions of this Conservation Easement, then Grantor and Grantee shall each be responsible for their own attorney's fees, costs, and expenses related to such legal action, except that Grantee may seek reimbursement from Grantor of any costs or expenses pursuant to Article VI below ("Grantee's Remedies") to repair, restore, or maintain the protected Conservation Values on the Property.

#### **B. TRANSFER AND ASSIGNMENT**

The right of Grantee to assign its rights and obligations under this Conservation Easement, but only to an organization that is, at the time of the assignment authorized to acquire and hold Conservation Easements under Section 704.06 of the Florida Statutes (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that any successor or assignee shall take the land subject to the reservations, restrictions and obligations of Grantor as to the use of the Property so that the Purpose of this grant may continue to be carried out.

#### **C. GRANTEE'S ACCESS AND MONITORING**

The right of ingress and egress to the Property and to enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation 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. PROTECTION OF GRANTEE'S INTEREST**

The right to prevent any activity on or use of the Property that is inconsistent with the Purpose or provisions of this Conservation Easement or the Stewardship Plan explained in Article VII below, and to require Grantor's restoration of such areas or features of the Property that may be damaged

by any such inconsistent activity or use, at Grantor's cost.

#### E. PROTECTION OF NATURAL RESOURCES

The right to have the Property maintained as reflected in the Baseline Documentation Report, and as the Property may evolve 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 Conservation Easement.

#### F. INDEMNIFICATION

The right to be indemnified by Grantor for any and all liability, loss, damage, expense, judgment, claim, or fees (including attorney fees) incurred or suffered by Grantee arising out of (i) any acts or negligence of Grantor or Grantor's agents, guests, lessees, or invitees use in, of, or in any way relating to the Property; and (ii) any condition of the Property known to Grantor to the best of Grantor's knowledge.

#### G. RIGHT OF FIRST REFUSAL

If the Grantor desires to accept a bona-fide arms-length offer to purchase the Property from a third-party, the Grantor shall first provide the Grantee with a copy of the written offer to purchase containing all operative terms and conditions of the purchase and closing (the "Written Offer") or the proposed sales contract. The Grantee shall have 120 calendar days from the date Grantee receives the Written Offer or proposed sales contract to notify Grantor of its intent to purchase the Property on the same terms and conditions as the Written Offer or proposed sales contract. In the event the Grantee does not so notify Grantor, Grantor may close on the sale with the third party in accordance with the terms and conditions of the Written Offer or the proposed sales contract. In the event that the closing with the third party does not occur or the terms of the Written Offer or proposed sales contract are modified prior to closing, this Right of First Refusal shall remain in full force and effect and Grantor may not sell the Property to any third-party without first offering the Property to the Grantee on the revised terms and conditions. If the Grantee does not give timely notice to the Grantor and the Property is sold on the terms and conditions provided to the Grantee, then this Right of First Refusal shall be extinguished, and the third-party buyer shall take the Property free and clear of this Right of First Refusal. This Right of First Refusal shall not apply to any transaction in which the Grantor conveys the Property, by sale, gift, or devise, to a lineal descendant or an entity in which Grantor owns a controlling interest; however, if the Grantor conveys the Property to a lineal descendant or an entity in which the Grantor owns a controlling interest, then Grantor shall deliver written notice of the conveyance to the Grantee and this Right of First Refusal shall run with the land and be applicable to any subsequent sale of the Property by the lineal descendant or entity in which Grantor owns a controlling interest. Grantee's exercise of its right of first refusal shall be subject to all statutory and regulatory requirements in effect when Grantee elects to exercise its right of first refusal.

### **ARTICLE IV. PROHIBITED, RESTRICTED AND PERMITTED USES**

Grantor reserves to Grantor and to Grantor's personal representatives, successors, heirs and assigns, the right to engage in the following specific permitted uses of the Property, subject to the prohibitions and restrictions contained herein. Notwithstanding anything contained herein to the

contrary, any activity on or use of the Property inconsistent with the Purpose of this Conservation Easement is prohibited.

#### A. DEVELOPMENT RIGHTS AND SUBDIVISION

There shall be no division, partitioning, lot-splitting, or subdivision in any manner of the Property, even if the Property at any time may be the subject of an approved subdivision. A boundary line adjustment shall not be considered a division provided either: (i) each parcel affected by the boundary line adjustment is subject to a Conservation Easement granted to Grantee, which Conservation Easement contains terms and conditions at least as protective of the Conservation Values as the terms and conditions of this Conservation Easement, or (ii) advance written approval of the boundary line adjustment is obtained from Grantee.

All current and future residential, commercial, industrial land uses and incidental land development use rights that may now be or hereafter allocated to, implied, reserved, or inherent in the Property are specifically prohibited unless otherwise specifically permitted elsewhere in this Conservation Easement deed. Neither the Property nor any portion thereof may be included as part of the gross area of other property not subject to this Conservation 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 or density credits shall be transferred to any other property pursuant to a transferable development rights program or cluster development arrangement or otherwise that may exist in the Unified Land Development Code of Alachua County. Nor shall any development rights or density credits be transferred onto the Property from other property.

#### B. IMPROVEMENTS AND NEW CONSTRUCTION

i) *Four-Acre Existing Residential Structure and Curtilage.* The Property contains an "Existing Residential Structure" and outbuilding located on approximately four acres of land, the exact boundaries of which are shown on the Conservation Easement's survey, the Baseline Documentation Report and on Exhibit "C" as a building envelope (the "**Building Envelope Area**"). The "Existing Residential Structure", outbuilding, and associated curtilage within the Building Envelope Area are permitted by this Conservation Easement on the condition that they be used for the use, benefit, and enjoyment of the Grantor and their successors and that said use shall forever be restricted by the following limitations unless otherwise modified by a written, executed and recorded amendment to this Conservation Easement:

- a) The Building Envelope Area is limited to the current location and condition. No structures may be located outside the Building Envelope Area. Within the Building Envelope Area, the Grantor may maintain, repair, restore, remodel, demolish, or construct structures only as permitted herein.
- b) The "Existing Residential Structure" (approximately 1,372 square feet) may be demolished and rebuilt into a Single-Family Residential Dwelling as defined by the Alachua County Unified Land Development Code. For any repair, renovation, demolition, or construction of any structure, Grantor must follow and abide by the terms herein and the then-current building and land use permitting process of the applicable governing authorities.
- c) In the event the "Existing Residential Structure" or other structure is rebuilt or

renovated into a Single-Family Residential Dwelling (whether rebuilt or renovated as more than one structure), all such construction or renovation shall be located within the Building Envelope Area. For all structures located within the Building Envelope Area, the total combined footprint will not exceed 5,000 square feet, and the height will not exceed two stories.

d) Grantor may install and maintain one lawful well and one properly permitted septic tank.

e) Rebuilding or renovation of the structure shall be in accordance with the Florida Building Code and the Alachua County Unified Land Development Code.

f) Grantor shall provide Notice to Grantee at least 60 days prior to the commencement of demolition or commencement of renovation activities and provide a copy of demolition or construction plans to Grantee with such Notice.

g) Grantor shall have the right to create cultivated gardens within the Building Envelope Area, or to cultivate fruit and vegetable bearing vegetation or trees but shall prevent the spread of invasive or non-native vegetation beyond the fenced area into the protected areas of the Property, except as otherwise permitted within this easement.

h) Grantor agrees that Grantee shall have the right to enforce these covenants and restrictions applicable to the Building Envelope Area in perpetuity and that these covenants and restrictions shall be binding upon all of Grantor's heirs, assigns, successors in interest, and subsequent owners of the Property.

ii) *Roads, Trails and Motorized Vehicles.*

a) Construction of new roads or other rights of way within the Property is prohibited unless specifically agreed to by Grantee in writing. Existing unpaved roads may be maintained but shall not be widened or improved with impervious materials. The materials utilized in the maintenance of the existing roads shall be permeable (such as uncontaminated soil, crushed concrete or other permeable material preapproved by Alachua County's Land Conservation Program Manager) to allow adequate water percolation into the ground. Fire lines created for the sole purpose of prescribed fire management and habitat restoration of the Property, as described in Article IV, Section G below and in the Stewardship Plan, shall not constitute a violation of this general prohibition against new roads.

b) No other trails may be constructed or created on the Property by Grantor without written authorization and preapproval from the Program Manager of Alachua County's Land Conservation and Management Program. Fire lines created for the sole purpose of prescribed fire management and habitat restoration of the Property, as described in Article IV, Section G below and in the Stewardship Plan, shall not constitute a violation of this general prohibition against new trails. Notwithstanding anything contained herein, fire lines shall be no wider than ten (10) feet in width and trails shall be no wider than six (6) feet in width, without the prior written consent of Grantee, which consent shall lie within Grantee's sole discretion.

c) There shall be no operation of motorized vehicles anywhere on the Property except: (i) on established roads and firebreaks, (ii) unless necessary to protect or enhance the Conservation Values of the Property, (iv) for emergency purposes, or (v) to perform maintenance activities necessary to fulfill the Purpose of this Conservation Easement.

*iii) Utility Services and Septic Systems.*

Within the Building Envelope Area shown on **Exhibit "C"**, installation, maintenance, repair, replacement, removal, and relocation of electric, gas, and water facilities, sewer lines and/or other public or private utilities, including telephone or other communication services over or under the Property for the purpose of providing electrical, gas, water, sewer, or other utilities for the sole purpose of serving the "Existing Residential Structure" (or future rebuilt or renovated structure) located within the four-acre Building Envelope Area on the Property are permitted herein, and the right to grant easements over and under the Property for such limited purposes, is permitted subject to Grantee's prior written consent, which consent shall not be unreasonably withheld and provided that the impact of such installation and maintenance minimizes the impact to the Conservation Values of the Property to the greatest extent possible. Installation, maintenance, repair or improvement of one (1) septic or other underground sanitary system, for the benefit of the "Existing Residential Structure" (or future renovated structure), is permitted, provided such septic system is located within the four-acre Building Envelope Area and at least 150 feet from any wetland areas, sinkholes or karst features. All other utilities are prohibited on the Property including, but not limited to, commercial cellular communication towers or structures serving a commercial purpose.

*iv) Signs.* Grantor or Grantee may erect and maintain reasonable non-commercial signs indicating the owner of the Property, the name of the Property, boundary markers, directional signs, regulatory signs, interpretative signs, and signs designating the Property as land under the protection of Grantee. Any signs erected pursuant to this provision shall conform to the nature and character of the Property.

**C. WATER RESOURCES**

Within the Building Envelope Area shown on **Exhibit "C"**, Grantor may continue to operate, maintain and replace the existing, non-commercial, ground water well, located on the Property, incident to the permitted agricultural uses on the Property and to serve the "Existing Residential Structure" (or future rebuilt or renovated structure). The operation, maintenance, replacement and installation of the operational groundwater well shall be subject to legally required permits and regulations. Notwithstanding the right to construct and operate a ground water well within the four-acre Building Envelope Area, there shall be no activities conducted on the Property that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation. There shall be no dredging of new canals, construction of new dikes, manipulation of natural water courses, or disruption, alteration, pollution, depletion, or extraction on the Property 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, nor any activities or uses conducted on the Property that would be detrimental to water purity or that could alter natural water level or flow in or over the Property. Notwithstanding anything contained herein to the contrary, there shall be no commercial water wells on the Property.

**D. COMMERCIAL ACTIVITY**

Commercial or industrial activity, or ingress, egress or other passage across or upon the Property in conjunction with any commercial or industrial activity is prohibited.



#### E. AGRICULTURAL ACTIVITY

There shall be no agricultural use of the Property except for the agricultural management uses as specifically provided for in this Article.

Grantor shall be permitted to keep and house domesticated pets such as cats and dogs, and livestock (but not cattle or swine) within the Building Envelope Area shown on **Exhibit "C"**. In addition, Grantor may grow fruits and vegetables within the curtilage around the "Existing Residential Structure" within the Building Envelope Area all such uses shall not have an adverse impact on the Conservation Values of the Property and shall be carried out in accordance with the Stewardship Plan.

Grantor reserves the right to plant and maintain fruit trees or other food crops in the areas identified in the Baseline Documentation Report as already in agricultural use and Grantor agrees not to convert any acreage to a more intensive agricultural use.

Grantor reserves the right to restore to a more natural state the planted agricultural areas including food plots and fruit trees utilizing native species.

Grantor shall not introduce, or allow the intentional introduction or propagation of non-native, exotic plants (more particularly identified below as "Nuisance Invasive Plant Species" in Section H), or animal species (including livestock), that in the sole discretion of Grantee may have an adverse impact on the Conservation Values of the Property.

Grantor shall to the greatest degree practical comply with the conditions and guidelines, as set forth in the Stewardship Plan, manage and control any occurrence and spread of Nuisance Exotic Animal Species, as described in 68-5, Florida Administrative Code and 379, F.S., and specifically listed as nonnative and regulated by the Florida Fish and Wildlife Conservation Commission as Conditional and Prohibited Nonnative Wildlife, or in an amended or successor list, or if that list is no longer maintained, in a similar list agreed to by the Grantor and Grantee.

#### F. PESTICIDES (BIOCIDES, HERBICIDES, FUNGICIDES) AND FERTILIZERS

There shall be no storage of, or application of, pesticides (including, but not limited to, biocides, fungicides, and herbicides) and fertilizers on the Property, outside of the Building Envelope Area, except:

- i)* these products may be stored and used in limited quantities on the Property in strict conformance with the manufacturer's instructions and label requirements to further the Purpose of this Easement;
- ii)* herbicides may be used in a reasonable manner for conservation purposes with Grantee's prior written consent to control and eradicate Nuisance Invasive Plant Species as defined in Article IV, paragraph H, or for the restoration of natural communities as described in Article IV, Paragraph G;
- iii)* pesticides may be used in a reasonable manner in relation to the allowed agriculture use described in Article IV, paragraph E, and shall be applied in accordance with the product label and according to 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; and
- iv) Storage and application of Fertilizer anywhere on the Property subject to this Conservation Easement is strictly prohibited.

#### G. HABITAT RESTORATION

The Grantor shall retain and have the right to engage in management and ecological restoration activities, including selective the removal of offsite hardwood tree species (ex. water oak, laurel oak, sweetgum) and sand pine for habitat restoration purposes to foster, preserve, protect, and restore the natural, ecological, scenic, wildlife and plant life features and values of the Property as set forth in the Stewardship Plan approved by Grantee. Grantor retains the right to conduct controlled or prescribed burning on the Property.

#### H. REMOVAL OF VEGETATION AND INTRODUCTION OF INVASIVE PLANTS

There shall be no removal, destruction, cutting, trimming, or mowing of any vegetation or harvesting or removal of timber except as follows: (a) pursuant to the rights reserved in Article IV, paragraphs B, E, F and G, (b) to remove trees or vegetation that are diseased, rotten, damaged, or fallen, or that are a safety or health hazard, (c) as is necessary to maintain existing roads and trails depicted in the Baseline Documentation Report, or (d) to control and/or eradicate Nuisance Invasive Plant Species as described below.

Grantor shall not, nor allow others to, introduce, plant or grow plants: 1) listed by the Florida Invasive Species Council as Category I (invading and disrupting native plant communities of Florida) or Category II (shown to have a potential to disrupt native plant communities), 2) listed in Federal Noxious Weed List (7 C.F.R. 360, as may be amended), 3) listed in the Prohibited Aquatic Weed List (62C-52, F.A.C.), 4) listed in the State of Florida Noxious Weed List (5B-57, F.A.C.), 5) listed in an amended or successor list to any of the above lists, and 6) a similar list contained in the Stewardship Plan. The lists 1 through 6 above shall collectively be considered "Nuisance Invasive Plant Species". Grantor shall to the degree practical, as outlined in the Stewardship Plan, manage and control any occurrence and spread of Nuisance Invasive Plant Species. 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 control and eradication of Nuisance Invasive Plant Species on the Property, together with the right of ingress and egress to the Property for the purpose of exercising such right. Under no circumstances shall this right conveyed to Grantee be construed to diminish Grantor's responsibilities under this paragraph or as an obligation of Grantee.

#### I. RECREATIONAL USE OF PROPERTY AND HUNTING

The right to observe, maintain, photograph and use of the Property for non-commercial hiking, bicycle riding, and hunting is expressly reserved to Grantor. However, these rights are prohibited to the extent they constitute a danger to Grantee's employees, agents, officers, and invitees, violate any of the prohibitions stated in this Conservation Easement, or are inconsistent with the Purpose of this Conservation Easement. Grantor reserves unto itself and shall continue to own the hunting rights on or related to the Property, including the right to lease hunting privileges to third parties. In the event Grantor leases its hunting rights to third parties, Grantor must inform Grantee of the

names and contact information of persons holding such lease rights and provide a copy of the written hunting license to the Grantee. All hunting or trapping on the Property must be in compliance with Florida Law and limited only to deer, turkey, feral hogs, and non-native wildlife.

**J. MORTGAGE**

The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Conservation Easement.

**K. EXCLUSIVE USE**

The right to exclusive use of the Property subject to the rights granted to Grantee in this Conservation Easement.

**L. DUMPING**

No soil, trash, liquid or solid waste or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, including, but not limited to, those as now or hereafter defined by federal or Florida law defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants shall be dumped or placed on the Property.

**M. MINING**

There shall be no exploration for and extraction of oil, gas, minerals, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances, 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.

**N. ENDANGERED SPECIES AND STATE IMPERILED SPECIES**

Actions or activities that may reasonably be expected to adversely affect state and federally listed, threatened, or endangered species are prohibited.

**ARTICLE V. PUBLIC ACCESS**

The granting of this Conservation Easement does not convey to the public the right to enter the Property for any purpose.

**ARTICLE VI. GRANTEE'S REMEDIES**

**A. REMEDIES**

If Grantee determines that Grantor is in violation of the terms of this Conservation Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the Purpose of this Conservation 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 Conservation 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 Conservation Easement or injury to any Conservation Values protected by this Conservation 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. Without limiting Grantor's liability therefore, 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 damage to the Conservation 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. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation 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 Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

#### B. NO WAIVER

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.

#### C. WAIVER OF CERTAIN DEFENSES

Grantor hereby waives any defense of laches, estoppel, adverse possession or prescription.

#### D. 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.

#### E. HOLD HARMLESS

Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, 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 Article VIII, paragraphs B and C; and (3) the existence or administration of this Easement.

#### **ARTICLE VII. CONSERVATION EASEMENT STEWARDSHIP PLAN**

A stewardship plan that describes the goals, objectives, strategies and management responsibilities, shall be developed and mutually agreed upon by the parties prior to execution and delivery of this Conservation Easement. The mutually agreed upon Stewardship Plan for the Property is hereby incorporated by reference and shall be made part of the "Watermelon Pond - Elliott Property Baseline Documentation Report." The Stewardship Plan reflects the Purpose and covenants of this Conservation Easement and nothing in the Stewardship Plan shall conflict with the Purpose or any covenant of this Conservation Easement. Grantor and Grantee shall meet on or before the anniversary of the date of the execution of this Conservation Easement each year to review the previous twelve (12) months of activity covered in the Stewardship Plan as well as activities scheduled for the upcoming twelve (12) months. The Stewardship Plan and future revisions thereto shall describe the desired future condition of the Property and shall describe management actions to be undertaken during the succeeding ten (10) year period.

The Stewardship Plan shall be amended, if necessary, by Grantor, every ten years, provided however, all amendments shall be submitted to and approved in writing by Grantee prior to implementation. Grantee shall have forty-five (45) days from the date of receipt to review any proposed amendment to the Stewardship Plan and submit revisions to Grantor. Grantor shall incorporate those revisions, or otherwise correct the Stewardship Plan to the extent necessary to ensure that it fully and accurately reflects the provisions of this Conservation Easement. Should Grantee not respond to the submitted Stewardship Plan within the forty-five (45) days, its consent shall be implied, provided however, no consent shall be implied as to any activity on the Property that is inconsistent with the Purpose of this Conservation Easement. Should the parties fail to agree on a revised Stewardship Plan, then the existing plan shall continue in effect. The parties hereby mutually agree that any amendments to the Stewardship Plan may be approved by the Land Conservation and Management Program Manager without further review or approval by the Board of the County Commission and without the necessity of being recorded in the Official Records of Alachua County. Any and all amendments to the Stewardship Plan shall be maintained by the Grantee.

#### **ARTICLE VIII. MISCELLANEOUS**

##### **A. EMERGENCIES**

The term "emergency" shall mean those situations that will have an immediate and irreparable adverse impact on the Purpose of this Conservation Easement, or which require the protection of human life in imminent danger or other such exigent circumstances of grave consequence.

##### **B. 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. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

#### C. TAXES

Grantor shall pay before delinquency all ad valorem or other taxes, fees, charges or assessments which may now or hereinafter be assessed or charged against the Property and shall furnish Grantee with satisfactory evidence of payment upon request. Grantor reserves the right to contest taxes and assessments. 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.

#### D. GRANTOR'S GENERAL WARRANTY OF TITLE

Grantor hereby warrants that the Property is free from all encumbrances created by Grantor and agrees to defend Grantee's interest in the Property created by this Conservation Easement against the lawful claims of all persons whatsoever.

#### E. EXTINGUISHMENT

If circumstances arise in the future such that would render the Purpose of this Conservation Easement impossible to accomplish, this Conservation 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, in accordance with Article VIII, paragraph F below. Grantee shall use all such proceeds in a manner consistent with the Purpose of this grant or the purposes of the bond, statutory program, or the Alachua County Wild Space Public Places Referendum 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 Conservation Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Conservation Easement. In addition, the inability of Grantor to conduct or implement any or all of the uses allowed under the terms of this Conservation Easement, or the unprofitability of doing so, shall not impair the validity of this Conservation Easement or be considered grounds for its termination or extinguishment.

#### F. CONDEMNATION

If this Conservation Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee's share of condemnation proceeds recovered shall be used in a manner consistent with the Purpose of this Conservation Easement.

#### G. SUBSEQUENT TRANSFERS

Grantor agrees to incorporate the terms of this Conservation Easement in any deed or other legal instrument by which Grantor divests any interest in all or a portion of the Property, including,

without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. All subsequent Grantors shall contact Grantee within twenty (20) days following transfer of fee title to the Property to schedule a meeting for the purposes of coordination and planning. The failure of Grantor to perform any act required by this paragraph shall not impair the validity or priority of this Conservation Easement or limit its enforceability in any way.

**H. SUCCESSORS**

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

**I. NON-MERGER**

Grantor and Grantee agree that terms of this Conservation Easement shall survive any merger of the fee and Conservation Easement interest in the Property.

**K. NOTICES**

The Grantor shall notify the Grantee before undertaking any activity that may reasonably be expected to have an adverse impact on the Conservation Values. Such notice shall be in writing and shall describe the proposed activity in sufficient detail to allow the Grantee to judge the consistency of the proposed activity with the Purpose of this Conservation Easement. The Grantee may permit the proposed activity only if the Grantee determines that such activity (i) does not violate the Purpose of this Conservation Easement and (ii) either enhances or does not impair the Conservation Values. Notwithstanding the foregoing, the Grantee and the Grantor have no right or power to agree to any activity on the Property that is inconsistent with the Purpose of this Conservation Easement.

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 sent by certified mail return receipt requested or sent by overnight courier to the parties as set forth herein, or by electronic mail or to such other addresses such party may establish in writing to the other.

**Notice to Grantor shall be sent to:**

Mr. Russell W. Elliott  
PO Box 791  
Archer, FL 32618-0791

**Notice to Grantee shall be sent to:**

Alachua County  
Attn: Program Manager  
Land Conservation & Management Program  
P.O. Box 2877  
Gainesville, FL 32602-2877  
Attn: [LandConservation@alachuacounty.us](mailto:LandConservation@alachuacounty.us)

Except as otherwise specifically provided herein, whenever a consent or approval is required from either Grantor or Grantee, the party seeking the consent or approval shall send a written request for such consent or approval to the other party as specified above and such other party shall respond to the request within sixty (60) business days of its receipt. Notwithstanding anything contained herein to the contrary, if any consent or approval is required from the Alachua County Board of County Commissioners or another Grantee government entity, Grantee shall have sixty (60) days following Grantee's duly noticed board meeting at which the item was duly noticed and acted upon. In the event that the consenting or approving party fails to respond within the sixty (60) business day period, its consent or approval shall be implied, provided, however, that no consent or approval shall be implied for any activity on the Property that is inconsistent with the Purpose of this Conservation Easement.

#### L. RECORDATION

Grantee shall record this instrument in timely fashion in the Official Records of Alachua County, Florida, and may re-record it at any time as may be required to preserve its rights in this Conservation Easement.

#### M. NON-HOMESTEAD CERTIFICATION

Grantor hereby certifies that if a Grantor who is married signs this Conservation 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.

#### N. AMENDMENTS

The terms and provisions of this Conservation Easement may be amended by the mutual consent of the parties hereto, provided that no such amendment shall be made that will adversely affect the qualification of this Easement for the tax benefits available or the status of Grantee under any applicable laws, including Section 1.170(h) of the Internal Revenue Code. Any such amendment shall be consistent with the Purpose of this Conservation Easement, shall not affect its perpetual duration, and shall not result in any diminution of protection of the Conservation Values. Nothing herein shall require Grantee to agree to any amendment. The Board of the Alachua County Commission hereby authorizes the County Manager, in consultation with the staff of the Office of Land Conservation & Management to agree to any amendments to this Conservation Easement that are not in conflict with the Purpose of this Conservation Easement.

#### O. CONTROLLING LAW

The laws of the State of Florida and the County of Alachua shall govern the interpretation and performance of this Conservation Easement.

#### P. LIBERAL CONSTRUCTION

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



invalid.

**Q. SEVERABILITY**

If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation 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.

**R. JOINT OBLIGATION**

The obligations imposed by this Conservation Easement upon Grantor shall be joint and several.

**S. TERMINATION OF RIGHTS AND OBLIGATIONS**

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

**T. 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.

U. Nothing in the Deed shall constitute an abrogation of the Grantee's governmental or land development regulatory powers, nor shall anything herein be deemed to waive or diminish the Grantor's obligations to comply with all applicable laws and regulations including those of the Grantee as a charter county and political subdivision of the State of Florida and any other applicable governmental authority. This Deed shall not prevent the Grantee, in its capacity as a charter county and a political subdivision of the State of Florida, from enacting or seeking to enforce any laws or regulations which may affect the Property or its vicinity.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

**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

\_\_\_\_\_  
Russell W. Elliott

\_\_\_\_\_  
Printed name of first witness  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

\_\_\_\_\_  
Signature of second witness

\_\_\_\_\_  
Printed name of second witness  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ALACHUA

SWORN TO and subscribed before me by means of  physical presence or  online notarization on this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by **Russell W. Elliott**. Such person(s) (Notary Public must check applicable box):

- is/are personally known to me.
- produced a current driver license(s).
- produced \_\_\_\_\_ as identification.

(NOTARY PUBLIC SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed, Typed or Stamped Name  
of Notary Public)  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**GRANTEE:**  
**ALACHUA COUNTY, FLORIDA**  
**By its Board of County Commissioners**

By:

\_\_\_\_\_  
Chairperson

ATTEST:

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

By: \_\_\_\_\_  
J.K. "Jess" Irby II, Clerk

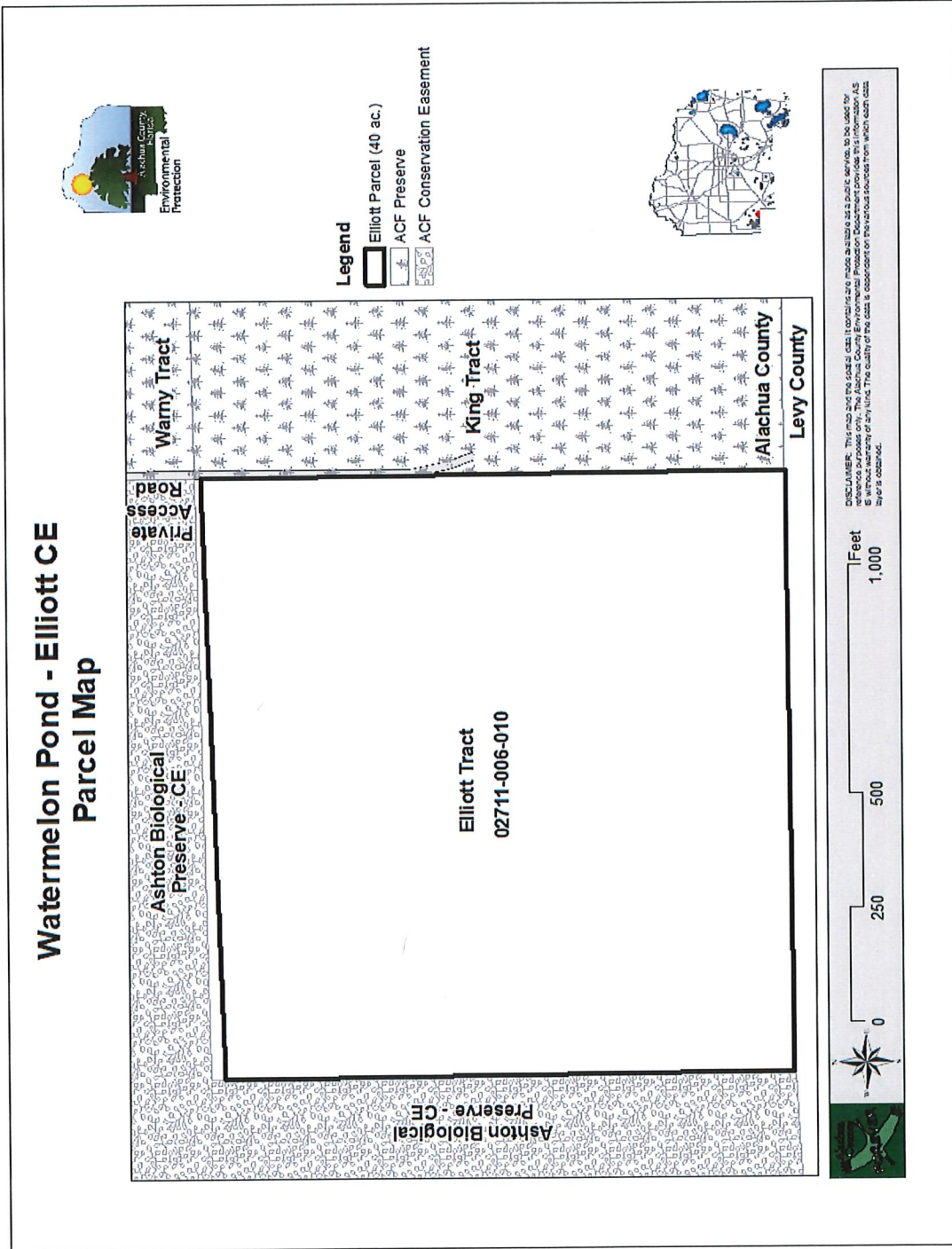
Approved as to Form:

Attorney: \_\_\_\_\_

Date Executed: \_\_\_\_\_

(Seal)

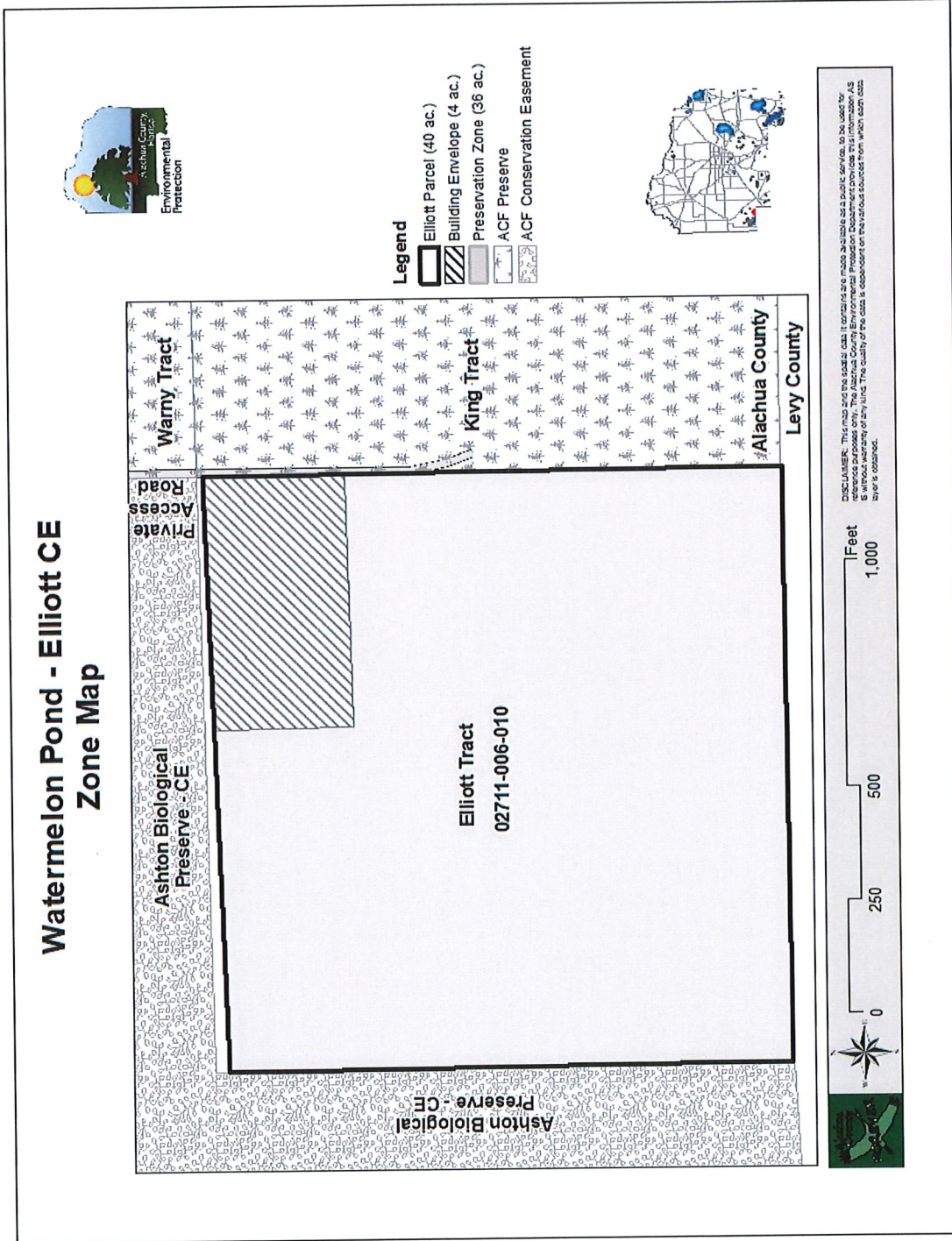
# CONSERVATION EASEMENT DEED - EXHIBIT "A" ELLIOTT PARCEL MAP



**CONSERVATION EASEMENT DEED - EXHIBIT "B"**  
**CONSERVATION EASEMENT BOUNDARY**

TO BE INSERTED UPON COMPLETION OF CERTIFIED SURVEY

# CONSERVATION EASEMENT DEED – EXHIBIT “C” CONSERVATION EASEMENT MAP



**EXHIBIT "C" – FORM NOTICE OF EXERCISE OF OPTION**  
**Delivered via mail**

Date \_\_\_\_\_

TO:  
Russell W. Elliott  
PO BOX 742  
Archer, FL 32618

**RE: Option Contract to Purchase Conservation Easement between Alachua County and  
Russell W. Elliott**

**NOTICE OF EXERCISE OF OPTION**

Pursuant to the terms of the OPTION CONTRACT BETWEEN ALACHUA COUNTY AND RUSSELL W. ELLIOTT dated \_\_\_\_\_, (the "Option Contract"), the undersigned, Alachua County, a charter county and political subdivision of the state of Florida, by and through its Board of County Commissioners, whose mailing address is 12 SE 1st Street, 2nd Floor, Gainesville, Florida 32601 (the "County"), hereby provides Seller with NOTICE OF EXERCISE OF OPTION ("Notice") pursuant to Paragraph 3.b. "Option Terms, Exercising the Option" and Paragraph 30 "Notices," that the County hereby exercises its option to purchase Seller's property in accordance with the terms and conditions of the Option Contract. Nothing herein shall be deemed to waive or release any rights of the County under the Option Contract, including but not limited to the County's rights to inspect the property during the Inspection Period or terminate the Option Contract for any of the reasons enumerated in the Option Contract, nor shall anything herein be deemed to waive or release any duties, obligations, representations, warranties or covenants of Seller under the Option Contract.

You are further notified that Alachua County is ready, willing, and able to perform and will follow all of the terms, covenants, and conditions of the Option Contract.

Pursuant to the Option Contract, Paragraph 6 "Inspections," Alachua County's Inspection Period commences upon the delivery of this Notice.

[SIGNATURES ON NEXT PAGE]

This Notice of Exercise of Option is hereby executed this \_\_\_ day of \_\_\_\_\_, 2024.

Signed, Sealed and Delivered  
In the presence of:

ALACHUA COUNTY  
A political subdivision of the state of Florida

By: \_\_\_\_\_  
\_\_\_\_\_, Chair  
Board of County Commissioners

ATTEST

\_\_\_\_\_  
J.K. "Jess" Irby, Esq.  
Clerk of the Circuit Court



**EXHIBIT "D" - PERMITTED EXCEPTIONS**

1. NONE