

MEMORANDUM

December 13, 2000

TO : DIVISION OF RECORDS AND REPORTING (BAYO) *RPR DSM*
FROM : DIVISION OF WATER AND WASTEWATER (REDEMANN)
RE : DOCKET NO. 990817-WS; APPLICATION BY FLORIDA WATER SERVICES CORPORATION FOR EXPANSION OF WATER AND WASTEWATER TERRITORY IN NASSAU COUNTY, FLORIDA.

Enclosed please find a letter dated December 6, 2000 from Mr. E. Clinch Kavanaugh, with Jacobs & Associates, who represent the developer, which should be placed in the Docket File.

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FPSC-RECORDS/REPORTING

JACOBS & ASSOCIATES, P.A.

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December 6, 2000

VIA FAX 850/413-6991

Billie Messer
Florida Public Service Commission
Division of Regulatory Oversight
2550 East Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RECEIVED

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Florida Public Service Commission
Division of Regulatory Oversight

Re: **Crane Island**

Dear Billie:

With this fax is a copy of the letter that I faxed to Charles Gauthier late yesterday afternoon. By letter, I am sending you a copy of our Fourth Amended Complaint against the City of Fernandina Beach. After you have reviewed the Complaint, I would be most appreciative if you would forward the same to Patti Christensen for review. If you or any one in legal have any questions, please contact me at your earliest convenience.

As I told you on the telephone yesterday, Richard Owen at the FAA office in Orlando has admitted to Buddy and me that there is **no rule** prohibiting the location of the access road along the marsh as proposed by our client. It is **only** his opinion that there should not be a road at that location. There is, no such thing in this country as law by notion. If, in fact the location of the road had violated a rule it should have been disclosed at the public hearing on the ALP. If the City had any objections concerning the utility service to Crane Island it should have intervened in this matter claiming that they were an interested party. Since they did not, I have no reason to believe that they have any objections to the **proposed** utility service route.

Thank you for your consideration in this matter.

With best wishes, I remain,

Sincerely yours,

E. Clinch Kavanaugh

ECK:ma
Enclosure

JACOBS & ASSOCIATES, P.A.

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November 30, 2000

Charles Gauthier, AICP
State of Florida
Department of Community Affairs
Division of Resource Planning and Management
Bureau of State Planning
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Crane Island

Dear Charlie:

On behalf of our client, Vince Graham, Buddy and I would like to thank you, Paul and Shaw in taking the time to come to Amelia Island to learn more about Crane Island and its proposed development.

Charles, I have reviewed your internal memorandums which you kindly gave to me when you were in Fernandina. It appears that The Department of Community Affairs has three major concerns, which I will discuss below.

The first is the "360 room inn" referred in the September 11, 2000 memorandum to you from Paul Barse. There is *no* 360 room inn in the plan for Crane Island. There is, however, a 30 to 36 room bed and breakfast or inn referred to in the initial proposal. Thus, there is no DRI review issue.

The second, and perhaps the most troubling issue, has been the DCA's continued (at least up to now) insistence that Crane Island should be classified as a wetland on the Nassau County FLUM. I believe, by the end of the day on Wednesday, we all agreed that Crane Island is **not** jurisdictional wetlands, and never has been. Nassau County has been well aware of this for some time, and it was for this reason they are in the process of reclassifying Crane Island as medium density on the FLUM in accordance with Florida Statutes 163.31(6)(b), F.A.C. 9J5-003(132), 373.019(22) FS, 373.4211 FS and objective 1.09.03 of the Nassau County Comprehensive Plan. (See also *Environmental Coalition of Florida, Inc. v Broward County*, 586 So2d, 12/12m 1st DCA, 1991.)

All of the remarks and classifications concerning Crane Island in the Nassau County Comprehensive Plan and FLUM Map were erroneously predicated on the assumption that Crane Island was a wetland, which, we all now agree, is not correct. It is, a contiguous part of Amelia Island that is high forested uplands. All of the available evidence confirms that Crane Island is not, or ever has been in recorded history, anything but uplands. Again, all of the issues arising out of Crane Island and the Nassau County Comp Plan and its classification on the future land use map stem from this misconception.

The third major issue raised in your letter of September 11, 2000 to Patty Daniels at the PSC was that Crane Island was "wholly within the coastal high hazard area, and, pursuant to coastal management element objective 5.07 in the Nassau County Comprehensive Plan." .. As I pointed out to you, all of Amelia Island, including Crane Island, is wholly within the high hazard area. To single out Crane Island and ignore the rest of Amelia Island would be, on its face, an act by the DCA that would be both arbitrary and capricious as well as violative of the equal protection clause of the United States and Florida Constitution.

From our conversation on Wednesday, it became apparent to me that there had been some misrepresentations by third parties claiming that Crane Island is somehow environmentally sensitive lands, at least, more so than other waterfront property in Florida. Again, all the evidence shows that just the opposite is true. Furthermore, because of the multiple runways at Fernandina Beach Municipal Airport there are not bird rookeries or wildlife on this parcel of land. On October 30th, Crane Island was shown to representatives of various state agencies in connection with the State's CARL program. While they agreed that "it was a pretty piece of property" it did not meet the State's criteria for being considered for acquisition by the State under this program.

Finally, I believe, you mentioned some concerns about the development of Crane Island and the proposed expansion of the Fernandina Beach Municipal Airport. This expansion project was approved by the Fernandina Beach City Commission notwithstanding multiple violations of the Florida Sunshine Statute. I am providing to Shaw, along with a copy of this letter, a copy of the complaint which we have filed against the City of Fernandina. As to Sunshine violations, I would direct his attention to Count V. These violations, as set forth in the Complaint, render the City's Airport Layout Plan null and void, which is to say, it is as though it never occurred. See *County of Palm Beach v. Gradison*, 296 So2d 473 (Fla 1974), cert denied, 307 So2nd 448 (Fla 1974); *Blackford v. School Board of Orange County*, 375 So2d 578 (Fla 5th DCA 1979) and *TSI Southeast, Inc. v Royals*, 588 So2d 309 (Fla 1st DCA 1991).


Ironically, if the City of Fernandina Beach had not violated the Sunshine Statute, and, if the public hearings fully disclosed any facts that the access road or the runway extension would have prohibited the development of Crane Island, the City of Fernandina Beach would have then been governed by Article VIII of the Treaty of Amity Settlement and Limits, executed between the United

Charles Gauthier. AICP
November 30, 2000
Page 3

States of America and His Catholic Majesty. The King of Spain. As you know, from our meeting on Wednesday, the King of Spain granted Crane Island to a one Antonio Andrew. This grant was subsequently ratified by the East Florida Land Commission. That grant restricted the Royal Sovereign from condemning that land **except** for fortifications or public projects. Furthermore, if that parcel of land was to be needed for either of those two uses, the sovereign, at the election of the land owner, would either be compensated at the appraised value of the property or would be provided with another parcel of the same like and kind as acceptable by the owner. Under Article VIII of the Treaty the United States confirmed the grant "to the same extent that the same grants would be valid if the Territories had remained under the dominion of His Catholic Majesty". In other words, the United States as the Sovereign stepped into the shoes of the King of Spain. When Florida was granted its statehood under the "Equal Footing Doctrine", it then assumed the position of sovereign. If the DCA wants to limit development on Crane Island as a result of the airport expansion they would be governed by the terms of the grant and The Treaty of Amity Settlement and Limits. Treaty law, as Shaw will tell you, is paramount and preempts all other law. If you have any question about this, I would suggest you contact Joe Knetsch, PhD., at the Bureau of Survey and Mapping, Division of State Lands of the State of Florida in Tallahassee.

Charlie, if you, or Paul or Shaw have any questions about any of the foregoing please do not hesitate to contact me. It is our hope, that we can resolve these issues without a hearing before the Public Service Commission on these issues. Thank you for your consideration and, again, thank you for taking the time to come to Fernandina to meet with us and the various other agencies concerning these issues.

With best wishes,



E. Clinch Kavanaugh

ECK/bs

Enclosures

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
NASSAU COUNTY, FLORIDA.

CASE NO.: 00-14-CA

DIVISION: B

**LYNWOOD G. WILLIS and JANE T.
WILLIS, his wife; ROBERT H. STILL, JR.
and MICHAEL D. ABNEY as Co-Trustees
of that Trust created and executed under
date of December 31, 1992 for the benefit of
children of Lynwood G. Willis and Jane T.
Willis; VINCENT G. GRAHAM; DUDASH
INVESTMENTS, L.L.C., a South Carolina
Limited Liability Company and PIEDMONT
SQUARE, L.L.C., a Virginia Limited Liability
Company,**

Plaintiffs,

vs.

**CITY OF FERNANDINA BEACH, a body
corporate and politic,**

Defendant.

FOURTH AMENDED COMPLAINT

Comes now the above-styled Plaintiffs **LYNWOOD G. WILLIS and JANE T. WILLIS,**
his wife; **ROBERT H. STILL, JR. and MICHAEL D. ABNEY** as Co-Trustees of that Trust
created and executed under date of December 31, 1992 for the benefit of children of **Lynwood
G. Willis and Jane T. Willis; VINCENT G. GRAHAM; DUDASH INVESTMENTS, L.L.C.,**
a South Carolina Limited Liability Company and **PIEDMONT SQUARE, L.L.C.,** a Virginia
Limited Liability Company, and allege:

COUNT I

STATUTORY WAY OF NECESSITY

1. This is an action brought pursuant to Section 704.01(2) and 704.04, Florida Statutes for a statutory way of necessity against the Defendant, **CITY OF FERNANDINA BEACH.**
2. Plaintiffs are the owners of a portion of that certain tract of land known as Crane Island (sometimes referred to as "Craney Island") which is a contiguous part of Amelia Island and has a coterminous boundary with the City of Fernandina Beach at its municipal airport. A survey of the portion of Crane Island owned by the Plaintiffs and its conterminous boundary to the **CITY** is attached hereto as Exhibit "A" and made a part hereof.
3. Plaintiffs also own a fifteen (15) foot road which runs from Crane Island "across the marsh and thence in a northeasterly direction to the neighborhood road leading to the public road all lying and being in the south half of the north half of Lot Three (3), Section (6), Township Two (2) North, Range Twenty-eight (28)". This road runs from Crane Island across the northeast corner of the airport and terminates at the end of Bailey Road.
4. **On January 4, 2000, the Defendant CITY** of Fernandina Beach, by and through its **City Commission**, found in Resolution 2000-06 (Revised 01-04-00) that the Plaintiffs own said road and that it is "not sufficient nor adequate to provide access to Crane Island for the purposes of residential development, in as much as Nassau County requires a minimum access of sixty (60') feet". (A copy of said resolution

is attached hereto marked as Exhibit "B" and made a part hereof; see paragraph e on page 4 and paragraph d on page 1.)

5. **Defendant CITY** is the owner of a parcel of land over which the Plaintiffs are entitled to a sixty (60') foot easement for ingress and egress to their property pursuant to Section 704.01(2) and 704.04, Florida Statutes.
6. Plaintiffs are entitled to a statutory way of necessity on the following grounds:
 - a.) The Plaintiffs' land is hemmed in or shut off by lands, fencing or other improvements of the Defendant, such that no other practicable route of egress or ingress is available to the nearest public or private road;
 - b.) No common law implied easement exists between the Plaintiff and **CITY** as there is no unity of title between dominant tenant, Crane Island and the subservient tenant, **CITY**;
 - c.) Crane Island lies outside of the municipal limits of the City of Fernandina Beach;
 - d.) The Plaintiffs wish to develop this land for dwellings with ancillary amenities thereto.
7. During the years of 1987-1988, the City of Fernandina Beach negotiated an Annexation Agreement between the **Defendant CITY** and the previous owners of Crane Island. Paragraph 12 of said Agreement provides for an access road across the northeast corner of the airport to Crane Island.
8. On January 19, 1988, the **Defendant CITY** passed Ordinance 781 authorizing the mayor of the City of Fernandina Beach to execute said Annexation Agreement on behalf of the city.

9. However, the Annexation Agreement was never executed by the **Defendant CITY** or the previous owners of Crane Island because of a cloud of title on the northeast part of Crane Island. A copy of said Ordinance and Annexation Agreement is attached hereto and made a part hereof as Exhibit "C".
10. Plaintiffs', the owners of Crane Island, requested in writing access to Crane Island across the Defendant's land on May 17, 1999 and again on November 9, 1999, copies of said letters which are attached as Composite Exhibit "D" and made a part hereof.
11. From May 17, 1999 to November 9, 1999, the Plaintiffs, in order to determine the nearest practical route and after considering the use of said lands "and, so that the easement would only be used in an orderly and proper manner" diligently consulted with the following entities:
 - a.) The City Manager for the City of Fernandina Beach, Fred Hayes;
 - b.) The Manager of the City of Fernandina Beach Municipal Airport, Jim B. Higginbotham;
 - c.) The Director of Public Works in the City of Fernandina Beach and Airport manager, Jim B. Higginbotham. The Director of Parks and Recreation for the City of Fernandina Beach, Tommy Purvis;
 - d.) Amelia Island Youth Soccer Assoc.;
 - e.) County Engineer for Nassau County, Jack D'Amato;
 - f.) The Program Manager for Fernandina Beach Municipal Airport, Andrew Holesko, with Passero Associates, LLC;
 - g.) The Traffic Concurrence Coordinator for Nassau County, William L. Taylor;

- h.) General Manager of Florida Public Utilities, Patrick Foster:
 - i.) The Airport Advisory Commission for the City of Fernandina Beach.
12. All of the foregoing public officials, representatives and individuals recommended that the proposed location of the ingress and egress for the easement for the road to Crane Island conform to the route as set forth in the survey and legal description, copies of which are attached hereto as Composite Exhibit "E" and made a part hereof and that the width of the easement be no greater than sixty (60') feet.
13. On or about December 29, 1999 Wesley R. Poole, in a memorandum to the City Commission concerning the request by Plaintiffs for the easement pursuant to Florida Statute 704.01(2) opined as follows :
- a) No common law implied easement exists. A common law implied easement exists when the dominant tenement and subservient tenement both derive from a common source of ownership, or "unity of title." My review of the various deeds in the Crane Island chain of title, as provided by Messrs. Jacobs and Kavanaugh, **as well as the opinion of title rendered by Hymie Fishler, Esquire in 1943** (emphasis supplied), on the airport property, disclosed no unity of title to the two properties. Thus, it appears that this element is met;
 - b.) The property lies outside any municipality. There appears to be no question but that Crane Island lies outside the municipal limits of the City of Fernandina Beach. Thus, it appears that this element is met;
 - c.) The property is to be used for dwelling, agricultural, timber or stock raising purposes. The proposed principal use, as stated by Mr. Jacobs and his client, Mr. Vincent Graham, is residential (dwellings); however, the plans, as I understand them to be, also include a marina and public promenade. In addition, the City has received a request from Florida Inland Navigational District (FIND) for access to Crane Island for its use as dredge spoil site. Thus, it appears that this element is met, but only as long as the use of the property is limited to "dwellings." However, if and when the easement is established for "dwelling purposes" for Mr. Jacobs' client, it seems natural to assume that the City will be asked, again, to grant the same easement to FIND, and would have a difficult time denying use of the same access to

FIND, especially if the general public is going to have access to Crane Island;

- d.) The land is hemmed in or shut off by lands, fencing or other improvements of the City, such that no other practicable route of egress or ingress is available to the nearest public or private road. This element is, perhaps, the most difficult to address, given the fluid nature of the property lines separating Crane Island from Amelia Island. In simple terms, to establish a right to a statutory way of necessity, it is necessary that the claimant's lands be "hemmed in by the lands" of other persons; (See, Faison v. Smith, 510 So.2d 928 (Fla. 5th DCA 1987) Unfortunately, there is a dearth of cases interpreting this element, in the case or separation of two land parcels by a tidal flow. The one case that comes closest to the facts in this case comes from our own First District Court of Appeal, Keene v. Jackson, 732 So.2d 1138 (Fla. 1st DCA 1999). In Keene, a portion of the plaintiff's land formed a peninsula in Ocheesee Pond and was not accessible (by land) except by crossing the defendant's lands. Although this case involved a common law, rather than statutory way of necessity, its significance lies in the court's determination that access by water is not reasonable access, for the purposes of determining entitlement to a way of necessity. **Thus, if the only land based access to Crane Island is across the City airport property, then this case could be used by the applicant herein to argue that it meets the statutory test of being "shut in or hemmed in" by the lands of the City. Thus, the one case that seems close to the facts herein, seems to support the position of the Crane Island property owners.** (Emphasis supplied.)

Secondly, the respective surveys of the Crane Island property and the airport property do not show a coterminous boundary between the two. This is not surprising, nor conclusive, however, given the very fact that there are marsh lands, with fluctuating lines, separating the two parcels, as mentioned above. Nevertheless, given the strong public policy for providing access where no other practicable access is available, **it is, in my opinion that the Courts would tend to decide this question in favor of the owner seeking to establish the easement (Crane Island), and against the servient owner (the City).**

Thus, although there are certainly arguments that could be advanced by the City against the claim for a statutory easement, **it is my considered opinion that, after all is said and done, the law favors the imposition of the same, and would, more likely than not, grant the same** (emphasis supplied). A copy of said memorandum is attached hereto as Exhibit "F" and made a part hereof.

14. Included with said above referenced memorandum was Proposed Resolution 2006 for the City Commissions's consideration. Said resolution prepared by the City

Attorney stated;

1. The lands of Crane Island are arguably, and for practical purposes, shut in or hemmed in from vehicular access by the lands of the Fernandina Beach municipal airport;
 2. That no unity of title exists between the airport lands and those of Crane Island, and thus, there is no common law implied easement to Crane Island;
 3. That Crane Island lies outside the municipal limits of Fernandina Beach and
 4. That, although there appears of record a fifteen foot (15') roadway across the airport property to Crane Island, that such is not sufficient nor adequate to provide access to Crane Island for the purposes of residential development, in as much, as Nassau County requires a minimum access width of 60 feet (60'); a copy of said proposed resolution is attached as Exhibit "G" and made a part hereof.
15. No other route was proposed by any government entity, department head, organization, utility company or individual other than by the City Attorney, in his memorandum to the City Commission of the City of Fernandina Beach (Exhibit "F"), which he subsequently amended by Resolution 2000-06 (Revised 01-04-00), (Previously marked as Exhibit "B").
16. The Plaintiffs have consented to the route and width of the statutory easement and have offered to compensate **Defendant CITY** for the easement as required by Section 704.04(2), Florida Statutes and have notified **Defendant CITY** both verbally and in writing. Copies of said written offer are attached hereto and marked as Composite Exhibit "H" and made a part hereof.
17. ~~In~~ response to Plaintiffs request for statutory way of necessity, the **Defendant CITY**, on January 4, 2000 at the regular meeting of the City Commission of Fernandina Beach, passed Resolution 2000-06 (Revised 01-04-00) (Previously marked as Exhibit "B"), and thereby refused to grant the Plaintiffs an easement mandated by Section

704.01(2), **notwithstanding that Defendant CITY had found that the Plaintiffs satisfied the four necessary elements (under Florida Statutes 704.0(2) for the establishment of a right of way by necessity and were thus legally entitled to such an easement** (emphasis supplied).

18. Immediately thereafter, the **Defendant CITY** passed Resolution 99-81 **opposing any development on Crane Island** (emphasis supplied), a copy of which is attached hereto as Exhibit "I" and made a part hereof.
19. **Defendant CITY'S** above described action in refusing to comply with Section 704.01(2), Florida Statutes was unreasonable and therefore the Plaintiffs are entitled to attorney fees pursuant to Section 704.04, Florida Statutes.

WHEREFORE, the Plaintiffs demand a judgment against Defendant for:

- A. An easement sixty (60') foot wide from the end of Bailey Road to Crane Island following the route as set forth on Composite Exhibit "E";
- B. The Plaintiffs' owners or tenants of Crane Island, or anyone in their behalf to lawfully use and maintain an easement for persons, vehicles, stock, franchised cable television service, and any utility service, including but not limited to water, wastewater, reclaimed water, natural gas, electric and telephone service under through and upon the lands along the said described route as set for in Composite Exhibit "E" of this Complaint;
- C. **The duration of said easement to be perpetual;**
- D. A determination of the amount of compensation to be paid to the Defendant for said easement as requested by the Plaintiffs with a credit for the value of the fifteen (15') foot road which would be conveyed to the Defendant **CITY;**

- E. Compensatory damages, and;
- F. That the Plaintiffs, pursuant to Section 704.04, Florida Statutes, be awarded attorney fees and costs for the Defendant's unreasonable refusal to comply with the provision of Section 704.01(2), Florida Statutes.

COUNT II

DECLARATORY JUDGMENT

- 20. This is an action for a Declaratory Judgment and Supplemental Relief against the **Defendant, CITY OF FERNANDINA BEACH ("CITY")**.
- 21. Plaintiffs reallege paragraphs 2 through 19 as is fully set forth herein.
- 22. Plaintiffs are in doubt about Plaintiffs rights under Section 704.01(2) and 704.04, Florida Statutes and seek Declaratory Judgment pursuant to Chapter 86, Florida Statutes.

WHEREFORE, Plaintiffs demand a Judgment declaring Plaintiffs' rights as to:

- A. An easement sixty (60') foot wide from the end of Bailey Road to Crane Island following the route as set forth on Composite Exhibit "E";
- B. The Plaintiffs, owners or tenants of Crane Island, or anyone in their behalf to lawfully use and maintain an easement for persons, vehicles, stock, franchised cable television service, and any utility service, including but not limited to water, wastewater, reclaimed water, natural gas, electric and telephone service under through and upon the lands along the said described route as set for in Composite Exhibit "E" of this Complaint;
- C. The duration of said easement;
- D. A determination of the amount of compensation to be paid to the Defendant for said

easement with a credit for the value of the fifteen (15') foot road which Plaintiffs would convey to the **Defendant CITY**, and;

- E. That the Plaintiffs pursuant to Section 704.04, Florida Statutes, be awarded attorney fees and costs for the Defendant's unreasonable refusal to comply with the provision of Section 704.01(2), Florida Statutes.

COUNT III

INVERSE CONDEMNATION

23. This is an action by the Plaintiffs for inverse condemnation against the **Defendant, CITY OF FERNANDINA BEACH**.
24. Plaintiffs reallege paragraphs 2 through 19 as if fully set forth herein.
25. **Defendant CITY** has a power of Eminent Domain pursuant to Florida Statute 166.401 and F.S. 166.411.
26. During the end of the month of April and the beginning of March 2000, the Plaintiffs attempted to resurvey and stake their fifteen (15') foot road which runs from the end of Bailey Road to Crane Island. The City, by and through its agents, repeatedly threatened and forced the surveyors to cease all surveying work on said road.
27. Thereafter, on March 7th and 8th, 2000, an attorney for the Plaintiffs notified Wesley R. Poole, Esquire, Attorney for **Defendant CITY**, in writing that the Plaintiffs intended on using the fifteen (15') foot road and surveying the same. Copies of said letters are attached hereto marked Composite Exhibit "J" and made a part hereof.
28. On March 9th, 2000, **Defendant CITY** proceeded to file a Motion for Temporary Injunction against the Plaintiffs in the above styled case in order to prohibit them from surveying and using their road. A copy of said Motion for Temporary

Injunction is attached hereto marked Exhibit "K" and made a part hereof.

29. The gravamen of said motion was that the **Defendant CITY** had suddenly acquired the fifteen (15') foot road by adverse possession under color of title, notwithstanding:

- a.) The **Defendant CITY'S** Attorney's memorandum to the **Defendant CITY** of December 29, 1999 (Exhibit "F");
- b.) The title opinion rendered therein by Mr. Poole citing the former City Attorney Herbert Fishler's title opinion recorded on June 23, 1943, who opined that the heirs of John Broadbent, predecessors of interest of the present ownership of Crane Island, owned the fifteen (15') foot road (See Composite Exhibit "C" (Closing File of Herbert W. Fishler) attached to Plaintiff's Third Amended Complaint made a part hereof pursuant to F.R.C.P. 1.130(b), and in particular the said title opinion attached hereto and marked as Exhibit "L".) and;
- c.) Resolution 2000-06 (Revised 01-04-00), Paragraph d wherein the **Defendant CITY** found:

"that although there appears a record of a fifteen foot roadway across the airport property of Crane Island, that such is not sufficient nor adequate to provide access to Crane Island for the purposes of residential development, inasmuch as Nassau County requires a minimum access width of 60 feet (60')."

and the **Defendant CITY** resolved in paragraph e of the above referenced Resolution:

"That all of the owners of all of Crane Island shall Quit-Claim and

release unto the City any right, title and interest or claim it may have in and to that certain 15 foot roadway as created or conveyed to John Broadbent by instrument dated February 12, 1887, and recorded in Deed Book U, page 425, of the public records of Nassau County, Florida.” (Previously marked as Exhibit “B”.)

30. **Defendant CITY’S** claim for adverse possession under color of title is predicated upon a “wild” deed which was taken by the **CITY** from Edith E. Chadwick Flood and her husband, James Flood in bad faith on June 30, 1943. A copy of said “wild” deed is attached hereto as Exhibit “M” and made a part hereof.
31. The “wild” deed was taken in bad faith because on June 30, 1943, the City knew that the Flood deed was invalid based upon the June 23, 1943 title opinion rendered by then City Attorney Herbert W. Fishler wherein he stated the following:

“The title to that part of the S1/2 of the N1/2 of said Lot 3 described as a “road 15 feet wide for a neighborhood road commencing at the road from Craney Island across the marsh thence in a northeasterly direction to the neighborhood road leading to the public road” is apparently vested in John W. Broadbent.” (Exhibit “L”).
32. The Flood “wild” deed taken by the **Defendant CITY** on June 30, 1943 encompassed the fifteen (15') foot road and did not except the same.
33. ~~As~~ further proof that the **Defendant CITY** had knowledge that above referenced deed was invalid, a “closing checklist” had been prepared by Fishler and was attached to said closing file. Every instrument enumerated in the memorandum was “checked off” by the Defendant City Attorney Fishler except for item ten (10)

“Preparing Quit-Claim Deed from the heirs of John W. Broadbent to the City of Fernandina. (See Composite Exhibit “C” (Closing File of Herbert W. Fishler) attached to Plaintiff’s Third Amended Complaint made a part hereof pursuant to F.R.C.P. 1.130(b), and in particular the attached “checklist” attached hereto and marked as Exhibit “N” and made a part hereof.)

34. Notwithstanding the title opinions which Mr. Fishler and Mr. Poole had provided the City of Fernandina, the **Defendant CITY**, by and through its attorney, Wesley R. Poole, filed, a Motion for a Temporary Injunction claiming ownership of the fifteen (15') foot road predicated on a deed which the City of Fernandina *knowingly* accepted in bad faith from Edith Chadwick Flood and her husband James D. Flood on June 30, 1943, a copy of said Motion for Temporary Injunction is attached hereto marked as Exhibit “K” and made a part hereof.
35. On June 29, 2000, an order for temporary injunction was entered prohibiting Plaintiffs from use of the fifteen (15') foot road but allowed the surveyors to complete the re-surveying and staking of said road which was completed on the July 8th of 2000.
36. **Defendant CITY** continues to deny Plaintiffs access to the fifteen (15') foot road to Crane Island.
37. As a result of the **Defendant CITY’S** actions, as set forth in Count I and Count II of ~~this~~ complaint, the **Defendant CITY** has, unlawfully appropriated both the Plaintiffs’ fifteen (15") foot road running from the end of Bailey Road to Crane Island, and by denying them access to said fifteen (15') foot road as well as denying them statutory access to Crane Island as required by Florida Statute 704.04 (2) and

704.04, **Defendant CITY** has totally deprived the Plaintiff both temporarily and permanently of all beneficial and viable economic use of both the said road and Crane Island.

WHEREFORE, Plaintiffs demand a judgment against the **Defendant CITY** for:

- a.) Compensatory damages, and;
- b.) Cost and attorney's fees incurred as a result of bringing this action.

COUNT IV

SUIT TO QUIET TITLE

38. This is an action to quiet title to real property in Nassau County, Florida, pursuant to Section 65.061 Florida Statutes, 1998.

39. Plaintiffs are the owners in fee simple and have been in actual and physical exclusive possession of the following described lands in Nassau County, Florida (hereinafter called fifteen (15') foot road) up and until March 9, 2000. That portion of Lot Three (3), Section Six (6), Township Two (2), North, Range Twenty Eight (28) East, described as follows:

a road fifteen (15') feet wide for a neighborhood road commencing at the road from Crane Island across the marsh, thence in a northeasterly direction to the neighborhood road leading to the public road all lying and being in the south half of the north half of Lot Three (3), Section Six (6), Township Two (2), North, Range Twenty Eight (28) East to be used as a neighborhood road.

40. Plaintiffs deranged their title to said fifteen (15') foot road as follows:

- a.) John A. Ellerman, Sheriff, conveyed to W. F. Scott all the "estate, right, title or interest of the said Moses Robinson...all of Lot (3), Section Six (6), Township Two (2) North of Range Twenty Eight (28) East..." dated the 2nd

day of February, 1885, filed and recorded on September 24, 1888 in Deed Book U, page 643 of the Public Records of Nassau County, Florida.

- b.) John A. Ellerman, Sherrif, conveyed to Warren F. Scott all the “estate, title or interest of the said Moses Robinson....”all of Lot (3), Section Six (6), Township Two (2) North, of Range 28 East...” dated the 2nd day of February, 1885, filed on September 24, 1889 and recorded on July 31, 1890 at Deed Book Y, page 126 of the Public Records of Nassau County, Florida.
- c.) Warren F. Scott and wife conveyed to Nellie Albert by Quit-Claim Deed “all of that certain lot piece and parcels of land situate lying and being in the Island of Amelia in the County of Nassau and the State of Florida and known and designated on the maps, plat and of said island as one quarter (1/4) No. (3) and No. (6) of Township (2) Two Range (28) East...being the South ½ of the North ½ of said parcel of land bounded north by the north half of said north half of said Lot (3) Sec (6) Six, Township Two (2), of Range 28 East by Lot (2) Two of said Section Township and Range on the South by the South Half of said Lot (3), Section (6) Six, Township No. 2, Range 28 East being the half of said lot formerly held and owned by Moses Robinson and on the West by the marshes of the Amelia River the land being the south half of that tract formerly surveyed by one E. Lightfoot for said party of the second part in the year 1867 or 68 and since held and claimed by him made agreement with Moses Robinson....dated the 28th day of February, 1885, filed and recorded on March 1, 1887 in Deed Book V, page 148 of the public records of Nassau County, Florida.

- d.) Nellie Albert and Prince Albert conveyed to John W. Broadbent the property (15' road) dated February 12, 1887, filed and recorded June 25, 1888 in Deed Book "U", page 425 of the public records of Nassau County, Florida;
- e.) John W. Broadbent died intestate on January 28, 1924, leaving his daughters, Esther Ann Silva and Sarah Alice Broadbent, as his next of kin and only heirs at law dated June 28, 1943 and recorded June 30, 1943. (Affidavit of Ester Anne Silva, Deed Book 119, page 207, Nassau County, Florida);
- f.) Thereafter, Esther Ann Broadbent Silva, a widow, individually and as sole heir of John Wood Broadbent, deceased, deeded the fifteen (15') foot road to Joseph L. Silva by Warranty Deed dated December 12, 1955, and recorded December 12, 1955, in Deed Book 229, page 80, of said public records of Nassau County, Florida;
- g.) Joseph L. Silva quieted the title to the fifteen (15') foot road against said Sarah Alice Broadbent and all parties having or claiming to have any right, title or interest in the property herein described by Final Judgment dated September 13, 1972, in Case No. 72-173 in the Circuit Court of Nassau County, Florida recorded in Official Record Book 131 at page 365, filed and recorded September 13, 1972;
- h.) Joseph L. Silva and Mary C. Silva, his wife conveyed the fifteen (15') foot road to C. L. Straughn, Jr., Lynwood G. Willis and Richard J. Veenstra, d/b/a Willis & Veenstra Investment Co. (not incorporated), by Warranty Deed dated January 3, 1973, and recorded January 5, 1973, in Official Record Book 138, page 277, of said public records of Nassau County, Florida;

- i.) Lynwood G. Willis and Richard J. Veenstra d/b/a Willis & Veenstra Investment, not incorporated, conveyed 15 % interest of one-half (½) undivided interest as tenants in common of the fifteen (15') foot road to Georgia Tech Foundation, Inc., by Quit-Claim Deed dated December 30, 1974, and recorded December 31, 1974 in Official Record Book 186, page 562, of said public records;
- j.) Lynwood G. Willis and Richard J. Veenstra d/b/a/ Willis and Veenstra Investment, Company, by corrective Quit-Claim Deed dated January 13, 1975 and recorded February 11, 1975 in the official record book 189, page 305, conveyed thirty (30%) percent of one-half (½) undivided interest as tenants in common of the fifteen (15') foot road to Georgia Tech Foundation, Inc. This corrective Quit-Claim Deed was recorded to correct that certain Quit-Claim Deed executed the 30th day of December, 1974 in the Official Records of Nassau County, Florida in Official Records Book 186, Page 562. The original Quit-Claim Deed which was corrected by this document and was filed and recorded in the office of the Clerk of the Circuit Court of Nassau County, Florida on December 31, 1974 at 12:59 P.M., under Clerk Filing Number 25147;
- k.) Georgia Tech Foundation, Inc. conveyed thirty (30%) percent of one half (½) interest to Lynwood C. Willis by Quit-Claim Deed dated February 5, 1985 and recorded February 28, 1985, in Official Record Book 447, page 75 of said public records of Nassau County, Florida;
- l.) C.L. Straughn, Jr., a/k/a C. L. Straughn, Jr. conveyed all of his interest in the

- fifteen (15') foot road to Lynwood C. Willis by Quit-Claim Deed dated September 2, 1981, and recorded October 9, 1981 in Official Record Book 346, page 434 of said public records of Nassau County, Florida;
- m.) Lynwood G. Willis conveyed one-eighth interest of the fifteen (15') foot road to George Register, III by Quit-Claim Deed dated October 14, 1981, and recorded October 29, 1981 in Official Record Book 347, page 382 of said public records of Nassau County, Florida;
- n.) Lynwood G. Willis conveyed one-eighth interest of the fifteen (15') foot road to George Register, Jr. by Quit-Claim Deed dated October 14, 1981, and recorded October 29, 1981 in Official Record Book 347, page 384 of said public records of Nassau County, Florida;
- p.) Lynwood G. Willis acquired the interests of Richard J. Veenstra by Quit-Claim Deed on August 15, 1984, which was recorded August 21, 1984 in the Official Record Book 430, page 372 of said public records of Nassau County, Florida;
- q.) George Register, III and George Register, Jr. conveyed to Vincent G. Graham, Piedmont Square, L.L.C., Lynwood G. Willis and Jane T. Willis, his wife, Robert H. Still, Jr. and Michael D. Abney as Co-Trustees of the Lynwood G. Willis Trust, and Dudash Investments, L.L.C by Quit-Claim Deed dated July 31, 2000, filed and recorded on August 18, 2000 in Official Record Book 945, page 1463 of the public records of Nassau County, Florida any and all interest they may have had in said fifteen (15") foot road.
- r.) Lynwood G. Willis and Jane T. Willis, his wife, Robert H. Still, Jr. and

Michael D. Abney as Co-Trustees of that Trust created and executed under date of December 31, 1992, Lynwood G. Willis and Jane T. Willis for the benefit of the Children of the Grantors, Vincent G. Graham, Lynwood G. Willis, individually, Piedmont Square, L.L.C. and Dudash Investments, L.L.C., granted all of their interest in the said fifteen (15') foot road to Vincent G. Graham (27.5% interest), Piedmont Square, L.L.C., (20% interest), Lynwood G. Willis and Jane T. Willis, his wife, (undivided 25% interest), Robert H. Still, Jr. and Michael D. Abney as Co-Trustees of the Lynwood G. Willis and Jane T. Willis Trust U/D/O December 31, 1992 (undivided 25% interest) and Dudash Investments, L.L.C. (undivided 2.5% interest) by Quit-Claim Deed dated July 28, 2000 filed and recorded August 18, 2000 in Official Record Book 945, page 1451 of the public records of Nassau County, Florida. This Quit-Claim Deed clarifies the interest held by each Grantee.

41. On June 23, 1943 the Attorney for the **Defendant CITY** in a formal legal opinion to the City Commissioners deraigned title to said fifteen (15') foot road in the the heirs of John Broadbent, Plaintiffs' predecessors of interest in the fifteen (15') foot road, to wit:

a.) LEGAL OPINION

City Commission

FERNANDINA, FLORIDA.

Fernandina, Florida

June 23, 1943

Gentlemen:

We have examined the title to the following described property:

“All that certain Lot, piece or parcel of land situate, lying and being in the County of Nassau, State of Florida, described as follows: All of Lot numbered Three (3) in Section Six (6), Township Two (2) North, Range Twenty-eight (28) East.”

This opinion is based solely upon the abstract submitted to us, which abstract is dated the 7th day of June, 1943, and prepared by the Fernandina Title & Abstract Co., Inc. and consists of eighty-four (84) items.

The abstract shows no title out of the United States of America, of record. The abstract indicates that the title begins with Moses Robinson...”...

b.) ...South Half of North Half of Lot 3

All reference hereafter, unless otherwise specified, shall refer to the S1/2 of the N1/2 of said Lot numbered Three (3) and if and when a reference is made to “the above described parcel of land” it shall refer to the said S1/2 of the N1/2 of said Lot Three (3)...”

c.) “Under date of February 28, 1885, Warren F. Scott conveyed the above described parcel of land to Nelly Albert. The acknowledgment was taken before a Justice of the Peace who apparently neglected to affix his official seal, however, in view of the fact that so many years have elapsed since that date we do not attach a great deal of importance to this error. In this same conveyance the given name of the wife of Warren F. Scott was left blank, but

she duly executed said deed as one of the grantors. In previous conveyances covering other parcels of land the wife of Warren F. Scott signed her name as Mary E. Scott whereas in this conveyance she affixed her name as Mary S. Scott. Out of an abundance of precaution, it may be advisable to procure an affidavit from someone who knew Mrs. Scott reciting that Mary E. Scott and Mary S. Scott named in the several conveyances to this abstract is one and the same person.

- c.) **Under date of February 12, 1887, Nelly Albert and Prince Albert conveyed to John W. Broadbent a portion of the above described parcel of land described as “a road Fifteen (15) feet wide and a neighborhood road commencing at the road from Craney Island across the marsh thence in a Northeasterly direction to the neighborhood road leading to the public road—”. (Emphasis supplied.)**
- d.) Under date of May 5, 1910, John Albert and Maggie Albert, his wife, conveyed the above described parcel of land to L.A. Ferreira and D.D. Sturgess.
- e.) Thereafter, under date of April 30, 1910, Stephen Wright and Fannie Wright, his wife, Christena Hunter and Adolphus Hunter, her husband, and Hester Wilson, a widow, the heirs at law of Nelly Albert, deceased, conveyed the above described parcel of land to L. A. Ferreira and D. D. Sturgess.
- f.) Under date of June 20, 1920, David D. Sturgess and Eloise T. Sturgess, his wife, conveyed the above described parcel of land by Warranty Deed to James Chadwick. On this same date, by Warranty Deed, Ruby G. Ferreira,

- the widow of Louis A. Ferreira, deceased, likewise conveyed the above described parcel of land to James Chadwick.
- g.) Under date of July 2, 1920, Ruby G. Ferreira as guardian of the persons and estates of Louis A. Ferreira, John D. Ferreira, Theodore L. Ferreira. Venson R. Ferreira and Ernst L. Ferreira, minor children of the deceased, conveyed by Guardian's Deed the right, title and interest of said minors in the above described parcel of land to said James Chadwick.
- h.) Under date of February 16, 1925, James Chadwick and Ernestine S. Chadwick conveyed the above described parcel of land to Spyros D. Syrmis, and on said date the said Spyros D. Syrmis and Jane D. Syrmis, his wife, executed a mortgage to James Chadwick. This mortgage was never satisfied of record, but under date of February 10, 1932, the said Spyros D. Syrmis and Jane D. Syrmis executed a Quit Claim Deed to Ernestine S. Chadwick and Edith S. Chadwick Flood, sole heirs at law of the estate of James Chadwick, deceased. In the interim Spyros D. Syrmis and Jane D. Syrmis executed an option contract to Frances E. Ely and J. M. Askins which instrument was not dated. However, the instrument is shown to have been executed January 5, 1926; there was no separate examination of the wife of Spyros D. Syrmis. Since Mr. Askins is a local citizen and can be readily contacted it is suggested that an affidavit be obtained from him reciting in effect that this option was permitted to lapse and that neither of the parties holding said option have any further right or claim to and upon said property...".
- i.) ..."IN OUR OPINION, therefore, based solely upon the abstract submitted to

us, subject, however, to what a personal inspection and accurate survey may show, title to the above described parcels of land is vested as follows:

- a.) “The title to the N1/4 of said Lot numbered 3 is vested in Alexander J. Hanley...
- e.) “The title to that part of the S1/2 of the N1/2 of said Lot 3 described as a “Road 15 feet wide for a neighborhood road commencing at the road from Craney Island across the marsh thence in a northeasterly direction to the neighborhood road leading to the public road” **is apparently vested in John W. Broadbent...**”(Emphasis supplied.)

Subject to the following, in addition to the objection herein above pointed out:...

- 6.) In Item No. 10 of the abstract the conveyance there is to John W. Broadbent whereas Item No. 44 of the same abstract shown the name John W. Broadbent. An affidavit could be obtained to clarify this discrepancy.....”, (An affidavit which was, in fact, obtained at the time by the **Defendant CITY’S** attorney, a copy of said affidavit which is attached hereto marked Exhibit “O” and made a part hereof.)
- 15.) The abstract shows that John W. Broadbent died “leaving heirs and representatives him surviving, viz, Ester Ann Silva, a daughter and Sarah Alice Broadbent, a daughter.” (Exhibit “L”.)

42. Subsequent to reviewing the "Opinion of Title rendered by Hymie Fishler, Esquire in 1943", the **Defendant CITY** on January 4, 2000 reaffirmed that the owners of Crane Island, were also the owners of the fifteen (15') foot road when said City Commission passed Resolution 2000-06 (Revised 01-04-00) wherein the City Commission found...

a.) "That, although there appears of record a fifteen (15') foot roadway across the airport property to Crane Island, that such is not sufficient nor adequate to provide access to Crane Island for the purpose of residential development, inasmuch as Nassau County requires a minimum access width of 60 feet (60')."...

and resolved...

e.) "That all of the owners of all of Crane Island shall Quit-Claim and release unto the City any right, title and interest or claim it may have in and to that certain 15 foot roadway as created or conveyed to John Broadbent by instrument dated February 12, 1887, and recorded in Deed Book U, page 425, of the public records of Nassau County, Florida." A copy of said resolution is previously attached hereto marked as Exhibit "B" and made a part hereof.

43. On March 7, 2000, Plaintiffs through their undersigned attorney notified the City "that as of the 15th day of March we will proceed to use the 15' road at will." A copy of said letter is previously attached hereof marked as Composite Exhibit "J" and made a part hereto.

44. In response to Plaintiffs' above referenced letter, **Defendant CITY**, on March 9,

2000, proceeded to file a motion for a temporary injunction in order to prohibit Plaintiffs' use of Plaintiffs' fifteen (15') foot road and thereby prevent Plaintiffs' access to Crane Island. (See Composite Exhibit "K".)

45. In the above referenced motion, **Defendant CITY** disingenuously claimed title to said fifteen (15') foot road on March 9, 2000, by adverse possession under color of title from the "wild" deed between Edith E. Chadwick Flood, and her husband. James Flood to the City of Fernandina Beach, Municipal Corporation of Nassau County, Florida dated June 30, 1943.
46. However, the "wild" Flood deed did not convey title to the **Defendant CITY** because **Defendant's** grantor had no title to said fifteen (15') foot road, and, further, the **Defendant CITY** knew at least seven (7) days prior to the recording date of the "wild" Flood deed on June 30, 1943 that the grantors had no title to said fifteen (15') foot road as per the Legal Opinion included in the Title Opinion prepared by then City Attorney Herbert W. Fishler, (Previously marked as Exhibit "L"), which was subsequently relied upon by the current City Attorney and City Commission in formulating the above referenced Resolution 2000-06 (Revised 01-04-00) (Previously marked as Exhibit "B").
47. Notwithstanding that **Defendant CITY** knew that said Flood deed was a "wild" deed, **Defendant CITY** recorded said deed on June 30, 1943 and is now using said deed to cast a cloud on Plaintiffs' property.
48. **Defendant CITY**, on August 11, 2000, again predicating chain of title on the "wild" Flood deed filed a Counter Claim to Plaintiffs' Third Amended Complaint claiming ownership to the following described property in Nassau County including in its

legal description the of land plaintiff's fifteen (15') foot road:

“All of the South ine-half (S1/2) of the North one-half (N1/2) of Government Lot Three (3), in Section Six (6), Township Two (2) North, Range Twenty-eight (28) East, Nassau County, Florida.”

- 49. In an attempt to deraign a chain of title for said property, **Defendant CITY**, in their counter-claim, relied on the deraignment set forth in the 1943 Title Opinion of Herbert W. Fishler, then City Attorney, **but omitted all references made by Mr. Fishler to the February 12, 1887 conveyance by Nelly Albert and Prince Albert to John W. Broadbent to the Plaintiffs' fifteen (15') foot road to wit:**

“The title to that part of the S1/2 of the N1/2 of said Lot 3 described as a “Road 15 feet wide for a neighborhood road commencing at the road from Craney Island across the marsh thence in a northeasterly direction to the neighborhood road leading to the public road” **is apparently vested in John W. Broadbent...**”(Emphasis supplied.) (Previously marked as Exhibit “L”.)

- 50. Plaintiffs' claim of title is superior to the **Defendant CITY'S** claim of title for the following reasons:

- a.) The chain of title set forth by the **Defendant's** chain of title in 1943 and the Plaintiffs chain of title as set forth above show on their face that the **Defendant** has no ownership or title of any kind in Plaintiffs fifteen (15') foot road, further;
- b.) The **Defendant's** claim to said fifteen (15') foot road by adverse possession under color of title is a sham in that **Defendant CITY** recognized that the Plaintiffs' owned the fifteen (15') foot road up

until receipt of the Plaintiffs letter of notice of intent to use after which, and only after which, **Defendant CITY** claimed ownership of the fifteen (15') foot road; **Defendant CITY** knowingly deraigned title from the invalid Flood deed, which the **Defendant CITY** knew to be invalid at the time of conveyance in 1943 and as such was and remains *void ab initio*. Further, in claiming ownership of the said fifteen (15') foot road based upon a chain of title flawed by the above referenced invalid deed, **Defendant CITY** actions, including their Motion for Temporary Injunction can only be construed as a deliberate attempt to cloud Plaintiffs' title and spuriously enjoin Plaintiffs from their legally protected use and enjoyment of real property of which they have sole legal title.

WHEREFORE Plaintiffs demand judgment against the Defendant, CITY OF FERNANDINA BEACH, quieting title to the property in Plaintiffs and that

- a.) all adverse claims to said real property be determined by decree by this Court in Plaintiffs' favor, and that;
- b.) said decree declare and adjudge that Plaintiffs are entitled to the quiet and peaceful possession of said real property and that all persons claiming by, under, through, or against them, have no estate, right, title, lien or interest in or to said real property or any part thereof, and that;
- c.) said decree permanently enjoin **Defendant CITY** and all persons claiming by, through, under, or against them, from asserting any adverse claim to Plaintiffs' title to said property, and;

- d.) Cost and other fees pursuant to Florida Statutes 57.105, and;
- e.) for such other and further relief as that this honorable Court deems just and proper.

COUNT V

VIOLATIONS OF GOVERNMENT
IN THE SUNSHINE STATUTE

Plaintiffs, **LYNWOOD G. WILLIS and JANE T. WILLIS, his wife; ROBERT H. STILL, JR. and MICHAEL D. ABNEY** as Co-Trustees of that Trust created and executed under date of December 31, 1992 for the benefit of children of Lynwood G. Willis and Jane T. Willis; **VINCENT G. GRAHAM; DUDASH INVESTMENTS, L.L.C., a South Carolina Limited Liability Company and PIEDMONT SQUARE, L.L.C., a Virginia Limited Liability Company**, and bring this action against **Defendant CITY OF FERNANDINA BEACH** and allege:

- 51. This complaint invokes the jurisdiction of this Court pursuant to Chapters 26, 86, 119, 255 and 286 of Florida Statutes (1999), Article 5, Section 5 and Article 1, Section 24 of the Florida Constitution. The Plaintiffs in this action are seeking declaratory relief, writ of mandamus, and a petition for a temporary and permanent injunction against the **Defendant CITY** of Fernandina Beach.
- 52. Plaintiffs are taxpayers of Nassau County Florida. Plaintiffs have standing to sue pursuant to *inter alia*, Chapter 286.011 Florida Statutes, properly known as Government in the Sunshine Law.
- 53. On or about the 5th day of November, 1996, Reynolds Smith & Hills, Inc. ("R S& H") entered into a Master Consulting Agreement with the City of Fernandina Beach to provide consulting services to Fernandina Beach Municipal Airport.

- Municipal Airport pursuant to Ordinance 671 a copy of which is attached hereto marked as Exhibit "R" and made a part hereof.
59. Pursuant to Section VI of the above referenced Work Order Number 1, the TAC met on 4 different occasions "**to develop**" and "**recommend**" an Updated Airport Layout Plan for the Fernandina Municipal Beach Airport for the next 10 years" and, additionally, "**to develop**" the Capital Improvement Plan for the same, previously marked as Exhibit "Q". A copy of said ALP has been previously filed in the Plaintiffs' Third Amended Complaint marked as Exhibit "P" and is made a part hereof pursuant to F.R.C.P. 1.130(b).
 60. Thereafter for an unknown number of months, the TAC including the two members of the Airport Advisory Committee met on numerous occasions without giving notice, reasonable or otherwise, to the public, had private meetings among themselves, telephone conferences among themselves and exchanged memorandums and correspondence in order to create and develop the ALP and the ALP Technical Report without public input.
 61. This plan, among other things, calls for the construction of ninety-six (96) separate capital improvement projects at Fernandina Beach Municipal Airport with the cost of said improvements projected at Thirty-one million and eighteen thousand (\$31, 018,000.) dollars.
 62. On September 15, 1998, at a regularly scheduled meeting of Fernandina Beach City Commission, said ALP and ALP Technical Report were presented to the City Commission for approval.
 63. At the September 15th meeting and at the subsequent October 6th meeting, less than

ten (10%) percent of the capital improvement projects were discussed by the Fernandina Beach City Commission.

64. At no time was there any explanation given as to where the City's portion of the capital contributions would come from for said Thirty-one million and eighteen thousand (\$31,018,000) dollars nor any discussion concerning the method of compensation for the consulting engineers and whether such method created a conflict of interest with the City of Fernandina Beach.
65. Furthermore among other things, there was:
 - a) No meaningful discussion concerning safety issues and in particular as to how safety is affected by the number of runways at said airport.
 - b) No discussion as to the impact and effect of having the Fernandina Beach Municipal Airport designated as a "High Performance" General Reliever Airport for Jacksonville International Airport and the Northeast Florida Aviation System Plan and Cecil Field Feasibility Study prepared for the Jacksonville Port Authority and the Florida Department of Transportation by R S&H.
 - c) No meaningful discussion concerning the abatement of aircraft noise, and what could be done to improve the same.
65. Rather, the majority of the discussion at said meetings concerned the extension of runway 13/31 to 1000 feet to the west in order to have a six thousand (6000') foot runway to accommodate large jets the size of Boeing 727s.
66. During the September 15, 1998, regularly scheduled meeting of the Fernandina Beach City Commission, the attorney for the **Defendant CITY**, Wesley Poole,

inquired of Andrew Holesko, the city's consultant on airport matters, the following:

Mr. Poole: One last question if I might. Are you familiar with the Crane Island adjacent property.

Andrew Holesko: Yes.

Mr. Poole: and the possibility that it may be developed for..

Andrew Holesko: Yes.

Mr. Poole: residential purposes? And are you aware of the recorded easement..

Andrew Holesko: Yes.

Mr. Poole: to that property? Will this extension or this plan interfere with that easement to your knowledge?

Andrew Holesko: That plan is laid out so that easement can be granted and access can be given to Crane Island. With that airport layout plan, yes.

Mr. Poole: With what size access?

Andrew Holesko: I believe the existing access that was granted, I think was somewhere between 15 and 25 feet. And that is not going to matter is in an area where if the city decided to grant a greater access, the width of the access with not be restricted. The location of the access with be.

Mr. Poole: Do I read the map correctly to suggest that there is a perimeter road that goes around there or may go around there?

Andrew Holesko: That is correct.

Mr. Poole: And what is..

Andrew Holesko: That is the access point is right there.

Mr. Poole: And so with this plan then that access could tie in to

that perimeter road?

Andrew Holesko: That's correct. It would not tie into the north, it would tie in down to the south.

Mr. Poole: And what is the proposed width for the future perimeter road?

Andrew Holesko: 24 feet. With paved shoulders.

67. The above statements made by the **Defendant CITY'S** consultant, R S&H Project Director Andrew Holesko, were untrue, and, in fact, the proposed extension of the runway for large jets will interfere with the access to Crane Island. A copy of said letter is attached hereto and marked as Exhibit "S" and made a part hereof.

68. Furthermore, both the City Attorney Mr. Poole and Mr. Holesko apparently misrepresented to the public, as well as to the Plaintiffs, that the proposed access road was also to serve as part of the perimeter road to Crane Island.

69. In fact, the **Defendant CITY'S** Attorney wrote a letter on April 12, 2000 addressed to Mr. Richard Owen of the FAA/Orlando District Office, who at the time was also a member of the Fernandina Beach T.A.C., to assure him that the proposed access road to Crane Island **would not** connect with the proposed future perimeter road to wit:

"...as we discussed, this has nothing to do with the proposed perimeter road on the ALP for airport use (emphasis supplied); what is being requested of the city is a 60' public road (emphasis original) in the location as indicated." A copy of said letter is attached hereto marked as Exhibit "T" and made a part hereof.

70. Finally, the Defendant CITY also failed to disclose to the Plaintiffs that in order for

the access road to be approved by the FAA and the FDOT, the easement would have had to been shown on the Updated Master Plan of the Airport Layout Plan, which it was not. (See a copy of FDOT letter attached hereto marked as Exhibit "U" and made a part hereof.")

71. On October 6, 1999, the City Commission of the City of Fernandina Beach voted to approve the ALP and ALP Technical Report presented by the ATC, ACC the Airport Consultants *intoto*.
72. The acceptance of the ALP and ALP Technical Report by the City Commission of the City of Fernandina Beach was merely a ceremonious acceptance of a report and plan that was itself created at earlier un-noticed meetings of the ATC, and the members of the ACC in violation of the Sunshine Laws.
73. Moreover, **Defendant CITY'S** meetings on September 15th, 1999 and October 6, 1999 did not constitute full and open hearings necessary to cure the defect of the above stated Sunshine Law violations in that, among other things, the Plaintiff's attorneys relied on the representations made by the **Defendant CITY'S** consultant wherein he categorically assured the City Commission, the Plaintiffs and the general public, that the proposed runway extension would not interfere with access road to Crane Island and the access road was part of the perimeter road, the inter-relationship between the ALP and the Northeast Florida Aviation System Plan & Cecil Field Feasibility Study and the failure to disclose that the route of the access road had to be shown on the ALP in order to have it approved by the FAA and FDOT.

WHEREFORE Plaintiffs request this Court:

- a.) Declare that **Defendant CITY** failed to comply with applicable provisions

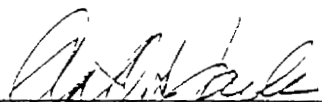
of 286.011, Florida Statutes.

- b.) Declare that the Fernandina Beach Municipal Airport layout plan update and Fernandina Beach Municipal Airport layout 1999 Technical Report are *void ab initio* and require the return to the board of all sums expended pursuant said to motion.
- c.) Declare that any actions or further motions, contracts or agreements predicated on said agreement be declared *void ab initio*.
- d.) That the **Defendant CITY** be enjoined from paying any further sums pursuant to said ALP or ALP Technical Report.
- e.) Award the Plaintiffs costs and attorneys fees incurred in bringing this lawsuit as provided by Florida Statutes, Section 286.011 (4) as well as such other relief the Court deems just and proper and to grant such other and additional relief as the Court deems is just and appropriate.

DEMAND FOR JURY TRIAL

The above named Plaintiffs files this demand for jury trial in accordance with Rule 1.430, Rules of Civil Procedure, and requests jury trial of all issues so triable.


Respectfully submitted,

By: 
ARTHUR I. JACOBS, ESQUIRE
Florida Bar No.: 108249
JACOBS & ASSOCIATES, P. A.
Post Office Box 1110
Fernandina Beach, FL 32035
(904) 261-3693

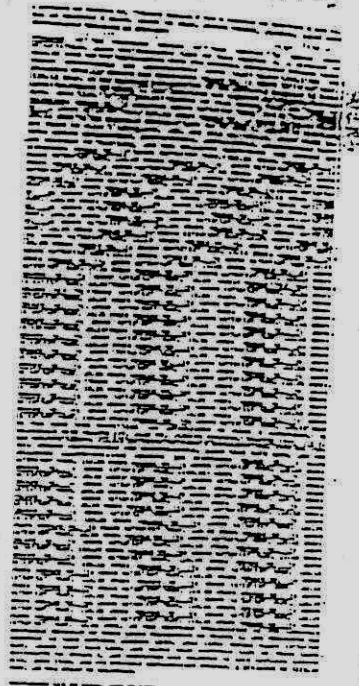
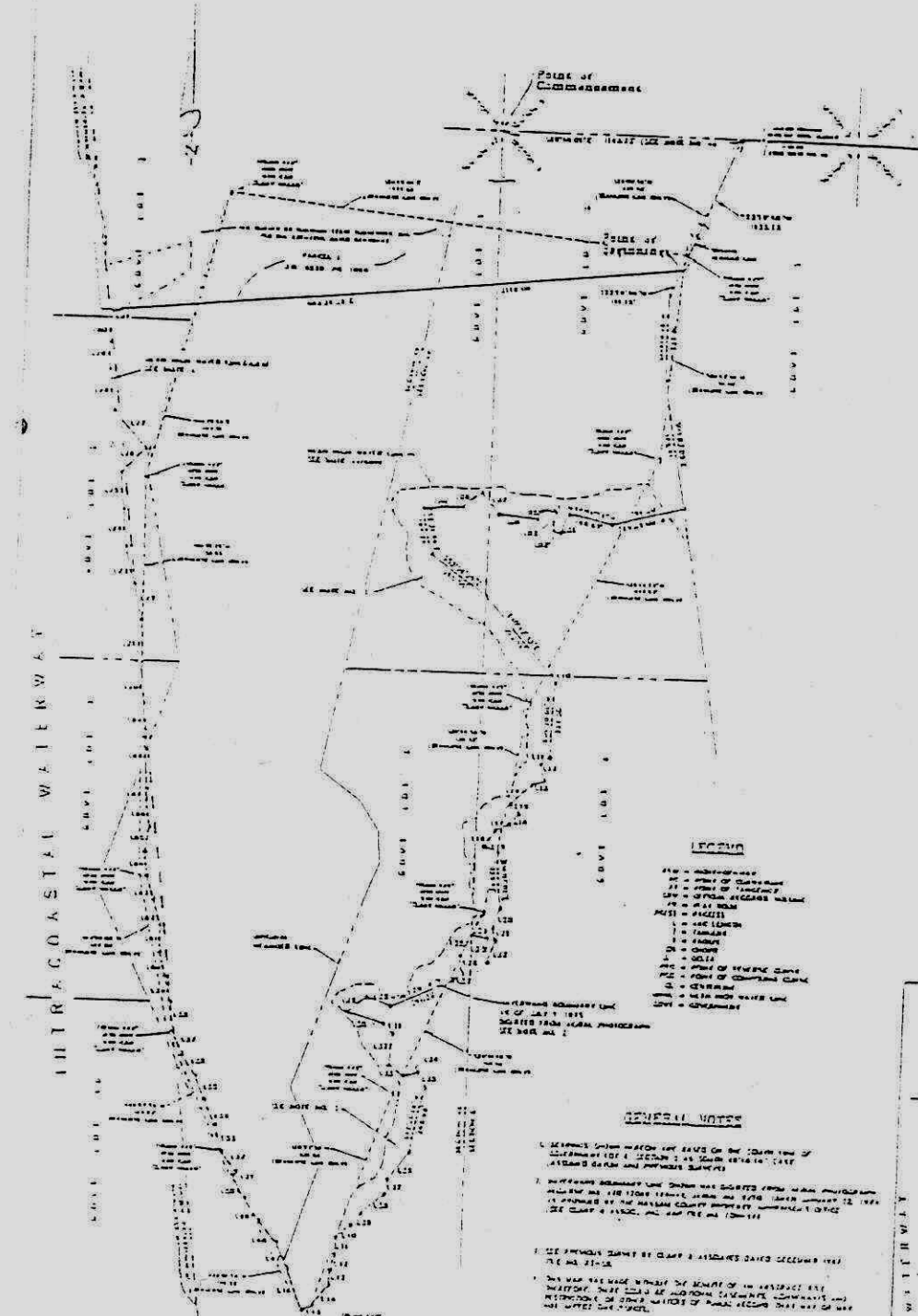
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to Wesley R. Poole, Esquire,
Post Office Box 1280, Fernandina Beach, Florida 32035 by hand delivery, this 30th day of August,
2000.

By


ARTHUR I. JACOBS, ESCUTRE

Map Showing Boundary Survey



- LEGEND**
- 110 - Subdivision
 - 111 - Point of Commencement
 - 112 - Point of Termination
 - 113 - Section Boundary
 - 114 - Survey
 - 115 - Easement
 - 116 - Right of Way
 - 117 - Easement
 - 118 - Easement
 - 119 - Easement
 - 120 - Easement
 - 121 - Easement
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GENERAL NOTES

1. The survey was made on the ground and the bearings and distances were taken from the ground.
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2	S 89° 15' 00" W	100.00	102	N 89° 15' 00" E	100.00
3	N 89° 15' 00" E	100.00	103	S 89° 15' 00" W	100.00
4	S 89° 15' 00" W	100.00	104	N 89° 15' 00" E	100.00
5	N 89° 15' 00" E	100.00	105	S 89° 15' 00" W	100.00
6	S 89° 15' 00" W	100.00	106	N 89° 15' 00" E	100.00
7	N 89° 15' 00" E	100.00	107	S 89° 15' 00" W	100.00
8	S 89° 15' 00" W	100.00	108	N 89° 15' 00" E	100.00
9	N 89° 15' 00" E	100.00	109	S 89° 15' 00" W	100.00
10	S 89° 15' 00" W	100.00	110	N 89° 15' 00" E	100.00
11	N 89° 15' 00" E	100.00	111	S 89° 15' 00" W	100.00
12	S 89° 15' 00" W	100.00	112	N 89° 15' 00" E	100.00
13	N 89° 15' 00" E	100.00	113	S 89° 15' 00" W	100.00
14	S 89° 15' 00" W	100.00	114	N 89° 15' 00" E	100.00
15	N 89° 15' 00" E	100.00	115	S 89° 15' 00" W	100.00
16	S 89° 15' 00" W	100.00	116	N 89° 15' 00" E	100.00
17	N 89° 15' 00" E	100.00	117	S 89° 15' 00" W	100.00
18	S 89° 15' 00" W	100.00	118	N 89° 15' 00" E	100.00
19	N 89° 15' 00" E	100.00	119	S 89° 15' 00" W	100.00
20	S 89° 15' 00" W	100.00	120	N 89° 15' 00" E	100.00

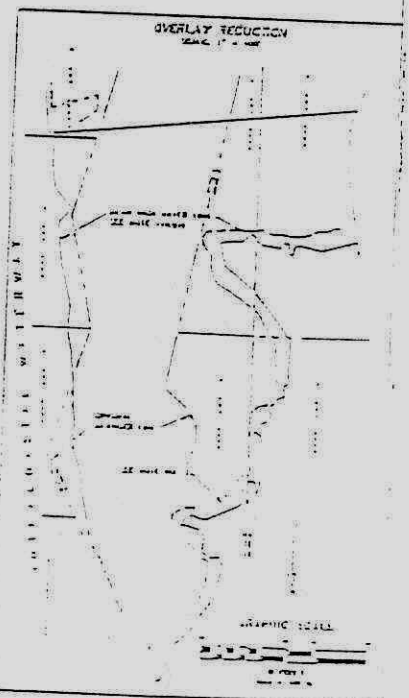


EXHIBIT A



City of Fernandina Beach

CERTIFICATE

STATE OF FLORIDA)
COUNTY OF NASSAU)
CITY OF FERNANDINA BEACH)

I, VICKI P. CANNON, City Clerk of the City of Fernandina Beach, Florida, do hereby certify that the attached is a true and correct copy of Resolution #2000-06 adopted by the City Commission of the City of Fernandina Beach, Florida at its regular meeting of January 4, 2000, as contained in the records of my office.

IN WITNESS WHEREOF, I hereunto set
my hand and affix the Seal of the
City of Fernandina Beach, Florida,
this 7th day of January, A.D., 2000.


Vicki P. Cannon
City Clerk
City of Fernandina Beach, Florida

EXHIBIT B

RESOLUTION NUMBER 2000-06
(Revised 01-04-00)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, REGARDING A REQUEST FOR STATUTORY WAY OF NECESSITY ACROSS AIRPORT PROPERTY TO CRANE ISLAND; REQUIRING ADDITIONAL INFORMATION AND AGENCY APPROVALS; REQUIRING THAT A COPY OF THIS RESOLUTION BE FORWARDED TO THE FAA, FDCT, AND BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA; PROVIDING FOR FURTHER CONSIDERATION UPON RECEIPT OF ADDITIONAL INFORMATION AND SATISFACTION OF CERTAIN CONDITIONS.

WHEREAS, The City of Fernandina Beach has received a request on behalf of the owners of a portion of Crane Island for a statutory way of necessity for ingress, egress and utilities across the City's airport property to Crane Island; and

WHEREAS, the City Commission finds as follows:

- a. the lands of Crane Island are arguably, and for practical purposes, shut in or hemmed in from vehicular access by the lands of the Fernandina Beach municipal airport;
- b. that no unity of title exists between the airport lands and those of Crane Island, and thus, there is no common law implied easement to Crane Island;
- c. that Crane Island lies outside the municipal limits of Fernandina Beach; and
- d. that, although there appears on record a fifteen foot (15') roadway across the airport property to Crane Island, that such is not sufficient for adequate to provide access to Crane Island for the purposes of residential development, inasmuch as Nassau County requires a minimum access width of 30 feet (30').

- a. That the City of Fernandina Beach airport property is subject to certain restrictions on the use of said lands, as provided and set forth in that certain "CANCELLATION OF LEASE AND QUITCLAIM," dated July 9, 1947, and recorded in the public records of Nassau County, Florida, at Deed Book 149, pages 101-109, which said restrictions provide, among other things, that the City shall prevent any use of lands within or outside the boundaries of the airport which would be a hazard to the landing, taking-off, or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport;
- f. That any violation of the aforesaid restrictions may, at the option of the United States Government, result in a forfeiture and reversion of the airport property to the said United States Government;
- g. That the Florida Legislature has, in the adoption of Florida Statutes, Chapter 333, found and declared that certain activities and uses of land in the immediate vicinity of airports as enumerated in Section 333.03(2), F.S., are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, and adversely affect their health, or otherwise limit the accomplishment of normal activities; that the creation or establishment of incompatible use of land in airport vicinities are public nuisances and injure the community served by the airport in question; that it is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of airport hazards and incompatible land uses be prevented; and that Chapter 333, Florida Statutes, specifically prohibits the City from allowing residential development within certain areas contiguous to the airport and within runway clear zones;
- h. That there also exist Nassau County Zoning Ordinance Number 97-19, Article 28, and the Fernandina Beach Airport Zoning Code, Chapter 102 of the Code of Ordinances of the City, regulating and restricting the development of properties within certain distances from the airport;
- i. That Crane Island is currently designated as "Wetlands (Conservation)" on the Nassau County

Future Land Use Map (FLUM), and that, as of the date of this Resolution, no formal development proposal has been made to Nassau County for the development of Crane Island, or to change the aforesaid FLUM designation;

- j. That, pursuant to the Nassau County Comprehensive Plan, development of wetlands/conservation areas under private ownership may be developed only pursuant to a limited development overlay, at a density no greater than one unit per five acres (ref: Policy 1.02.05 H, 13.);

NOW, THEREFORE, BE IT RESOLVED THAT:

1. That the CITY OF FERNANDINA BEACH does hereby declare that, prior to its determination and decision on the Request, pursuant to the requirements and provisions of Florida Statutes §704.04(2), 1999, to the creation and grant of a 60' right-of-way access to Crane Island across the airport property, that additional information be obtained and provided, as follows:

- a. That the access route, if granted, shall be located adjacent to and east of the conservation easement dedicated to the SJRWMD, and continue on in an exact route and location to be determined and agreed upon by the City and the owners of Crane Island, subject to, and only upon the satisfaction of, the following conditions:
- b. That the City shall be compensated the fair market value for the imposition of such statutory way of necessity, in accordance with Florida Statutes §704.04;
- c. That all of the owners of all of Crane Island shall agree to the grant of an "avigation easement," in such form as may be approved by the FAA, FDOT and City Commission;
- d. That Crane Island shall be developed for residential purposes, only, unless otherwise agreed to in writing, by the City Commission of the City of

Fernandina Beach;

- e. That all of the owners of all of Crane Island shall Quit-Claim and Release unto the City any right, title, interest or claim it may have in and to that certain 15 foot roadway as created or conveyed to John Broadbent by instrument dated February 12, 1887, and recorded in Deed Book U, page 425, of the public records of Nassau County, Florida;
 - f. That the City shall obtain an FRA approved, updated noise contours study, and shall secure written approvals of the proposed development of Crane Island by the Federal Aviation Administration (FAA) and Florida Department of Transportation (FDOT), and, including specifically, but not limited to, compliance with Florida Statutes, Chapter 333, FRA advisory Circulars 150/5300-13 and 150/5200-33; Federal Aviation Regulation (FAR) Part 77, "Objects Affecting Navigable Airspace;" and FAA Reg. Part 150, "Airport Noise and Land Use Compatibility;"
 - g. That the property owners of Crane Island obtain and submit proof of all required development approvals from all required agencies, including, but not limited to, the St. Johns River Water Management District (SJRWMD), the Florida Department of Environmental Protection (FDEP), the U.S. Army Corps of Engineers, Nassau County and, the Florida Department of Community Affairs (DCA);
 - h. That the property owners of Crane Island submit satisfactory written evidence that the proposed development of Crane Island meets and complies with the Nassau County Airport Zoning Ordinance, Article 28 of the Nassau County Zoning Code, Ordinance Number 97-19, as amended, and with the Fernandina Beach Airport Zoning Code, Chapter 102 of the Code of Ordinances of the City of Fernandina Beach;
 - i. That the property owners of Crane Island agree to the creation and recording of aviation/airport related restrictive covenants to apply to all development and conveyances of lots on Crane Island, prior to any such development or conveyance, in a form to be approved by the FAA, FDOT and the City Commission.
2. That all of the conditions, as hereinabove stated, must be

net for the City to be able to consider the imposition and creation of the statutory way of necessity.

3. Recognizing that there is additional research to be done by the City staff and its engineers and consultants, the City Manager is instructed to develop position papers on the issues raised herein, with attachments, and to deliver the same to the Federal Aviation Administration (FAA), Florida Department of Transportation (FDOT), and Board of County Commissioners of Nassau County, Florida, and to any other agency he deems appropriate, to address the significant issues raised in this Resolution.

4. That upon satisfaction of the above conditions, and receipt of approvals from the FAA, FDOT, Nassau County, and all other applicable and requisite federal, state or local agencies, the City Commission shall further consider the request of the owners of Crane Island for the granting of a statutory way of necessity.

Adopted at a meeting of the City Commission of the City of Fernandina Beach, Florida, duly noticed and held, this 4th day of January, 2000.

CITY OF FERNANDINA BEACH

By: _____
Ron Sapp
Its: Mayor-Commissioner

ATTEST:

WICKI P. CANNON, CITY CLERK

CITY/fernandina.doc
rev. 01-04-00

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, A MUNICIPAL CORPORATION, ANNEXING A PORTION OF CRANE ISLAND TO THE CORPORATE LIMITS OF SAID CITY, UPON PETITION BY THE OWNER OF SAID LAND; PROVIDING FOR REDEFINING OF BOUNDARY LINES OF SAID CITY TO INCLUDE SAID PROPERTY; PROVIDING FOR THE PUBLICATION OF SAID ORDINANCE; PROVIDING FOR THE FILING OF THE ORDINANCE, AFTER ADOPTION, WITH THE CLERK OF THE CIRCUIT COURT AND DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes §171.044 does provide a procedure whereby real property being contiguous to the corporate limits of the City of Fernandina Beach may be annexed into said City, upon Petition of the owner of said property, and the adoption of an ordinance annexing same, and

WHEREAS, CRANE ISLAND VENTURES, INC., owner of real property of lands contiguous to the corporate limits of the City of Fernandina Beach has by Petition requested the annexation of said lands to the City of Fernandina Beach, and

WHEREAS, the City Commission of the City of Fernandina Beach has deemed it to the best interest of said City that the land described on said Petition be annexed within the corporate limits of the City of Fernandina Beach.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF FERNANDINA BEACH, FLORIDA, as follows:

1. That the following parcel of real property be and is hereby annexed to the City of Fernandina Beach, pursuant to a Petition filed by the owner of said land and approved by the City Commission of the City of Fernandina Beach, said real property and owner of same being as described in Exhibit "A" attached hereto, and by reference incorporated herein.

2. That it is hereby deemed to be in the best interest of the City of Fernandina Beach that the land above described be annexed to and become a part of the City of Fernandina Beach. That upon adoption of this ordinance, the boundary lines of the corporate limits of the City of Fernandina Beach shall be redefined so as to include the real property described above.

3. That the Notice of Intent to Adopt this Ordinance shall be published in the Fernandina Beach Newsletter for four (4) consecutive weeks, and that proof of the publication of this Ordinance be filed herein prior to the final reading of this Ordinance.

4. That the Mayor and City Clerk are hereby authorized to execute on behalf of the City that certain Annexation Agreement dated _____, 198____, by and between the City of Fernandina Beach and the property owner who has petitioned for annexation, a copy of which is attached hereto as Exhibit "B", and said agreement is hereby adopted in full by reference.

5. That upon the filing of Proof of Publication and final adoption of this Ordinance, a copy of the same shall be filed with the Clerk of the Circuit Court of Nassau County, Florida, and a copy be forwarded to the Department of State, Tallahassee, Florida.

6. That this Ordinance shall take effect immediately upon the execution of the attached Agreement by both parties thereto, and the occurrence of all conditions and contingencies stated therein.

ADOPTED this 1st day of January, 1988.

CITY OF FERNANDINA BEACH

Attest: *Mary P. ...* By: *Lennie ...*
Tos: City Clerk Tos: Mayor-Commissioner

Date of First Reading: 12-15-87
Date of Publication: 12-24, 31-87; 1-7, 14-88
Date of Public Hearing & Second Reading: 1-19-88
Date of Final Passage: 1-19-88

FERNANDINA BEACH ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT dated this _____ day of _____, 1987, by and between the CITY OF FERNANDINA BEACH, a municipal corporation, (hereinafter referred to as "City"); and CRANE ISLAND VENTURES, INC., a Florida corporation, (hereinafter referred to as "Applicant").

WHEREAS, this Annexation agreement shall be considered entered into only upon the adoption of an Ordinance by the City Commission of City authorizing and approving the execution of such Agreement, consistent with the mutual promises, covenants and acknowledgements agreed to by the City Commission; and

WHEREAS, Applicant is the owner of record of those certain parcels and tracts of land, consisting of approximately 34.9 + acres in size, located in Nassau County and being contiguous to the boundary of the City of Fernandina Beach and as more particularly described in the metas and bounds descriptions of the said property attached hereto and made a part hereof and designated as Exhibit A; and

WHEREAS, the Covenants and acknowledgements contained herein have been made in consideration of annexation into the City of Fernandina Beach of the subject property; and

WHEREAS, the Applicant has filed a Petition for Annexation of the subject property with the City; and

WHEREAS, Applicant does hereby certify that all of the owners of the subject property did join in said Petition; and

WHEREAS, the appropriate and required public hearings have been held pursuant to City and State law; and

WHEREAS, it is the desire of the City to provide for appropriate uses of the subject property; and

WHEREAS, the Applicant is willing to have the subject property annexed to the City and the City desires and believes that it would be in the best interest of the City to annex the land which is contiguously located outside the corporate limits of the City in Nassau County, Florida; and

WHEREAS, the Applicant has requested and the City agrees that certain credits toward impact fees for improvements to be constructed by applicant to extend the sanitary sewer facilities of the City are appropriate in light of the substantial development costs to be incurred in improving the property for residential and commercial use and in light of the dedication of such facilities to the City to serve the general area as well as the proposed developments; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and acknowledgments stated herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Effective Date: This Agreement shall become effective on the date that Ordinance Number 781 becomes effective; PROVIDED, HOWEVER, that the Applicant shall have the right at any time prior to the effective date of this Agreement to withdraw its consent to the proposed annexation, by delivery of written notice to the office of the City Manager by 5:00 p.m. of the day preceding the effective date of said ordinance; and upon receipt of said Notice, this Agreement shall thereupon become void and as of no effect without further action by the City Commission of Fernandina Beach. Time is of the essence.

2. Execution: The parties hereto agree to execute any and all such documents as are necessary to carry out the terms and provisions of this Annexation Agreement.

3. Binding effect: The parties hereto do covenant and agree that the within instrument and its Exhibits, in whole or in part, shall be binding on their assigns, personal representatives and successors, including the body politic and corporate known as the City of Fernandina Beach.

4. Assignment: This Agreement, its benefits and burdens shall be assignable, in whole or in part, by Applicant without the consent of the City, to any purchasers of all or any substantial part of Applicant's property in a bulk sale, but not to purchasers of individual lots; provided, however, that neither

party shall be relieved of any obligation to the other pursuant to this Agreement without the express written consent of the other.

5. Governing law: The laws of the State of Florida shall govern the interpretation, validity and construction of the terms and provisions of this Agreement. If any term or provision of this Agreement is declared illegal or invalid for any reason by a court of competent jurisdiction, the remaining terms and provisions of this Agreement shall, nevertheless, remain in full force and effect.

6. Entire Agreement: The parties hereto acknowledge that this Agreement constitutes the sole agreement between the parties; that all prior proposals and agreements, whether oral or written, are hereby superceded; and that this Agreement may not be changed, altered or modified except in writing and signed by the Parties hereto. The parties hereto further acknowledge that, in entering into this Agreement, each party has not been induced by, has not relied upon, and has not included as part of the basis of the bargain herein, any representation or statement, whether express or implied, made by any agent, representative or employee, which representation or statement is not expressly set forth in this Agreement, except for any substantive representations made by any of the parties and approved by the other at any public hearing or work session of the City Commission or otherwise made as part of the official public record in the proceedings related to Ordinance 781.

7. Compliance with Applicable Ordinances: The Applicant agrees to comply with all ordinances of the City as amended from time to time in the development of the property, provided that all new ordinances, amendments, rules and regulations relating to zoning, building and subdivision of land adopted after the date of this Agreement shall not be arbitrarily or discriminatorily applied to the property but shall be equally applicable to all property similarly zoned and situated to the extent possible. Applicant, in the development of the property, shall comply with the standards set forth in the Comprehensive Plan as amended from

time to time. Applicant has not, at the time of this agreement, submitted final plans for development; however, applicant, CRANE ISLAND VENTURES, INC., has indicated its desire to develop its property in a planned unit development with no more than 100 single family lots at 1.2 units per acre, with a 90 slip marina. City finds that such proposed use would be consistent with the city's comprehensive land use plan.

8. Sanitary Sewer: Applicant shall be permitted to tap into the City's sanitary sewer system at points recommended by the City Manager. Applicant will construct a sewer main and lift stations, and appurtenant facilities from existing facilities to Applicant's property according to City approved specifications. Such construction shall be coordinated with the City Manager and contracts for the construction work shall be awarded on the basis of the lowest and best bid among a minimum of three (3) contractors submitting bids for the project. Applicant will contribute to the construction of the sewer main from existing City facilities to Applicant's, property based on estimated cost of construction of improvements necessary to accommodate only the projected waste water flows from the Applicant's, development. Any cost of over sizing lines, liftstations or appurtenant facilities beyond Applicant's needs will be borne by the City of Fernandina Beach and assessed to other property owners requesting connection to the city sewer system. Other property owners requesting connection to the city sewer system prior to the construction of the sewer main, liftstations and related appurtenant facilities will be required by the City of Fernandina Beach to make a pro rata financial contribution to the cost of construction of the same based on their proportionate share of the cumulative projected waste water flows. Construction shall be coordinated and approved by City's Engineers.

9. Sewer Impact Fees: Once applicant has contributed its pro rata share toward the cost of extending the sewer main facilities, it shall be entitled to reimbursement of the payment of sewer impact fees as provided for in sections 11-91, et seq.,

of the Code of Ordinances of the City. Such reimbursement shall be transferrable to bulk purchasers of Applicant's property, but not to purchasers of individual lots within the subdivisions or planned unit developments to be created on the applicant's property, except that Applicant shall be entitled to reimbursement for the amount of sewer impact fees paid by the purchasers of individual lots or units in its subdivision, within five (5) years of the effective date of this agreement, in the same amounts and at the time of payment of such fees by the individual lot purchasers, up to but not exceeding applicant's pro rata share of the cost of construction of the extension of the city sewer facilities to the applicant's property. Bulk purchase is herein defined as the purchase of more than 50% of applicant's property as owned at the effective date of this agreement. The total impact fee credits shall not exceed the Applicant's actual contributions to the construction of the improvements.

10. Dedication of sewer facilities: Applicant agrees to, within sixty (60) days of completion of any sewer lines, lift stations or other facilities, dedicate such lines, lift stations or other facilities to the City free and clear of any liens, mechanics or otherwise, in perpetuity for maintenance of the same, and shall further grant the City all necessary easements to permit City to maintain such facilities and to provide sewer service to surrounding properties. Such dedication and grants shall occur prior to the payment by City to Applicant of any sewer impact fee reimbursement as provided in § 9 above.

11. Fees: Upon presentation of final plans for development, the City of Fernandina Beach agrees to identify to the satisfaction of the property owner all fees or other charges in any form which the City will assess in connection with the development and construction of the improvements planned for the annexed property. This agreement will include credits for work done by the property owner in connection with the construction of various infrastructure improvements relating to the planned development, where such credits are permitted by law or ordinance.

12. Construction of access road: Applicant shall, at its own expense, construct on the City airport property adjacent to the property to be annexed and property to the north thereof owned by Rayland Company, Inc., an access road from the Amelia Island Parkway to the property to be annexed. Such road shall be constructed in compliance with city specifications. Construction thereof shall be coordinated with the City Manager and Public Works Director. Such road, upon completion of construction and acceptance thereof by the City, shall be dedicated to the City for public use and maintenance thereof by the City. Applicant shall pay to the City Airport fund an amount equal to the appraised value of the acreage from the Airport property to be dedicated for such right of way, such funds to be used only for airport purposes. City shall secure the necessary release from the Federal Aviation Administration to provide insurable access to Crane Island via the aforesaid road.

13. Facilitation of Development: Time is of the essence of this Agreement, and all parties will make every reasonable effort to expedite the subject matters hereof. It is further understood and agreed that the successful consummation of this Agreement and the development of the property in the best interests of all the parties requires their continued cooperation. The Applicant does hereby evidence its intention to fully comply with all City requirements, its willingness to discuss any matters of mutual interest that may arise, and its willingness to assist the City to the fullest extent possible. The City does hereby evidence its intent to cooperate in the resolution of mutual problems and its willingness to facilitate the development of the Property, as contemplated by the provisions of this Agreement.

14. Enforceability of the Agreement: This Agreement shall be enforceable in any court of competent jurisdiction by either of the parties or by an appropriate action at law or in equity to secure the performance of the covenants herein described. If any provision of this Agreement is held invalid,

such provisions shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the provisions contained herein.

15. Default: In the event either of the parties default in the performance of the obligations set forth in this Agreement, then the other may, upon notice to defaulting party, allow defaulting party sixty (60) days to cure default or provide evidence to the non-defaulting party that such default will be cured in a timely manner if it cannot be cured during said period. If defaulting party fails to cure such default or provide such evidence as provided above, then, with notice to defaulting party, the other may begin proceedings to require specific performance of this agreement or bring suit for damages for breach of the agreement. The prevailing party shall be entitled to a reasonable attorney's fee for having brought such action.

16. Additional Covenants:

A. This agreement is conditioned upon the occurrence of both of the following:

(1). The closing of the purchase by Applicant of the property to be annexed; and

(2). The release of the necessary property on the City airport property by the FAA to allow City to provide insurable access to the property to be annexed.

IN WITNESS WHEREOF, the City and Applicant have caused this instrument to be executed by their respective proper officials duly authorized to execute the same on the day and the year first above written.

CITY OF FERNANDINA BEACH

By: _____
Its: Mayor-Commissioner

ATTEST:

By: _____
Its: City Clerk

CRANE ISLAND VENTURES, INC.

Witness

By: _____

Its

Witness

87-1
annex.agr

EXHIBIT "A"

Section 19 - Craney Island - Township 2 North, Range 28 East, Nassau County, Florida, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS:

A portion of Section 19, Township 2 North, Range 28 East, Nassau County, Florida, being a portion of lands described and recorded in Official Records Book 138, pages 277-278 of the Public Records of Nassau County, Florida, being more particularly described as follows:

COMMENCE at a United States Army Corps of Engineers' Disk, IWN-9 (1978), on the West bank of the Intracoastal Waterway; thence North $15^{\circ} 14' 41''$ East, 1431.10 feet; thence North $14^{\circ} 36' 36''$ East, 692.80 feet to an intersection with the approximate High Water Line as field located January 15, 1987, and as shown on Map of Specific Purpose Survey by Sunshine State Surveyors, Inc., File Number 87E-2218 and the POINT OF BEGINNING; thence Northerly, Northeasterly, Easterly, Southeasterly, Southerly and Southwesterly along said approximately High Water Line to the intersection with a line which bears North $83^{\circ} 41' 24''$ East, 1421.51 feet from the aforesaid POINT OF BEGINNING; thence South $83^{\circ} 41' 24''$ West, 1421.52 feet to the POINT OF BEGINNING.

JACOBES & PETERS, P.A.

ATTORNEYS AT LAW

401 CENTRE STREET

THE HISTORIC POST OFFICE BUILDING

SECOND FLOOR

FERNANDINA BEACH, FLORIDA 32034

TELEPHONE (904) 251-3693

FAX NO. (904) 251-7879

ARTHUR L. JACOBS
ROBERT L. PETERS, C.F.P.A.

OF COUNSEL
E. CLINCH KAVANAUGH

MAILING ADDRESS
POST OFFICE BOX 11
FERNANDINA BEACH, FL 32034

May 17, 1999

Fred H. Hays
City of Fernandina Beach
Post Office Box 668
Fernandina Beach, Florida 32035-0668

RE: Access for Crane Island

Dear Mr. Hays:

As you know, we represent the partnership developing Crane Island. Since our meeting on April 13, I have been discussing the a matter of access further with Jim Higginbotham and Vince Graham. Jim reviewed the defined route with the City's airport engineer, Andrew Holesko of RS&H in Jacksonville, and assured us there would be no conflict with airport operations.

As to compensation for the access, we've been discussing ideas as your requested, and have come up with the following proposal for your review:

The total area of the easement, taking into account a credit for the existing 15' wide easement, is approximately four acres. An appraisal that was recently completed for the golf course property surrounding the airport put the value of the land at \$15,000.00 per acre. Thus, we believe the four acres of land to have a value of \$60,000.00 (4 acres x \$15,000 per acre).

However, the land in question would be an easement, not an outright purchase, and the Crane Island partners plan to build the road at their expense and make it available to the City for its use. This road will complete a large segment of the perimeter road set forth in the Master Plan for the airport.

Furthermore, in the spirit of neighborly relations, the Crane Island partners have been working with parents, Tommy Purvis, and Jim Higginbotham, toward an improved plan for the Alvarez Recreational Facility at the end of Bailey Road. The partnership commissioned their planner, Designworks, to work on the new field layout and drainage plans. Designworks is a Charleston, South Carolina planning firm that recently completed the soccer/baseball/softball facilities for the College of Charleston.

COMPOSITE EXHIBIT 'D'

Thus, we suggest the compensation be the to-be-built road that would jointly serve Crane Island and the City, and the in-kind planning services undertaken for the Alvarez facility.

Please review this suggestion and get back in touch with me at your earliest convenience. I look forward to hearing from you.

With best wishes, I remain,

Sincerely yours,



E. Clinch Kavanaugh

ECK:meh

JACOBS & ASSOCIATES, P.A.

ATTORNEYS AT LAW

101 CENTRE STREET

THE HISTORIC POST OFFICE BUILDING

SECOND FLOOR

FERNANDINA BEACH, FLORIDA 32034

TELEPHONE (904) 261-2682

FAX NO. (904) 261-7877

ARTHUR I. JACOBS
OF COUNSEL
E. CLINCH KAVANAUGH

MAILING ADDRESS
POST OFFICE BOX
FERNANDINA BEACH, FL

November 9, 1999

Ronald Sapp, Mayor
City of Fernandina Beach
415 Alachua Street
Fernandina Beach, Florida 32034

Dear Ronnie:

As you know, I represent the owners of 115 acres of land on the southern end of Crane Island. Led by their managing partner, Vince Graham, these owners seek a means of vehicular access through the City lands of the Fernandina Beach Airport to develop this property.

Before getting into the legalities of why the owners are due such access, I'd like to offer my personal observation of Vince Graham and his work. Patricia and I have visited his development in South Carolina and came away impressed. These projects are not exclusive enclaves, but neighborhoods in every sense of the word with a richness and diversity of homes and price ranges and careful attention to detail exhibited in wonderful parks and green spaces.

These neighborhoods have received recognition in such publications as Southern Living, The Wall Street Journal, and Traditional Home magazine. They have also been highlighted on CNN and the British Broadcasting Company. They have received environmental and design awards from such organizations as the American Institute of Architects, the National Association of Home Builders, and the South Carolina Department of Natural Resources. Vince himself has a national reputation for being among the leaders in the field of traditional neighborhood development, and is frequently asked to speak around the country and in Europe. In short, I feel his presence on Amelia Island would be of long term benefit to our whole community.

On behalf of the owners of Crane Island, I am hereby formally requesting a statutory easement to said lands pursuant to Florida Statute 704.01(2), to construct dwellings and improvements. The owners of Crane Island are entitled to such an easement for the following reasons:

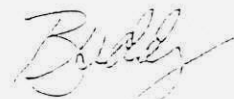
1. There is no unity of title from a common source other than the State of Florida or the United States of America.
2. The lands are outside the City of Fernandina Beach
3. The owners wish to construct dwellings and improvements on said lands.
4. The City of Fernandina Beach hemmed in said lands by fence approximately five years ago.
5. The owners of said lands have no practicable route of egress and ingress to said lands.

6. The nearest practical route of ingress and egress from Crane Island is from Bailey road. The survey of said route has been supplied the City of Fernandina Beach and was subsequently made a part of the St. Johns River Water Management District permit No. 4-089-0075A/CMI-ERP (A copy of both documents are included with this correspondence).
7. The proposed route of the easement will provide access to said lands in an orderly and proper manner.

I would like to meet with you at your earliest convenience in order to confirm the route of said easement and, to take what other action is necessary so that the road construction will be done in an orderly and proper fashion. At that time we can discuss appropriate compensation for the easement as well. My clients are ready to proceed with development and we expect the City of Fernandina Beach to cooperate with them concerning their statutory right of way of access. As stated above, we have previously submitted to the city a survey of the proposed route. If we can not come to an agreement in this matter we will have no choice but to seek recourse in the circuit court for injunctive relief and damages. F.S. 704.04(1998); see also Sapp vs. General Development Corporation, 472 So.2d 594, (2nd DCA 1985); Hoffman vs. Laffite, 544 So.2d 170 (1st DCA 1990); Florida Power Corporation v. Scudder, 350 So. 2d 106 (Fla. 2nd DCA, 1977), Franklin vs. Boatright, 399 So. 2d 1132, (Fla. 1st DCA 1981); Rev. D. 411 So.2d 382 (Fla. Oct. 22, 1981); South Florida Water Management District vs. Layton, 402 So.2d 597; Bell vs. W. T. Cox, Jr., 642 So.2d 1381 (Fla. 5th DCA 1994).

Ron, you and I have worked very hard recently to prevent something that would have had a negative impact on our community. However, it is not enough to simply be against what we don't want. We should take the challenging steps of identifying and supporting the positive change we do want. I believe a new neighborhood on Crane Island is one of those things. One of the remarkable aspects of this development will be a public park or esplanade for all to enjoy along the Amelia River. The underlying zoning would have allowed over 500 units. They have chosen to allow for only 250 to maximize environmental and esthetic concerns. It is beneficial developments of this nature that can add to a civic sense of shared purpose and make Amelia Island a better place to live. We owe this not only to ourselves and our fellow citizens, but to those generations that will follow us.

Yours sincerely,



Arthur I. Jacobs

AJ/bg
Enclosures

cc: Commissioner Kimberly Page
Commissioner Jimmy Rodeffer
Commissioner Patricia Thomas
Commissioner Marcia Fotopoulos
Mr. Fred Hays
Wesley Poole, Esquire

34 North 14th Street
 Fernandina Beach, FL 32034
 (904) 261-8860 Voice
 (904) 277-6650 Fax

LEGAL DESCRIPTION 9904-07

AN EASEMENT FOR INGRESS AND EGRESS, A PORTION OF SAID EASEMENT BEING 75 FEET WIDE AND A PORTION BEING 100 FEET WIDE.

BEING A PORTION OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA.

THE CENTERLINE OF SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

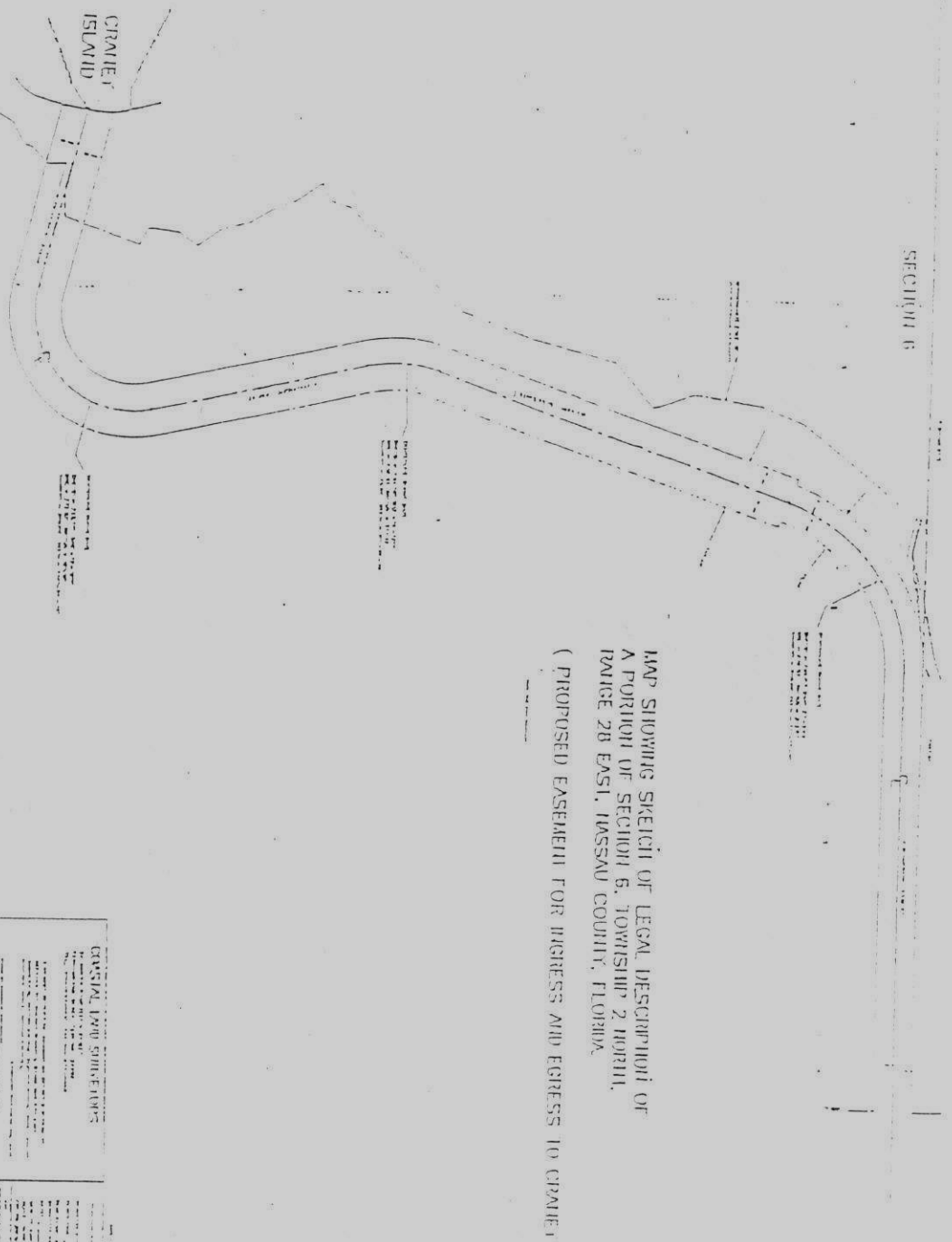
FOR A POINT OF REFERENCE COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 6; THENCE SOUTH 89 DEGREES 48 MINUTES 01 SECOND EAST ALONG THE NORTHERLY LINE OF SAID SECTION 6, A DISTANCE OF 2897.64 FEET TO THE POINT OF BEGINNING OF THE PORTION OF SAID EASEMENT BEING 75.0 FEET IN WIDTH; THENCE SOUTH 00 DEGREES 11 MINUTES 59 SECONDS WEST, A DISTANCE OF 37.50 FEET TO A POINT; THENCE NORTH 89 DEGREES 48 MINUTES 01 SECONDS WEST, A DISTANCE OF 1235.61 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEASTERLY AND HAVING A RADIUS OF 343.07 FEET; THENCE AROUND AND ALONG SAID CURVE AN ARC DISTANCE OF 426.83 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 54 DEGREES 33 MINUTES 25 SECONDS WEST, 399.83 FEET) TO THE POINT OF TANGENCY OF SAID CURVE AND THE BEGINNING OF THE PORTION OF SAID EASEMENT BEING 100.0 FEET IN WIDTH; THENCE SOUTH 31 DEGREES 26 MINUTES 25 SECONDS WEST, A DISTANCE OF 1074.27 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EASTERLY AND HAVING A RADIUS OF 274.16 FEET); THENCE AROUND AND ALONG SAID CURVE AN ARC DISTANCE OF 146.41 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 03 DEGREES 36 MINUTES 52 SECONDS WEST, 144.68 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 11 DEGREES 41 MINUTES 06 SECONDS EAST, A DISTANCE OF 428.10 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWESTERLY AND HAVING A RADIUS OF 185.69 FEET; THENCE AROUND AND ALONG SAID CURVE AN ARC DISTANCE OF 377.52 FEET (SAID ARC HAVING A BEARING AND DISTANCE OF SOUTH 46 DEGREES 33 MINUTES 32 SECONDS WEST, 315.78 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 75 DEGREES 11 MINUTES 50 SECONDS WEST, A DISTANCE OF 343.08 FEET TO THE POINT OF TERMINATION OF SAID EASEMENT.

PREPARED BY:
 JIM PEACOCK, P.S.M. NO. 3718

SECTION 5
SECTION 6

SECTION 5
SECTION 6

CRANE ISLAND



MAP SHOWING SKETCH OF LEGAL DESCRIPTION OF
A PORTION OF SECTION 5, TOWNSHIP 2 NORTH,
RANGE 28 EAST, INSSAU COUNTY, FLORIDA.
(PROPOSED EASEMENT FOR HIGHWAY AND EGRESS TO CRANE ISLAND)

CASUAL LAND SURVEYORS	
NAME	...
ADDRESS	...
CITY	...
COUNTY	...
STATE	...
DATE	...
...	...



City of Fernandina Beach

WESLEY R. POOLE
CITY ATTORNEY

December 29, 1999

MEMORANDUM

TO: CITY COMMISSION

FROM: WESLEY R. POOLE, CITY ATTORNEY

SUBJ: CRANE ISLAND/STATUTORY WAY OF NECESSITY

You have requested my advice on substantially the following question:

IS THE CITY OF FERNANDINA BEACH REQUIRED BY LAW TO GRANT THE REQUEST OF THE OWNERS OF CRANE ISLAND TO RECOGNIZE THEIR CLAIM OF A STATUTORY WAY OF NECESSITY, ACROSS THE CITY'S AIRPORT PROPERTY, TO CRANE ISLAND, PURSUANT TO FLORIDA STATUTES §704.01(2)?

The request of the owners of a part of Crane Island is contained within a letter from Arthur I. Jacobs, Esq., dated November 9, 1999, attached hereto as Exhibit "A."

The relevant portion of the statute cited by Mr. Jacobs provides as follows:

(2) STATUTORY WAY OF NECESSITY EXCLUSIVE OF COMMON-LAW RIGHT. Based on public policy, convenience, and necessity, a statutory way of necessity exclusive of any common law right exists when any land or portion thereof outside any municipality which is being used or desired to be used for a dwelling or dwellings or for agricultural or for timber raising or cutting or stockraising purposes shall be shut off or hemmed in by lands, fencing or other improvements of other persons so that no practicable route of egress or ingress shall be available therefrom to the nearest practicable public or private road. The owner or tenant thereof, or anyone in

Page 1 of 6

their behalf, lawfully may use and maintain an easement for persons, vehicles, stock, franchised cable television services, and any utility service, including, but not limited to, water, wastewater, reclaimed water, natural gas, electricity, and telephone service, over, under, through and upon the lands which lie between the said shut-off or hemmed-in lands and such public or private road by means of the nearest practical route, considering the use to which said lands are being put; and the use thereof, as aforesaid, shall not constitute a trespass; nor shall the party thus using the same be liable in damages for the use thereof; provided that such easement shall be used only in an orderly and proper manner.

As stated in my earlier Memo of December 21, 1999, there are, essentially, four elements of this statutory right:

1. No common law implied easement exists. A common law implied easement exists when the dominant tenement and subservient tenement both derive from a common source of ownership, or "unity of title." My review of the various deeds in the Crane Island chain of title, as provided by Messrs. Jacobs and Kavanaugh, as well the opinion of title rendered by Hymie Fishler, Esquire, in 1943, on the airport property, disclosed no unity of title to the two properties. Thus, it appears that this element is met.
2. The property lies outside any municipality. There appears to be no question but that Crane Island lies outside the municipal limits of the City of Fernandina Beach. Thus, it appears that this element is met.
3. The property is to be used for dwelling, agricultural, timber or stockraising purposes. The proposed principal use, as stated by Mr. Jacobs and his client, Mr. Vincent Graham, is residential (dwellings); however, the plans, as I understand them to be, also include a marina and public promenade. In addition, the City has received a request from Florida Inland Navigational District (FIND) for access to Crane Island for its use a dredge spoil site. Thus, it appears that this element is met, but only as long as the use of the property is limited to "dwellings." However, if and when the easement is established for "dwelling

purposes" for Mr. Jacobs' client, it seems natural to assume that the City will be asked, again, to grant the same easement to FIND, and would have a difficult time denying use of the same access to FIND, especially if the general public is going to have access to Crane Island.

4. The land is hemmed in or shut off by lands, fencing or other improvements of the City, such that no other practicable route of egress or ingress is available to the nearest public or private road. This element is, perhaps, the most difficult to address, given the fluid nature of the property lines separating Crane Island from Amelia Island. In simple terms, to establish a right to a statutory way of necessity, it is necessary that the claimant's lands be "hemmed in by the lands" of other persons; (See, Faison v. Smith, 310 So.2d 929 (Fla. 5th DCA 1987)). Unfortunately, there is a dearth of cases interpreting this element, in the case of separation of two land parcels by a tidal flow. The one case that comes closest to the facts in this case comes from our own First District Court of Appeal, Keene v. Jackson, 732 So.2d 1138 (Fla. 1st DCA 1999). In Keene, a portion of the plaintiff's land formed a peninsula in Ocheesee Pond and was not accessible (by land) except by crossing the defendant's lands. Although this case involved a common law, rather than statutory way of necessity, its significance lies in the court's determination that access by water is not reasonable access, for the purposes of determining entitlement to a way of necessity. Thus, if the only land based access to Crane Island is across

It is noted herein that Mr. Kavanaugh has submitted his opinion, based upon certain field surveyor's notes, that Crane Island is really not an island, but rather, an extension of Amelia Island. Nevertheless, it does appear that at certain tides, there is tidal water separating Crane Island from Amelia. Suffice it to say, that for purposes of rendering this opinion, the determination of this question is not necessary. Similarly, it was presented at the December 31, 1999, Commission meeting, that the City had "acknowledged" by its adoption of Ordinance Number 781, that Crane Island was "contiguous" to Amelia Island. However, "contiguous," for the purposes of the voluntary annexation statute, §171.044, F.S., is not the same as "shut in or hemmed in" as contemplated in §704.01(2), inasmuch as the statute has specifically provided that properties may be separated by a street or body of water, and still be considered "contiguous" for purposes of annexation; see, e.g., F.S. §171.031(1).

the City airport property, then this case could be used by the applicant herein to argue that it meets the statutory test of being 'shut in or hemmed in' by the lands of the City. Thus, the one case that seems close to the facts herein, seems to support the position of the Crane Island property owners.

Secondly, the respective surveys of the Crane Island property and the airport property do not show a coterminous boundary between the two. This is not surprising, nor conclusive, however, given the very fact that there are marsh lands, with fluctuating lines, separating the two parcels, as mentioned above. Nevertheless, given the strong public policy for providing access where no other practicable access is available, it is, my opinion that the Courts would tend to decide this question in favor of the owner seeking to establish the easement (Crane Island), and against the servient owner (the City).

Thus, although there are certainly arguments that could be advanced by the City against the claim for a statutory easement, it is my considered opinion that, after all is said and done, the law favors the imposition of the same, and would, more likely than not, grant the same.

However, this isn't to say that there aren't limitations and restrictions on the grant of the award. There does appear in all of the cases, the recognition of a great deal of discretion with the Court in determining the scope, size, location and other features of the way of necessity. Thus, it is reasonable for the City to insist on certain conditions and restrictions to be associated with and tied to any grant of statutory easement, especially given the special use of the City's servient property, i.e., the airport.

For example, there is no doubt that the City has an obligation to its citizens and to the FAA and FDOT to prohibit the new development and/or use of airport property and those properties

² There is, also, the case of Hunter v. Marguardt, Inc., 549 So.2d 1095 (Fla. 1st DCA 1989), which involved an island, and wherein the Court ruled that no statutory way of necessity existed. However, that case is distinguishable, in that the use sought to be put to the property was strictly wet slip boat storage, and since the owner had access by water, the Court determined that "other reasonable access" existed, and thus, no statutory easement was proven.

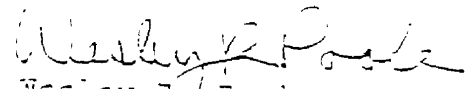
outside the boundaries of the airport which would be a hazard to the landing, taking-off, or maneuvering of aircraft at the airport, or would otherwise limit its usefulness as an airport; (see, e.g., the restrictions contained within the "CANCELLATION OF LEASE AND QUITCLAIM," dated July 9, 1947, which constitute restrictions that run with the airport property); and, the City's and Nassau County's airport zoning ordinances, which also restrict the use of land surrounding the airport). As late as March 23, 1998, the FAA opined that an access road to Crane Island was "no longer possible since it would be within the Runway safety area of a proposed extension to Runway 13/31." (See, letter dated March 23, 1998, attached hereto as Exhibit "B"). On the other hand, the City's airport engineers, Reynolds, Smith & Hills, Inc., opined by memo dated December 22, 1998, that it may be possible to locate an access outside of the "Runway Object Free Area" (ROFA), by shortening the proposed extension of Runway 13/31 by 100 feet. A copy of that memo is attached hereto as Exhibit "C." Thus, there exists no definitive answer to the question whether the proposed development of Crane Island and the establishment of a road to Crane Island across the airport property would, or would not, interfere with the airport's operations. This question, I believe, must be answered before the City can respond to the request for a statutory easement.

Secondly, the City's obligation, if it exists, is to provide the nearest, most practical route. The route proposed by Mr. Jacobs is approximately 1300 feet longer than perhaps it needs to be. In earlier years, two alternate routes were proposed that would have had the easement commence at the end of "Riverside Road," rather than at the end of "Bailey Road." See, Exhibits "D" and "E," attached hereto.

Finally, there are a number of other issues that should be addressed by the City and the Crane Island developers, all of which should be resolved prior to, or contemporaneously with, any decision to grant the request for access. I have attempted to list them in a draft Resolution, attached hereto as Exhibit "F", for your consideration. This Resolution, if approved and accepted, would defer further action on the request until such time as the additional information was obtained. Obviously, some of these require input from other agencies, as well as City staff and engineers and consultants.

Please let me know if you have any questions.

Respectfully,


Wesley R. Eccle
City Attorney

copy to: City Manager
Jim Higginbotham
Andrew Holasko
Arthur I. Jacobs, Esq.

city_ordinance11, council.and.doc

RESOLUTION NUMBER 2000-06

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, REGARDING A REQUEST FOR STATUTORY WAY OF NECESSITY ACROSS AIRPORT PROPERTY TO CRANE ISLAND; REQUIRING ADDITIONAL INFORMATION AND AGENCY APPROVALS; REQUIRING THAT A COPY OF THIS RESOLUTION BE FORWARDED TO THE FAA, FDOT, and BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA; PROVIDING FOR FURTHER CONSIDERATION UPON RECEIPT OF ADDITIONAL INFORMATION AND SATISFACTION OF CERTAIN CONDITIONS.

WHEREAS, The City of Fernandina Beach has received a request on behalf of the owners of a portion of Crane Island for a statutory way of necessity for ingress, egress and utilities across the City airport property to Crane Island; and

WHEREAS, the City Commission finds as follows:

- a. the lands of Crane Island are arguably, and for practical purposes, shut in or hemmed in for vehicular access by the lands of the Fernandina Beach municipal airport;
- b. that no unity of title exists between the airport lands and those of Crane Island, and thus, there is no common law implied easement to Crane Island;
- c. that Crane Island lies outside the municipal limit of Fernandina Beach; and
- ✓ d. that, although there appears of record a fifteen foot (15') roadway across the airport property to Crane Island, that such is not sufficient to be adequate to provide access to Crane Island for the purposes of residential development, inasmuch as Nassau County requires a minimum access width of 60 feet (60');
- e. That the City of Fernandina Beach airport property;

is subject to certain restrictions in the use of said lands, as provided and set forth in the certain 'CANCELLATION OF LEASE AND TITLE CLAIM,' date July 9, 1947, and recorded in the public records of Nassau County, Florida, at Deed Book 149, pages 101, 109, which said restrictions provide, among other things, that the City shall prevent any use of land within or outside the boundaries of the airport which would be a hazard to the landing, taking-off or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport;

f. That any violation of the aforesaid restriction, may, at the option of the United States Government result in a forfeiture and reversion of the airport property to the said United States Government;

g. That the Florida Legislature has, in the adoption of Florida Statutes, Chapter 333, found and declared that certain activities and uses of land in the immediate vicinity of airports as enumerated in Section 333.03(2), F.S., are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, and adversely affect their health, or otherwise limit the accomplishment of normal activities; that the creation or establishment of incompatible use of land in airport vicinities are public nuisances and injure the community served by the airport in question; that it is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of airport hazards and incompatible land uses be prevented; and that Chapter 333, Florida Statutes, specifically prohibits the City from allowing residential development within certain areas contiguous to the airport and within runway clear zones;

h. That there also exist Nassau County zoning Ordinance Number 97-13, Article 28, and the Fernandina Beach Airport Zoning Code, Chapter 102 of the Code of Ordinances of the City, regulating and restricting the development of properties within certain distances from the airport;

i. That Crane Island is currently designated as 'Wetlands Conservation,' on the Nassau County Future Land Use Map (FLUM); and that, as of the date

of this Resolution, no formal development proposal has been made to Nassau County for the development of Crane Island, or to change the addressable ZIP designation;

1. That, pursuant to the Nassau County Comprehensive Plan, development of wetlands/conservation areas under private ownership may be developed only pursuant to a limited development overlay, at density no greater than one unit per five acres (ref: Policy L.02.05 H, 13.1.)

NOW, THEREFORE, BE IT RESOLVED THAT:

1. That the CITY OF FERNANDINA BEACH does hereby declare that prior to its determination and decision on the Request, pursuant to the requirements and provisions of Florida Statutes §704.04(1) 1999, to the creation and grant of a 60' right-of-way access to Crane Island across the airport property, that additional information be obtained and provided, as follows:

- a. That the access route, if granted, shall commence at the termination of "Riverside Road," and continue on in an exact route and location to be determined and agreed upon by the City and the owners of Crane Island, subject to, and only upon the satisfaction of, the following conditions:
- b. That the City shall be compensated the fair market value for the imposition of such statutory way of necessity, in accordance with Florida Statutes §704.04;
- c. That all of the owners of all of Crane Island shall agree to the grant of an 'avigation easement,' in such form as may be approved by the FAA, FDOT and City Attorney;
- d. That Crane Island shall be developed for residential purposes, only unless otherwise agreed to in writing, by the City Commission of the City of Fernandina Beach;

- a. That all of the owners of all of Crane Island shall, upon Demand and Release unto the City any right, title, interest or claim it may have in and to the certain 15 foot roadway as created or conveyed to John Broadbent by instrument dated February 12 1987, and recorded in Deed Book J, page 415, of the public records of Nassau County, Florida;
- b. That the property owners of Crane Island shall provide an FRA approved, updated noise contour study, and shall secure and present to the City written approvals of the proposed development of Crane Island by the Federal Aviation Administration (FAA) and Florida Department of Transportation (FDOT), and, including specifically, but not limited to, compliance with Florida Statutes, Chapter 380 FRA advisory Circulars 150/5300-13 and 150/5200-33 and Federal Aviation Regulation (FAR) Part 77 "Obstacles Affecting Navigable Airspace;"
- c. That the property owners of Crane Island obtain and submit proof of all required development approvals from all required agencies, including, but not limited to, the St. Johns River Water Management District (SJRWMD), the Florida Department of Environmental Protection (FDEP), the U.S. Army Corps of Engineers, Nassau County and, if applicable, the Florida Department of Community Affairs (DCA);
- d. That the property owners of Crane Island submit satisfactory written evidence that the proposed development of Crane Island meets and complies with the Nassau County Airport Zoning Ordinance, Article 26 of the Nassau County Zoning Code, Ordinance Number 97-19, as amended, and with the Fernandina Beach Airport Zoning Code, Chapter 102 of the Code of Ordinances of the City of Fernandina Beach;
- e. That the property owners of Crane Island agree to the creation and recording of aviation/airport related restrictive covenants to apply to all development and conveyances of lots on Crane Island prior to any such development or conveyance, in a form to be approved by the FAA, FDOT and the City Attorney.
- f. That all of the conditions, as hereinabove stated, must be met for the City to be able to consider the imposition and creation

of the statutory way of necessity.

3. That the City Manager be instructed to forward a copy of this Resolution to the Federal Aviation Administration (FAA), Florida Department of Transportation (FDOT), and Board of County Commissioners of Nassau County, Florida, with the request that each of them provide their comments and concerns, if any, regarding a request of the owners of Crane Island for the statutory easement described herein.

4. That upon satisfaction of the above conditions, and receipt of approvals from the FAA, FDOT, Nassau County and all other applicable and requisite federal, state or local agencies, the City Commission shall further consider the request of the owners of Crane Island for the granting of a statutory way of necessity.

Adopted at a meeting of the City Commission of the City of Fernandina Beach, Florida, duly noticed and held, this _____ day of _____, 2000.

CITY OF FERNANDINA BEACH

By: _____
Ron Sapp
Its: Mayor-Commissioner

ATTEST:

TICKI E. CANNON, CITY CLERK

CITY OF FERNANDINA BEACH, FLORIDA

JACOBS & PETERS, P.A.

ATTORNEYS AT LAW

401 CENTRE STREET

THE HISTORIC POST OFFICE BUILDING

SECOND FLOOR

FERNANDINA BEACH, FLORIDA 32034

TELEPHONE 904/261-3693

FAX NO. 904/261-7879

ARTHUR J. JACOBS
ROBERT L. PETERS, C.P.A.

OF COUNSEL
5. CLINCH KAVANAUGH

MAILING ADDRESS
POST OFFICE BOX 11
FERNANDINA BEACH, FL 32034

May 17, 1999

Fred H. Hays
City of Fernandina Beach
Post Office Box 663
Fernandina Beach, Florida 32035-0663

RE: Access for Crane Island

Dear Mr. Hays:

As you know, we represent the partnership developing Crane Island. Since our meeting on April 13, I have been discussing the matter of access further with Jim Higginbotham and Vince Graham. Jim reviewed the defined route with the City's airport engineer, Andrew Holesko of RS&H in Jacksonville, and assured us there would be no conflict with airport operations.

As to compensation for the access, we've been discussing ideas as you requested, and have come up with the following proposal for your review:

The total area of the easement, taking into account a credit for the existing 15' wide easement, is approximately four acres. An appraisal that was recently completed for the golf course property surrounding the airport put the value of the land at \$15,000.00 per acre. Thus, we believe the four acres of land to have a value of \$60,000.00 (4 acres x \$15,000 per acre).

However, the land in question would be an easement, not an outright purchase, and the Crane Island partners plan to build the road at their expense and make it available to the City for its use. This road will complete a large segment of the perimeter road set forth in the Master Plan for the airport.

Furthermore, in the spirit of neighborly relations, the Crane Island partners have been working with parents, Tommy Purus, and Jim Higginbotham, toward an improved plan for the Airfield Recreational Facility at the end of Bailey Road. The partnership commissioned their partner, Designworks, to work on the new field layout and drainage plans. Designworks is a Charleston, South Carolina planning firm that recently completed the soccer/baseball/softball facilities on the College of Charleston.

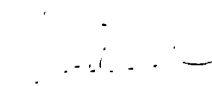
COMPOSITE EVIDENCE

Thus, we suggest the compensation be the to-be-built road that would run between Stone Island and the City, and the in-kind planning services undertaken for the Highway.

Please review this suggestion and get back in touch with me at your earliest convenience. I look forward to hearing from you.

With best wishes, I remain,

Sincerely yours



E. Clinch Kavanaugh

ECK:men

ARTHUR I. JACOBS
OF COUNSEL
2. CLINCH KAYAMAUGH

ATTORNEYS AT LAW
401 CENTER STREET
THE HISTORIC POST OFFICE BUILDING
SECOND FLOOR
FERDINANDINA BEACH, FLORIDA 32034
TELEPHONE (904) 261-1880
FAX NO. (904) 261-1877

MAILING ROOM
POST OFFICE BOX
FERDINANDINA BEACH, FLORIDA 32034

November 3, 1999

Ronald Sapp, Mayor
City of Ferdinandina Beach
415 Alachua Street
Ferdinandina Beach, Florida 32034

Dear Ronnie:

As you know, I represent the owners of 1.5 acres of land on the southern end of Crane Island. Led by their managing partner, Vince Graham, these owners seek a means of vehicular access through the City lands of the Ferdinandina Beach Airport to develop this property.

Before getting into the legalities of why the owners are due such access, I'd like to offer my personal observation of Vince Graham and his work. Patricia and I have visited his development in South Carolina and came away impressed. These projects are not exclusive enclaves, but neighborhoods in every sense of the word with a richness and diversity of homes and price ranges and careful attention to detail exhibited in wonderful parks and green spaces.

These neighborhoods have received recognition in such publications as Southern Living, The Wall Street Journal, and Traditional Home magazine. They have also been highlighted on CNN and the British Broadcasting Company. They have received environmental and design awards from such organizations as the American Institute of Architects, the National Association of Home Builders, and the South Carolina Department of Natural Resources. Vince himself has a national reputation for being among the leaders in the field of traditional neighborhood development, and is frequently asked to speak around the country and in Europe. In short, I feel his presence on Amelia Island would be of long term benefit to our whole community.

On behalf of the owners of Crane Island, I am hereby formally requesting a statutory easement to said lands pursuant to Florida Statute 704.01(2), to construct dwellings and improvements. The owners of Crane Island are entitled to such an easement for the following reasons:

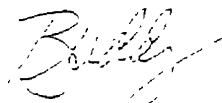
1. There is no unity of title from a common source other than the State of Florida or the United States of America.
2. The lands are outside the City of Ferdinandina Beach
3. The owners wish to construct dwellings and improvements on said lands.
4. The City of Ferdinandina Beach surrounds said lands by fence approximately 1/2 mile long.
5. The owners of said lands have no practicable route of egress and ingress to said lands.

- d. The nearest practical route of ingress and egress from Crane Island is from Bailey road. The survey of said route has been supplied the City of Fernandina Beach and was subsequently made a part of the St. Johns River Water Management District permit No. 4-889-3075A CMI-ERP (A copy of both documents are included with this correspondence).
- e. The proposed route of the easement will provide access to said lands in an orderly and proper manner.

I would like to meet with you at your earliest convenience in order to confirm the route of said easement and, to take what other action is necessary so that the road construction will be done in an orderly and proper fashion. At that time we can discuss appropriate compensation for the easement as well. My clients are ready to proceed with development and we expect the City of Fernandina Beach to cooperate with them concerning their statutory right of way of access. As stated above, we have previously submitted to the city a survey of the proposed route. If we can not come to an agreement in this matter we will have no choice but to seek recourse in the circuit court for injunctive relief and damages. F.S. 704.04(1998); see also Sapp vs. General Development Corporation, 472 So.2d 594, (2nd DCA 1985); Huffman vs. Loffite, 544 So.2d 170 (1st DCA 1990); Florida Power Corporation v. Souder, 350 So. 2d 106 (Fla. 2nd DCA 1977); Franklin vs. Boatright, 399 So. 2d 1132, (Fla. 1st DCA 1981); Rev. D. 411 So.2d 362 (Fla. Oct. 22, 1981); South Florida Water Management District vs. Layton, 402 So.2d 597; Beil vs. W. T. Cox, Jr., 642 So.2d 1331 (Fla. 5th DCA 1994).

Ron, you and I have worked very hard recently to prevent something that would have had a negative impact on our community. However, it is not enough to simply be against what we don't want. We should take the challenging steps of identifying and supporting the positive change we do want. I believe a new neighborhood on Crane Island is one of those things. One of the remarkable aspects of this development will be a public park or esplanade for all to enjoy along the Amelia River. The underlying zoning would have allowed over 500 units. They have chosen to allow for only 250 to maximize environmental and esthetic concerns. It is beneficial developments of this nature that can add to a civic sense of shared purpose and make Amelia Island a better place to live. We owe this not only to ourselves and our fellow citizens, but to those generations that will follow us.

Yours sincerely,


Arthur L. Jacobs

ALJ/bg
Enclosures

cc: Commissioner Kimberly Page
Commissioner Jimmy Roueffer
Commissioner Patricia Thomas
Commissioner Marcia Fotopoulos
Mr. Fred Hays
Wesley Poole, Esquire

ARTHUR L. JACOBS
CARRY N. FAHET
OF COUNSEL
E. CLINCH KAVANAUGH

VICTORIEVS AT LAW
401 CENTRE STREET
THE HISTORIC POST OFFICE BUILDING
SECOND FLOOR
FERNANDINA BEACH, FLORIDA 32034
TELEPHONE 904-261-1860
FAX NO. 904-261-7878

MAILING ADDRESS
POST OFFICE BOX
FERNANDINA BEACH, FL

January 2, 2000

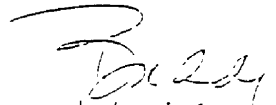
Wesley R. Proff, Esquire
Post Office Box 1230
Fernandina Beach, Florida 32035-1230

Re: Crane Island Easement

Dear Wesley:

This letter is to formalize our previous offers to the City of Fernandina Beach to compensate the City for an easement to Crane Island pursuant to 704.01(2) and 704.04, Florida Statutes. As we have stated before, all that we ask is that the City select any MAI appraiser it wishes and have him determine the amount of compensation for the easement using any commonly accepted professional methodology. Our clients will then pay the amount of compensation as determined by the City appraiser.

Yours sincerely,


Arthur L. Jacobs

AJ/bs

cc: City Commissioners

EXHIBIT 1

RESOLUTION NO. 89-81

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH OPPOSING THE DEVELOPMENT OF CRANE ISLAND WEST OF THE NEW AIRPORT IN NASSAU COUNTY.

WHEREAS, Crane Island is directly across Broadhead Creek from Amelia Island and the City of Fernandina Beach, and the City of Fernandina Beach Airport and

WHEREAS, the City of Fernandina Beach's Airport Advisory Commission recently reaffirmed, in a unanimous vote, its longstanding objection to residential development on Crane Island; and

WHEREAS, the environment surrounding Crane Island is tidal marsh; and

WHEREAS, tidal marshes are environmentally sensitive habitat and economically irreplaceable to northeastern Florida's commercial and recreational fishing, and eco-tourism industries; and

WHEREAS, the local Tourism Development Council spends several million dollars a year promoting Amelia Island as one of the 'most peaceful, most preserved, most relaxing places' in the world; and

WHEREAS, Amelia Island retains the charm of its origins: picturesque marshes; a tree cover of majestic magnolias and live oaks; habitat for now threatened and endangered species; and

WHEREAS, development would necessarily require disruption and loss of certain areas of tidal marsh and maritime forest on Crane Island; and

WHEREAS, the west side of Crane Island faces the Intracoastal Waterway and offers a beautiful picture of 'true real Florida' to visitors and residents alike as they travel Shiva Bridge, and to boaters coming into Florida from the north; and

WHEREAS, the loss of maritime forest on islands along the Atlantic coast to continuing development is a documented cause for the decline in populations of migrating neotropical birds such as the Painted Bunting; and

WHEREAS, a pair of Bald Eagles is known to frequent Crane Island and are believed to have nested on the island; and

WHEREAS, a Bald Eagle's nest on Crane Island would be the only known Bald Eagle nest in all of Nassau County; and

WHEREAS, Fernandina Beach and Amelia Island are by far the most heavily populated of the county's three incorporated areas and the Nassau County future land use map designates Crane Island as 'conservation/wetlands' and

EXHIBIT I

ARTHUR J. LACER
JIMMY M. SAUER
OF COUNSEL
C. CLINCH KAVANAUGH

407 CENTER STREET
THE HISTORIC POST OFFICE BUILDING
SECOND FLOOR
FERNANDINA BEACH, FLORIDA 32034
TELEPHONE (904) 261-3693
FAX NO. (904) 261-7879

MAILING ADDRESS
POST OFFICE BOX 1110
FERNANDINA BEACH, FL 32034

March 7, 2000

Wesley R. Poole, Esquire
Post Office Box 1280
Fernandina Beach, FL 32035-1280

Re: Crane Island

Dear Wesley:

As you are undoubtedly aware the owners of the southern two-thirds (2/3) of Crane Island also own a fifteen foot (15') road from the end Bailey Road to "the road across the marsh" at Crane Island. Clinch and I have previously provided you with the chain of title of Crane Island and for the fifteen foot (15') road. With this letter I am also providing you with a copy the Final Judgment in the suit to Quit Title which was entered on September 12, 1972 for Crane Island and the road. Contrary to the representations made to the federal government at the time the airport was constructed, the city did not own all the land in Government Lot 3, Section 6.

Our clients have worked for many months with a number of governmental agencies, and individuals in this community in order to develop a sixty foot (60') right-of-way from the end of Bailey Road to Crane Island that would have a minimum or no impact on the airport, the soccer fields, the environment, existing neighborhoods, traffic, utilities, and the like. Furthermore, the City Commission, in Resolution No. 2000-06 found that our client satisfied all the elements for right-of-way by necessity as set out in Chapter 704.01(2), Florida Statutes. Inexplicably, in the same Resolution, they refused to grant our easement as required by law.

Because of the commission's action our client has been left with no other choice but to go back to using their fifteen foot (15') road. The road was previously surveyed in connection with the above-referenced suit to quiet title, and a copy of that survey is in the Crane Island files at City Hall along with a copy of the original deed for the road from Nellie and Prince Albert to John Broadbent dated February 12, 1887, recorded at Book U, page 425. Jim Pencock at Coastal Surveying is in the process of staking that road and it will be appropriately flagged. We have already met with the Amelia Island Soccer League and explained to them the situation. They were dismayed at the City Commission's action in refusing to grant the access road along the negotiated route which begins at Bailey Road then runs due west to the edge of the marsh then south along the marsh to Crane Island. This would have put the road behind the soccer fields, and would inconvenience no one. In order not to disrupt play on the soccer field, we have told the Amelia Island Soccer League that once the fields are grassed we will not stake the fields but will instead mark the boundaries of the

Compos. & EXHIBIT J

road with orange paint. The Amelia Island Soccer League and only the Amelia Island Soccer League will be authorized to utilize the road right-of-way, and then, only in the area that it runs through the recreational facilities of Ybor Alvarez Park.

On February 17th, Clinch and I met with Richard Owen, Project Manager of the Orlando District Office for the FAA Southern Region to notify him that we intended on using the fee simple road to Crane Island in as much as the City of Fernandina Beach refused to provide an easement over the negotiated route. He informed both Clinch and me that this matter would have to be resolved between the owners of Crane Island and the City of Fernandina. Furthermore, according to Mr. Owen, the FAA intended on staying out of the access dispute between the City of Fernandina Beach and our clients unless specifically asked to become involved by the city. As to the easement running along the edge of the marsh, Mr. Owen did admit that in fact there is no written policy that prohibits a road in the RPZ zone if in fact it complies with the vertical limitations as set forth in FAR Part. 77.

This letter is to formally notify you that our clients intend on utilizing the road as needed. (Town of Hilliard vs. Gerald Nyrren) see Judge Foster opinion in No. 99-2-CA; Fla. 4th Cir.Ct. Nassau County, 1999; 745 So2d 530 (Fla. 1st DCA, 1999). I trust that you will take the necessary steps to issue the NOTAM's and make the necessary runway markings if needed. Obviously, as you have previously pointed out, a fifteen foot (15') is neither practicable nor practical. Nonetheless, our client owns it in fee simple and although it might not be much of a road it provides some kind of access to my clients land-locked property. We are hereby putting you on notice that as of the 15th day of March we will proceed to use the private road at will. I have spoken with Jack D'Amato and explained to him the situation in as much as this road begins in the county and ends in the county. He has no objections to the owners of Crane Island using the fifteen foot (15') road, however, he did say a fifty (50) or sixty (60) foot right-of-way would be required if our clients intended on putting dwellings on the island.

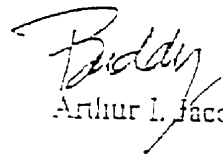
It is unfortunate that the City Commission has acted in such an unreasonable manner that my clients, in order to reach their property, will be forced to utilize this narrow strip of property. Nonetheless, that is what they intend on doing. So that there is no confusion about where our property is, and, who has dominion and control of that property, it will be permanently flagged and it will be posted with "No Trespassing" signs. We are hereby formally notifying the City of Fernandina that they, under no circumstances, are to trespass on our client's property. Ironically, the city now finds itself in a land-locked situation with the northwest corner of the airport that is severed by the fifteen foot (15') road to Crane Island. Our clients realize that the city is entitled to access under Chapter 704.01 to their land-locked property, and, being reasonable they are willing to grant the city a sixty foot (60') easement across their road. Furthermore, our clients will allow the city to select the location of its easement. Please notify our office of the exact location which the city would like to have an easement to in order to reach their land-locked parcel.

Wesley, both Clinch and I are still shocked and dismayed at the city's unreasonable refusal to comply with the provisions at 704.01(2) Florida Statutes. We believe, as a matter of law, that it is unreasonable for an elected official who takes an oath to follow the laws of the State of Florida to pass a Resolution which finds that a party has met all the statutory requirements for a right-of-way of necessity, and then, to proceed to deny them their right of access to their property. As you know, Florida Statute 704.01(2) is ministerial in nature. It is not discretionary. If the land-locked property owners meets the necessary elements of the statute. The City of Fernandina Beach must grant an easement over the servient lands pursuant to Florida Statutes 704.01(2). Because the legislature of the State of Florida foresaw that there would be some people who acted unreasonably in this type of situation, they provide in Florida Statute 704.04 that the court, in its discretion could award attorney fees and costs against either party for unreasonably refusing to comply with the provisions of statute 704.01(2). Last Friday during our telephone conversation, I suggested that we mediate this case as soon as possible in order to reach a quick and reasonable resolution of this matter. You refused that offer.

On behalf of my clients, we believe this matter should be resolved without further litigation.

Again, I want to stress to you that our clients have already incurred substantial damages and legal fees which we will seek to recover from the city pursuant to Florida Statutes 704.04. If, the city has any interest in resolving this law suit without incurring any more attorneys fees and cost, please feel to contact me or Clinch at 904-261-3693.

Sincerely,


Arthur L. Jacobs

cc: Richard Owen
CMH7099 1400 0004 0583 4354
Vince Graham
Lindy Willis

March 8, 2000

VIA FACSIMILE

Wesley R. Poole, Esquire
303 Centre Street
Fernandina Beach, FL 32034

Re: Road to Crane Island

Dear Wesley:

I received a call from Jim Peacock this afternoon at approximately 4:30 p.m. and he advised me that you and Jim Higginbotham ordered his survey crew to stop surveying the fifteen foot (15') road from Bailey Road to the road across the marsh at Crane Island. As an officer of the court I expect you above all to follow the law. In particular, I draw your attention to Florida Statute 704.029:

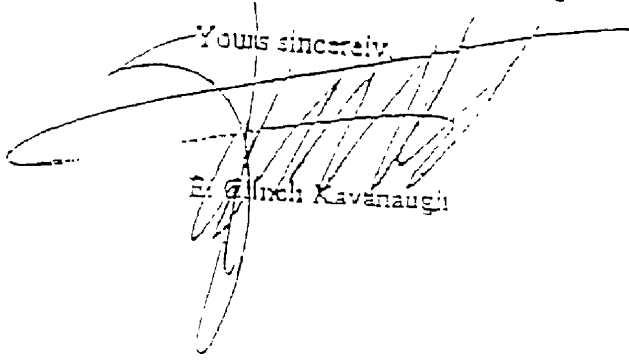
Surveyors and mappers may go on, over, and upon the lands of others when necessary to make surveys and maps and, in so doing, may carry with them their agents and employees necessary for that purpose. Entry under the right hereby granted does not constitute trespass, and surveyors and mappers and their duly authorized agents or employees so entering are not liable to arrest or to a civil action by reason of such entry; however, this section does not give authority to registrants, agents, or employees to destroy, injure, damage, or move anything on lands of another without the written permission of the landowner.

If you know of any reason why this law does not pertain to either you or the City of Fernandina Beach, please notify me of the same in writing immediately. If you would like to discuss this matter, please feel free to give me a call at 261-1693.

EXH B - 10

With this fax I have included a copy of a previous survey of said road by Charles Bennett & Associates on January 4, 1973, as well as a copy the suit to quiet title on Crane Island and the fifteen foot (15') road across the marsh. The owners of Crane Island have owned that road for 122 years and, as Buddy told you in his letter dated March 7th, we intend to use. If it takes a restraining order to keep you and Jim B. from violating the above-captioned statute, we will obtain the same and pursue any and all other legal remedies necessary to protect our clients property rights.

Yours sincerely,

A large, stylized handwritten signature in black ink, appearing to be 'E. J. Kavanagh', written over the 'Yours sincerely,' text.

E. J. Kavanagh

ECK/bg

Enclosures

CASE NO. 2000-11-CA
DIVISION: 2

LYNWOOD G. WILLIS and JANE T.
WILLIS, his wife; ROBERT H. STILL, JR.
And MICHAEL D. ABNEY as Co-Trustees of
that Trust created and executed under
date of December 31, 1992, for the
benefit of children of Lynwood G.
Willis and Jane T. Willis; VINCENT G.
GRAHAM; DUDASH INVESTMENTS, L.L.C.,
A South Carolina Limited Liability
Company and PIEDMONT SQUARE, L.L.C.,
A Virginia Limited Liability Company,

Plaintiffs/Petitioners,

vs.

CITY OF FERNANDINA BEACH,
a body corporate and politic,

Defendant,

MOTION FOR TEMPORARY INJUNCTION

Comes now the Defendant, CITY OF FERNANDINA BEACH, a Florida municipal corporation, (herein called "CITY"), by and through its undersigned attorneys, and moves the Court, pursuant to Rule 1.310 F.R.Civ.P., to enter a Temporary Injunction herein against Plaintiffs, their agents and employees, and would show as follows:

1. Defendant is the owner of certain real property in the City of Fernandina Beach, Nassau County, Florida, comprising the City of Fernandina Beach municipal airport, which said property

consists of, among other properties, that certain property known and described as:

All of the South Half (S1/2) of the North Half (N1/2) of Lot Numbered Three (3), in Section Six (6), Township Two (2) North, Range Twenty-eight (28) East, Nassau County, Florida.

Said property was acquired by the Defendant by Warranty Deed, dated June 30, 1943, and recorded in Deed Book 119, page 112, of the public records of Nassau County, Florida. A copy of said Warranty Deed is attached hereto as Exhibit "A."

2. Defendant has been in open, notorious, continuous and adverse possession of said property continuously since its acquisition of the same in 1943, and has maintained and operated thereon an active general aviation airport.

3. That Plaintiffs, through their attorneys, have threatened to enter onto the above property for the purposes of surveying, creating and using a "private road" at will. Copies of said attorneys' letters dated March 7, 2000, and March 8, 2000, are attached hereto as Exhibits "B" and "C", respectively. More specifically, a portion of the "road" as alleged by Plaintiffs in said letters lie within a "Runway Object Free Area" (ROFA) and "Runway Protection Zone" (RPZ) in Defendant City's airport.

4. Said Plaintiffs have, through their surveyors, further entered onto Defendant's property and placed surveyor's flags in an area which Plaintiffs' claim to be owned by them, said claim apparently based on that certain Quit-claim Deed executed from

predecessor in title, on February 11, 1867, and recorded in Deed Book U, page 425, of the aforesaid public records.

5. The Quit-claim Deed upon which Plaintiffs base their claim describes the "road" as follows:

That portion of Lot three of Sec. Six Township Two North at Range Twenty eight East described as follows a road fifteen feet wide for a neighborhood road commencing at the Road from Craney Island across the marsh thence in a North Easterly direction to the Neighborhood road leading to the public road all lying and being in the South half of the North half of Lot three of Sec 6 T2N Range 28 East.

6. As thus described, said "road" is non specific as to its location.

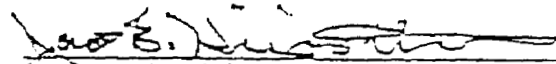
7. That no such road has physically existed on the Defendant's property, since prior to January, 1993, more than 7 years next prior to the filing of Plaintiffs' Complaint herein, and, if such road ever existed, it was abandoned and replaced by a forest of trees, which a portion of said trees were first removed by the Defendant in 1979, and periodically thereafter, for the purpose of maintaining its 'Runway Protection Zone' (RPZ) and 'Runway Clear Zone' (RCZ) as such are defined by Federal Regulations and Florida Statutes. In addition thereto, the Defendant installed a fence across the subject property between 1980 and 1985, effectively precluding the use of any such alleged "road" and maintained said fence on the property for more than seven years, openly, notoriously, continuously and adversely to any

COURT) that even if such road ever existed, Plaintiffs' claim of ownership is barred by Defendant's adverse possession of the same for more than seven years, under Florida Statutes §95.16.

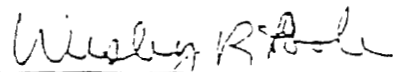
13. That because Defendant is a municipal corporation, and any bond would be an expense to the general citizenry of the city, and because of the likelihood of Defendant's prevailing on Plaintiffs' claim, no bond should be required of Defendant.

WHEREFORE, Defendant respectfully prays the Court to enter its Temporary Injunction, enjoining and prohibiting Plaintiffs from carrying out or performing any of the actions as threatened in Exhibits 'B' and 'C,' attached hereto, and not requiring any bond from Defendant.

I hereby swear or affirm, under penalties of perjury, that the above allegations are true.


James B. Higginbotham
Director of Public Works and
Airport Manager

POOLE & POOLE, P.A.


Wesley R. Poole
Attorney for Defendant
Post Office Box 1190
Fernandina Beach, FL 32035
Tel: (904) 261-0742
Fax: (904) 261-0745
Florida Bar No. 175441

NOTICE OF HEARING

To: Arthur I. Jacobs, Esquire
M. Clinton Kavanaugh, Esquire
Attorneys for Plaintiffs
P. O. Box 1110
Fernandina Beach, FL 32036-1110

PLEASE TAKE NOTICE that at 10:00 o'clock, a.m., on Friday, March 10, 2000, Defendant, CITY OF FERNANDINA BEACH, will call up for hearing before the Honorable Alban E. Brooker, one of the judges of the above-styled Court, in Chambers at the Temporary Nassau County Courthouse, 131 Nassau Place, Yulee, Florida, Defendant's Motion for Temporary Injunction. Time reserved is thirty (30) minutes.

PLEASE BE GOVERNED ACCORDINGLY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to ARTHUR I. JACOBS, ESQUIRE, Attorney for Plaintiffs, P. O. Box 1110, Fernandina Beach, FL 32036-1110, by hand delivery, this 9th day of March, 2000.

Wesley R. Post
Attorney

city 11221/injunction.doc

of the first part, and the ~~City of Fernandina, Florida~~ party of the second part.

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of Ten Dollars and other valuable considerations, to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, released, released, conveyed, conveyed and confirmed and by these presents do grant, bargain, sell, alien, release, release, convey, convey and confirm unto the said party of the second part and its successors and assigns forever, all that certain parcel of land lying and being in the County of ~~WASCO~~ and State of Florida, and particularly described as follows:

~~TO HAVE AND TO HOLD unto the said party of the second part, its heirs and assigns forever, all that certain parcel of land lying and being in the County of WASCO and State of Florida, and particularly described as follows:~~

TOGETHER with all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, dower and right of dower, reversion, remainder and easement thereto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the same in fee simple forever.

And the said parties of the first part do covenant with the said party of the second part that they are lawfully seized of the said premises, that they are free of all incumbrance, and that they have good right and lawful authority to sell the same and that said parties of the first part doth hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whatsoever.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year above written.

Signed, sealed and Delivered in Our Presence:

John T. Ferralva
Elise Stahl

(Witnesses as to both signatures.)
STATE OF FLORIDA,
County of Nassau.



Edith E. Chadwick Flood
James J. Flood

I HEREBY CERTIFY, that on this 30th day of June A. D. 1946, before me personally appeared EDITH E. CHADWICK FLOOD, joined by her husband, JAMES J. FLOOD, to me known to be the persons described in and who executed the foregoing conveyance to the CITY OF FERNANDINA, a municipal corporation of Nassau County, Florida, and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein mentioned; and the said EDITH E. CHADWICK, the wife of the said JAMES J. FLOOD, on a separate and private examination taken and made by me before me, and separately and apart from her said husband, did acknowledge that she was herself party to the said Deed of Conveyance for the purpose of renouncing, relinquishing and conveying her right, title and interest, whether of dower or of separate property, statutory or equitable, in and to the lands therein described, and that she executed said deed freely and voluntarily, without any constraint, fear, apprehension or compulsion of or from her said husband.

WITNESS my signature and official seal at City of Fernandina, in the County of Nassau in State of Florida, the day and year last aforesaid.

(Seal of Notary)

Recorded June 29th, 1946

John T. Ferralva
Notary Public, State of Florida as changed
by Commission Expiration Nov. 10, 1946

EX-13-1

ARTHUR J. LACOSSE
JERRY A. TAUER
OF COUNSEL
S. CLINCH KAVANAUGH

401 CENTRE STREET
THE HISTORIC POST OFFICE BUILDING
SECOND FLOOR
FERNANDINA BEACH, FLORIDA 32034

TELEPHONE: (904) 261-2632
FAX NO.: (904) 261-7879

MAILING ADDRESS
POST OFFICE BOX 1110
FERNANDINA BEACH, FL 32034

March 7, 2000

Wesley R. Poole, Esquire
Post Office Box 1280
Fernandina Beach, FL 32035-1280

Re: Crane Island

Dear Wesley:

As you are undoubtedly aware the owners of the southern two-thirds (2/3) of Crane Island also own a fifteen foot (15') road from the end Bailey Road to "the road across the marsh" at Crane Island. Clinch and I have previously provided you with the chain of title of Crane Island and for the fifteen foot (15') road. With this letter I am also providing you with a copy the Final Judgment in the suit to Quit Title which was entered on September 12, 1972 for Crane Island and the road. Contrary to the representations made to the federal government at the time the airport was constructed, the city did not own all the land in Government Lot 3, Section 6.

Our clients have worked for many months with a number of governmental agencies, and individuals in this community in order to develop a sixty foot (60') right-of-way from the end of Bailey Road to Crane Island that would have a minimum or no impact on the airport, the soccer fields, the environment, existing neighborhoods, traffic, utilities, and the like. Furthermore, the City Commission, in Resolution No. 2000-06 found that our client satisfied all the elements for right-of-way by necessity as set out in Chapter 704.01(2), Florida Statutes. Inexplicably, in the same Resolution, they refused to grant our easement as required by law.

Because of the commission's action our client has been left with no other choice but to go back to using their fifteen foot (15') road. The road was previously surveyed in connection with the above-referenced suit to quit title, and a copy of that survey is in the Crane Island files at City Hall along with a copy of the original deed for the road from Nellie and Prince Albert to John Broadbent dated February 12, 1887, recorded at Book U, page 425. Jim Peacock at Coastal Surveying is in the process of staking that road and it will be appropriately flagged. We have already met with the Amelia Island Soccer League and explained to them the situation. They were dismayed at the City Commission's action in refusing to grant the access road along the negotiated route which begins at Bailey Road then runs due west to the edge of the marsh then south along the marsh to Crane Island. This would have put the road behind the soccer fields, and, would inconvenience no one. In order not to disrupt play on the soccer field, we have told the Amelia Island Soccer League that once the fields are grassed we will not stake the fields but will instead mark the boundaries of the

FILE - 12

March 7, 2000

page 2

road with orange paint. The Amelia Island Soccer League and only the Amelia Island Soccer League will be authorized to utilize the road right-of-way, and then, only in the area that it runs through the recreational facilities of Ybor Alvarez Park.

On February 17th, Clinch and I met with Richard Owen, Project Manager of the Orlando District Office for the FAA Southern Region to notify him that we intended on using the fee simple road to Crane Island in as much as the City of Fernandina Beach refused to provide an easement over the negotiated route. He informed both Clinch and me that this matter would have to be resolved between the owners of Crane Island and the City of Fernandina. Furthermore, according to Mr. Owen, the FAA intended on staying out of the access dispute between the City of Fernandina Beach and our clients unless specifically asked to become involved by the city. As to the easement running along the edge of the marsh, Mr. Owen did admit that in fact there is no written policy that prohibits a road in the RPZ zone if in fact it complies with the vertical limitations as set forth in FAR Part. 77.

This letter is to formally notify you that our clients intend on utilizing the road as needed. (Town of Hilliard vs. Gerald Nyren) see Judge Foster opinion in No. 99-2-CA; Fla. 4th Cir.Ct. Nassau County, 1999; 745 So2d 530 (Fla. 1st DCA, 1999). I trust that you will take the necessary steps to issue the NOTAM's and make the necessary runway markings if needed. Obviously, as you have previously pointed out, a fifteen foot (15') is neither practicable nor practical. Nonetheless, our client owns it in fee simple and although it might not be much of a road it provides some kind of access to my clients land-locked property. We are hereby putting you on notice that as of the 15th day of March we will proceed to use the private road at will. I have spoken with Jack D'Amato and explained to him the situation in as much as this road begins in the county and ends in the county. He has no objections to the owners of Crane Island using the fifteen foot (15') road, however, he did say a fifty (50) or sixty (60) foot right-of-way would be required if our clients intended on putting dwellings on the island.

It is unfortunate that the City Commission has acted in such an unreasonable manner that my clients, in order to reach their property, will be forced to utilize this narrow strip of property. Nonetheless, that is what they intend on doing. So that there is no confusion about where our property is, and, who has dominion and control of that property, it will be permanently flagged and it will be posted with "No Trespassing" signs. We are hereby formally notifying the City of Fernandina that they, under no circumstances, are to trespass on our client's property. Ironically, the city now finds itself in a land-locked situation with the northwest corner of the airport that is severed by the fifteen foot (15') road to Crane Island. Our clients realize that the city is entitled to access under Chapter 704.01 to their land-locked property, and, being reasonable they are willing to grant the city a sixty foot (60') easement across their road. Furthermore, our clients will allow the city to select the location of its easement. Please notify our office of the exact location which the city would like to have an easement to in order to reach their land-locked parcel.

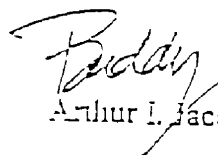
March 7, 2000

Page 3

Wesley, both Clinch and I are still shocked and dismayed at the city's unreasonable refusal to comply with the provisions at 704.01(2) Florida Statutes. We believe, as a matter of law, that it is unreasonable for an elected official who takes an oath to follow the laws of the State of Florida to pass a Resolution which finds that a party has met all the statutory requirements for a right-of-way of necessity, and then, to proceed to deny them their right of access to their property. As you know, Florida Statute 704.01(2) is ministerial in nature. It is not discretionary. If the land-locked property owners meets the necessary elements of the statute, The City of Fernandina Beach must grant an easement over the servient lands pursuant to Florida Statutes 704.01(2). Because the legislature of the State of Florida foresaw that there would be some people who acted unreasonably in this type of situation, they provide in Florida Statute 704.04 that the court, in its discretion could award attorney fees and costs against either party for unreasonably refusing to comply with the provisions of statute 704.01(2). Last Friday during our telephone conversation, I suggested that we mediate this case as soon as possible in order to reach a quick and reasonable resolution of this matter. You refused that offer.

On behalf of my clients, we believe this matter should be resolved without further litigation. Again, I want to stress to you that our clients have already incurred substantial damages and legal fees which we will seek to recover from the city pursuant to Florida Statutes 704.04. If the city has any interest in resolving this law suit without incurring any more attorneys fees and cost, please feel to contact me or Clinch at 904-261-3693.

Sincerely,


Arthur I. Jacobs

cc: Richard Owen
CM#7099 3400 0004 0583 4354
Vince Graham
Lindy Willis

March 3, 2000

VIA FACSIMILE

Wesley R. Poole, Esquire
303 Centre Street
Fernandina Beach, FL 32034

Re: Road to Crane Island

Dear Wesley:

I received a call from Jim Peepock this afternoon at approximately 4:00 p.m. and he advised me that you and Jim Higginbotham ordered his survey crew to stop surveying the fifteen foot (15') road from Bailey Road to the road across the marsh at Crane Island. As an officer of the court I expect you above all to follow the law. In particular, I draw your attention to Florida Statute 704.029:

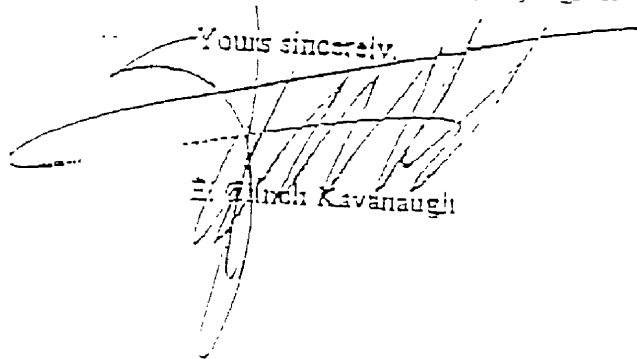
Surveyors and mappers may go on, over, and upon the lands of others when necessary to make surveys and maps and, in so doing, may carry with them their agents and employees necessary for that purpose. Entry under the right hereby granted does not constitute trespass, and surveyors and mappers and their duly authorized agents or employees so entering are not liable to arrest or to a civil action by reason of such entry; however, this section does not give authority to registrants, agents, or employees to destroy, injure, damage, or move anything on lands of another without the written permission of the landowner.

If you know of any reason why this law does not pertain to either you or the City of Fernandina Beach, please notify me of the same in writing immediately. If you would like to discuss this matter, please feel free to give me a call at 261-3693.

261-6-110

With this fax I have included a copy of a previous survey of said road by Charles Bennett & Associates on January 4, 1973, as well as a copy the suit to quiet title on Crane Island and the fifteen foot (15') road across the marsh. The owners of Crane Island have owned that road for 122 years and, as Buddy told you in his letter dated March 7th, we intend to use. If it takes a restraining order to keep you and Jim B. from violating the above-captioned statute, we will obtain the same and pursue any and all other legal remedies necessary to protect our clients property rights.

Yours sincerely,

A large, stylized handwritten signature in black ink, appearing to read "E. Finch Kavanaugh". The signature is written over a horizontal line and extends across the width of the page.

E. Finch Kavanaugh

ECK/bg

Enclosures

JOSEPH L. SILVA,

Plaintiff;

-vs-

SARA ALICE BROADBENT, if
said defendant is living, and if
said defendant is deceased, the
unknown spouse, heirs, devisees,
grantees, creditors or other
parties claiming by, through,
under or against said defendants,
if alive, and if dead, their unknown
heirs, devisees, legatees or
grantees; and all parties having
or claiming to have any right, title
or interest in the property herein
described; and the unknown spouse,
heirs, devisees, grantees, creditors,
or other parties claiming by, through,
under or against John Wood Broadbent,
if alive, and if dead; their unknown
heirs, devisees, legatees or grantees,
and all parties having or claiming to
have any right, title or interest in
the property herein described;

Defendants.

FINAL JUDGMENT
TO QUIET TITLE

THIS CAUSE coming on for final hearing upon the Complaint
to Quiet Title and the Answer of the Attorney Ad Litem, Guardian
Ad Litem and Administrator Ad Litem and the attorneys for the
respective parties being present, and the Court having considered
the evidence herein and being advised of the premises, finds as follows:

1. That the Plaintiff, Joseph L. Silva, is the fee simple
owner of the land described in the Complaint;
2. That the equities of this suit are with the Plaintiff and
against the Defendants;

FILED
CLERK
JAN 21 1934
DASASU COUNTY
FLORIDA

1. The Plaintiff, Joseph L. Silva, is hereby declared and decreed to be the owner in fee simple of the land set forth in the Complaint, situate, lying and being in Nassau County, Florida, and described as follows:

PARCEL 1.

ALL THAT TRACT OF LAND known as CRANEY ISLAND, also described as all of Section Nineteen (19), Township Two (2) North, Range Twenty-Eight (28) East, together with all riparian rights hereunto belonging or in anywise appertaining. Being the same property that was conveyed by A. B. Noyes to John Wood Broadbent under the date of July 7th, 1886 as the same appears of record in Book "XXX" pages 31 and 32 public records of Nassau County, Florida.

PARCEL 2.

TOGETHER with all my right, title and interest in the road across the marsh on the approach to the forereald island which is recorded in Book "U" page 425 public records of Nassau County, Florida, to wit: That portion of Lot Three (3), Section Six (6), Township Two (2) North, Range Twenty-Eight (28) East described as follows: A road fifteen feet from Craney Island across the marsh, thence in a Northerly direction to the neighborhood road leading to the public road all lying and being in the South half of the North half of Lot Three (3), Section Six (6), Township Two (2) North, Range Twenty-Eight (28) East. To be used as neighborhood road.

2. The Plaintiff's title to said land be, and the same is hereby, quieted, and established, and the claims, or alleged claims, of the defendants, and each of them, and the same are hereby, hereto, removed and decreed not to constitute clouds upon the Plaintiff's title to said land.

3. Any right, title or interest of the Defendants, and each of them, claimed in and to said land be, and the same is hereby, cancelled and annulled, and the Defendants, and each of them, are hereby enjoined and restrained from asserting or attempting to assert any right, title, interest, claim or demand in or to said land, or any part thereof.

DONE AND ORDERED at Fernandina Beach, Nassau County,
Florida, this 13th day of July, 1972, A. D. 1972.

Marion W. Hodgson
CIRCUIT JUDGE

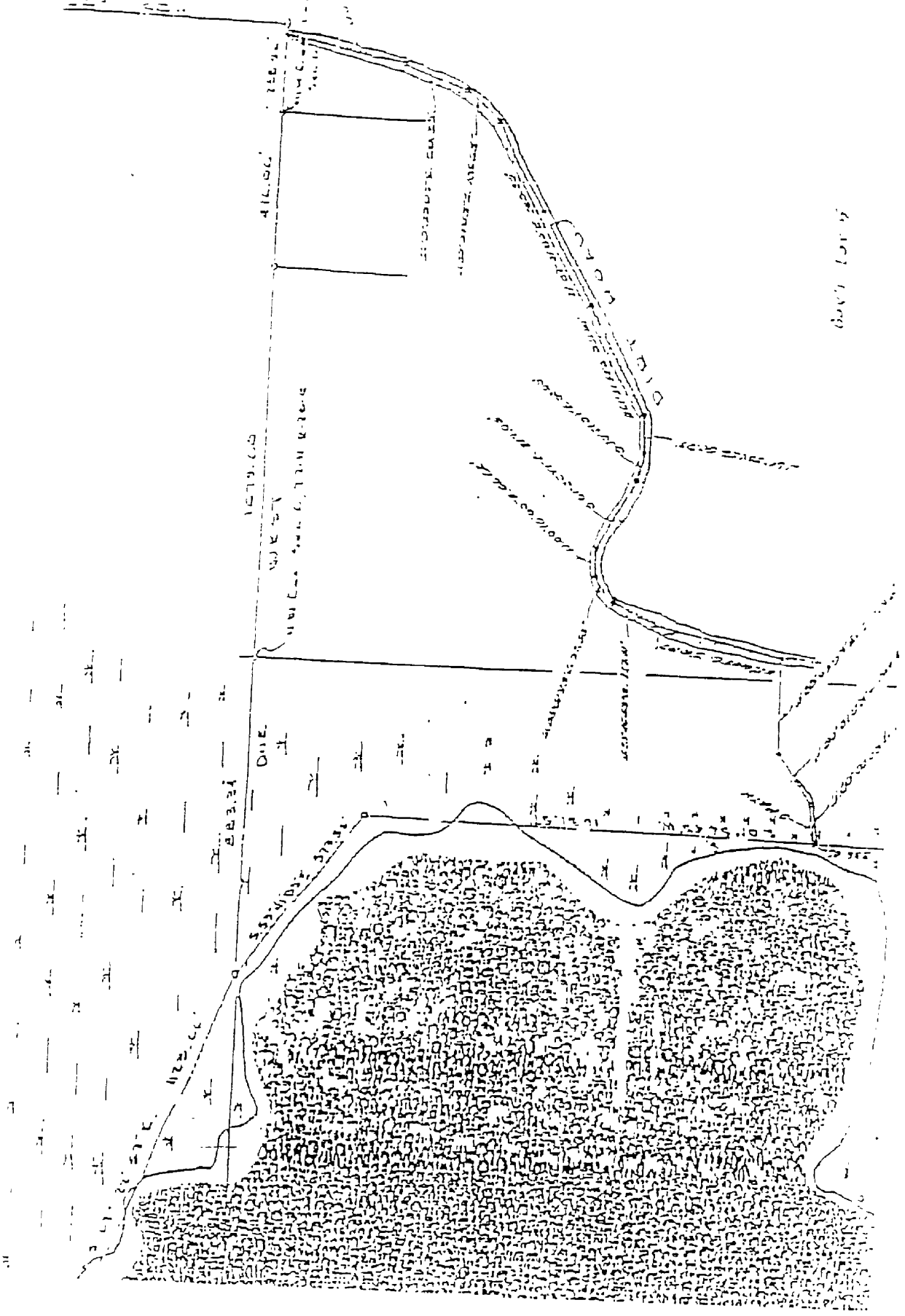
Copies furnished to:

R. Lee Smith, Esquire
Greene, Greene, Smith & Davenport
2601 Gulf Life Tower
Jacksonville, Florida 32207

Dudley Hardy, Esquire
Smith & Hardy
1904 Gulf Life Tower
Jacksonville, Florida 32207

6754
FILED AND RECORDED
IN OFFICE
1972 SEP 13 PM 1:44
D. O. OXLEY
CLERK CIRCUIT COURT
NASSAU COUNTY, FLA.

Box 1019



LEGAL OPINION

FERNANDINA, FLORIDA.

City Commission
Fernandina, Florida

JUNE 23, 1943.

Gentlemen:

We have examined the title to the following described property:

All that certain lot, piece or parcel of land situate, lying and being in the County of Nassau, State of Florida, described as follows: All of lot numbered Three (3) in Section Six (6), Township Two (2) North, Range Twenty-eight (28) East.

This opinion is based solely upon the abstract submitted to us, which abstract is dated the 7th day of June, 1943, and prepared by the Fernandina Title & Abstract Co., Inc. and consists of eighty-four (84) items.

The abstract shows no title out of the United States of America, of record.

The abstract indicates that the title begins with one Moses Robinson. Under date of April 4, 1882, Moses Robinson conveyed all of the above described property to John W. Howell. The deed of conveyance, from a personal inspection of the Court records, shows it to be April 24, 1882, and the acknowledgment of said deed is shown to be April 4, 1882. From the foregoing

EXHIBIT. L

7 000

the nature of subsequent instruments. It is our opinion that the Clerk of the Court at that time inadvertently wrote April 16, 1882, when as a matter of fact he intended to write April 4, 1882. While at this date seemed to be vested in the said John W. Howell. However, on the same date, to-wit, April 4, 1882, an agreement was entered into between the said John W. Howell and Moses Robinson, stating in effect that the conveyance above referred to, while absolute in its terms, is intended in effect as a security for a loan and recites in said agreement that in the event the consideration of \$50.00 was not paid on the due date, the deed from the said Moses Robinson to John W. Howell would become an absolute conveyance. In our opinion the deed from the said Moses Robinson to John W. Howell under the verbiage of the said deed and instrument, the deed constituted a mortgage and from the very nature of the facts surrounding said instrument, we hold the deed to be a mortgage in fact, and as such is now barred by the statute of limitations and the title thereto still vests in Moses Robinson. As a matter of observation the deed from Moses Robinson to John W. Howell does not recite that the said Moses Robinson was unmarried, or if he was married, his wife did not join in this conveyance. As a matter of information, obtained from local citizens, it is understood that the said John W. Howell was generally known in this community as a money lender, which lends strength to our interpretation declaring the foregoing deed to be in effect a mortgage.

Under date of May 20, 1882, the Clerk of the Court issued a tax deed to one Stephen Randall for the above described

property, however, there is no evidence of any kind or nature whatsoever that the said Stephen Randall took any steps to hold actual and exclusive possession thereof; and there is no evidence or facts to even indicate that the said Stephen Randall held any actual, open, visible, notorious, hostile or exclusive adverse possession of said parcel of land. Apparently, Stephen Randall merely obtained a tax deed to some wild land and let the matter rest in that status without doing anything further to perfect such title.

Under date of February 2, 1889, John A. Ellerman, Sheriff of the County of Nassau, executed to Warren F. Scott a deed of all of the above described parcel of land by virtue of a certain writ of execution issued out of the Circuit Court of Nassau County in favor of said Warren F. Scott against Moses Robinson for the purpose of satisfying a judgment that the said Warren F. Scott held against Moses Robinson. The first deed of conveyance from John A. Ellerman to Warren F. Scott showed no acknowledgment to the deed, and subsequently another deed was issued by John A. Ellerman to Warren F. Scott curing the defect of the first deed.

The title to the above described parcel of land at this point subject to the matters above set forth is vested in Warren F. Scott, and hereafter the title is segregated into four separate chains, each of said four chains emanating from the base title in the said Warren F. Scott. The four subdivisions of the above parcel of land are described as: The NW $\frac{1}{4}$ of said Lot numbered 3; The S $\frac{1}{2}$ of the N $\frac{1}{2}$ of said Lot numbered 3; The E $\frac{1}{2}$ of the S $\frac{1}{2}$ of said Lot numbered 3 and the S $\frac{1}{2}$ of said Lot numbered 3. To take

and these subdivisions in one order named:

North 1/4 of Lot Three (2)

Under date of May 4, 1889, W. F. Scott and Mary F. Scott, his wife, conveyed the N₁ of Lot 3 to Pranelle Delaney.

Thereafter, under date of February 24, 1900, James Delaney and Pranelle Delaney conveyed the said N₁ of Lot 3 to Alexander J. Hanley.

Under date of April 29, 1940, a Tax Deed was issued by the State of Florida to Alex Hanley covering the N₁ of the N₁ of said Lot 3.

It is our opinion that affidavit should be obtained stating that Alexander J. Hanley mentioned in the foregoing deed of February 24, 1900, and the Alex Hanley mentioned in the Tax Deed of April 29, 1940, is one and the same person, if such be the fact.

As a matter of clearing up certain issues the deed referred to above from W. F. Scott and wife to Pranelle Delaney, dated May 4, 1889, recites one of the grantors as W. F. Scott, whereas said deed was executed as Warren F. Scott. It may be advisable that an affidavit be obtained from someone who knew this party, reciting the fact that one said W. F. Scott and Warren F. Scott mentioned in said deed is one and the same person.

South Half of North Half of Lot 3

All reference hereafter, unless otherwise stated, shall refer to the S¹/₂ of the N¹/₂ of said lot numbered Three (3) and when a reference is made to "the above described parcel of land" it shall refer to the S¹/₂ of the N¹/₂ of said lot Three (3).

Under date of February 13, 1887, Warren F. Scott conveyed the above described parcel of land to Holly Albert. The acknowledgment was taken before a Justice of the Peace and apparently neglected to affix his official seal, however, in view of the fact that so many years have elapsed since that date we do not attach a great deal of importance to this error. In this same conveyance the given name of the wife of Warren F. Scott was left blank, but she duly executed said deed as one of the grantors. In previous conveyances covering other parcels of land the wife of Warren F. Scott signed her name as Mary E. Scott, whereas in this conveyance she affixed her name as Mary E. Scott. Out of an abundance of precaution, it may be advisable to procure an affidavit from someone who knew Mrs. Scott reciting that Mary E. Scott and Mary O. Scott named in the several conveyances to this abstract is one and the same person.

2

✓ Under date of February 13, 1887, Holly Albert and Prince Albert conveyed to John F. Matthews a portion of the above described parcel of land described as "the road N. 1/2 of lot Three (3) and a neighborhood road containing the road from Groney

Island across the marsh thence in a Northwesterly direction to the neighborhood road leading to the public road "A".

Under date of May 7, 1910, John Albert and Magalo Albert, his wife, conveyed the above described parcel of land to L. L. Ferreira and D. A. Sturgess.

Thereafter, under date of April 10, 1910, Stephen Triggs and Fannie Triggs, his wife, Charlotte Hunter and Adolphus Hunter, her husband and Hester Wilson, a widow, the heirs at law of Kelly Albert, deceased, conveyed the above described parcel of land to L. L. Ferreira and D. A. Sturgess.

Under date of June 20, 1920, David D. Sturgess and Elsie T. Sturgess, his wife, conveyed the above described parcel of land by Warranty Deed to James Chadwick. On this same date, by Warranty Deed, Ruby G. Ferreira, the widow of Louis A. Ferreira, deceased, likewise conveyed the above described parcel of land to James Chadwick.

Under date of July 2, 1920, Ruby G. Ferreira as guardian of the persons and estates of Louis A. Ferreira, John B. Ferreira, Theodore H. Ferreira, Vanson E. Ferreira and Ernest H. Ferreira, minor children of the deceased, conveyed by Guardian's Deed the right, title and interest of said minors in the above described parcel of land to the said James Chadwick.

Under date of February 10, 1921, James Chadwick and Ernestine S. Chadwick conveyed the above described parcel of land to Spruce D. Lewis, and on said date the said Spruce D.

Syrnias and Jane D. Syrnias, his wife, executed a mortgage to James Chadwick. This mortgage was never satisfied or recorded, but under date of February 10, 1926, the said James D. Syrnias and Jane D. Syrnias executed a Quit Claim Deed to Frances E. Chadwick and Edith C. Chadwick Flood, sole heirs at law of the estate of James Chadwick, deceased. In the instrument signed by Syrnias and Jane D. Syrnias executed in 1926 on contract of purchase by R. Ely and J. W. Askins which instrument was not dated. However, the instrument is shown to have been executed January 1, 1926; there was no separate examination of the wife of Syrnias. Since Mr. Askins is a local resident and can be readily contacted it is suggested that an affidavit be obtained from him reciting in effect that this option was permitted to lapse and that neither of the parties holding said option have any further right or claim to and upon said property.

North Half of the South Half of Lot 3

All reference hereafter, unless otherwise specified, shall refer to the N $\frac{1}{2}$ of the S $\frac{1}{2}$ of Sec 3, T 1 N R 1 W when a reference is made to "the above described parcel of land" it shall refer to the said N $\frac{1}{2}$ of S $\frac{1}{2}$ of Sec numbered 3.

Under date of October 14, 1881, Warren F. Scott and Mary E. Scott, his wife, conveyed the above described parcel of land to Cupid Amstrong, attorney, from said wife "two acres therein known as 'Bard Pond'". The said 'Bard Pond' is sometimes referred to in other portions of the abstract as 'Bard Point',

and the right of way over the said lands to said pond not less than fifteen (15) feet wide running from the part of said pond nearest to the lands of said Scott, and upon a route to be selected by said Scott, and the said Scott reserved the right of a drain already laid out from said pond to the water through the lands hereby sold and conveyed".

On November 22, 1921, Emma Armstrong, the widow of Cupid Armstrong, Isadore Armstrong and (Janie Armstrong, his wife), son of Cupid Armstrong, Eva Mack, widow, daughter of Cupid Armstrong, Harry Armstrong, son of Cupid Armstrong and David Armstrong, son of Cupid Armstrong, conveyed to Charles J. Davis the above described parcel of land "excepting two acres known as Bird Pond nearest the land of W. P. Scott and a right of way over the said lands not less than 15 ft. wide from the part of said lands nearest the lands of W. P. Scott".

Thereafter, under date of December 27, 1921, Alfred Armstrong conveyed to Charles J. Davis the above described parcel of land; John Armstrong, unmarried, under date of December 22, 1921 conveyed to Charles J. Davis the above described parcel of land; and Charlotte Middleton, a widow, and daughter of Cupid Armstrong, and Julia Anderson, a widow, and daughter of Cupid Armstrong, under date of November 18, 1921, conveyed the above described parcel of land to Charles J. Davis, and that each of said deeds to Charles J. Davis, taken December 27, 1921, December 22nd, 1921, and November 18, 1921, carry the same execution in the description of the property conveyed as did that certain deed to the said Charles J. Davis dated November 22, 1921.

South One Quarter of Lot Numbered Three

All references hereafter, unless otherwise specified, shall refer to the S $\frac{1}{4}$ of Lot Numbered Three (1), and if and when a reference is made to "the above described parcel of land" it shall refer to the said S $\frac{1}{4}$ of Lot Numbered Three (1).

Under date of April 24, 1886, Warren W. Scott and Mary E. Scott, his wife, conveyed the above described parcel of land to Henry W. Lugg, "together with two acres known as Bird Pond, supposed to be in the NE $\frac{1}{4}$ of the S $\frac{1}{4}$ of said Lot (1) Three of Section No. (6) Six, Township 2 North, Range 28 East, as aforesaid, also the right of way as reserved in the conveyance to Capt. Armstrong of lands conveyed to the said Armstrong by parties of the 1st. part."

Thereafter, under date of August 2, 1920, a Tax Deed from the State of Florida was issued to James Chadwick covering the above described parcel of land and two acres known as "Bird Pond" in the NE $\frac{1}{4}$ of S $\frac{1}{4}$ of said Lot 1.

Under date of February 22, 1933, James Chadwick and Earnie S. Chadwick, his wife, conveyed by Deed to Frank D. Upchurch the above described parcel of land together with the two acres known as "Bird Pond" and other wise known as "Bird Pond" in the NE $\frac{1}{4}$ of said Lot 1 in Sec. 6 and also the right of way as referred to in the conveyance to Warren W. Scott and Mary E. Scott, his wife, to Capt. Armstrong, contained in the 1st. part of the 1st. part of this deed.

Under date of March 27, 1935, Frank D. Upchurch and Mother D. Upchurch, his wife, conveyed the above described parcel of land to H. Owens.

On February 24, 1935, Frank D. Upchurch and Mother D. Upchurch, his wife, conveyed to Charles W. Dyer, his wife and Clarence Wynn a 'Bird Pond' and also this tract of land to the said Bird Pond as reference to in said certain conveyance from Warren P. Scott and Mary Scott, his wife, to Charles Wynn bearing date of the 14th day of October 1931, and parcel of land containing two acres more or less.

Plans numbered 20, 21, 22 and 23 of said structure and the conveyances described in the title of above described parcel of land between H. L. Owens and his wife and also mortgage to the American Trust Co. which mortgage is subsequently satisfied of record and there is a notice of his ponders for the inclusion of a will declaring the conveyance of said property is between H. L. Owens and his wife valid, however, since no title has been vested in the said H. L. Owens and his wife, we feel that these references do not affect the title to the property in question.

IN OUR OPINION, therefore, based solely upon the contract submitted to us, subject, however, to such a personal inspection and accurate survey may show, title to the above described parcels of land is vested as follows:

- (a) The title to the N. 1/2 of the lot numbered 1 is vested in Alexander S. Danby.

(b) The title to the S $\frac{1}{2}$ of the N $\frac{1}{2}$ of said Lot numbered 3 is vested in Ernestine E. Chetwick and Edith E. Chetwick Flood, sole heirs at law of James Chetwick, deceased.

(c) The title to the N $\frac{1}{2}$ of the S $\frac{1}{2}$ of Lot 3 is vested in the heirs of Charles W. Larus, deceased, and title to "Bird Point" or "Bird Pond" and also the title to the said "Bird Point" or "Bird Pond" as more particularly hereinabove set forth, is also vested in the heirs of Charles W. Larus, deceased.

(d) The title to the S $\frac{1}{2}$ of said Lot 3 is vested in A. Swedlow.

(e) The title to that part of the S $\frac{1}{2}$ of the N $\frac{1}{2}$ of said Lot 3 described as a "Road 12 feet wide for a neighborhood road commencing at the road from Craney Island across the marsh thence in a northeasterly direction to the neighborhood road leading to the public road" is apparently vested in John W. Drobent.

(f) The title to that part of the N $\frac{1}{2}$ of the S $\frac{1}{2}$ of said Lot 3 reserving "the right of a drain already laid out from said pond to the marsh through the land hereby sold and conveyed" is apparently still vested in Warren F. Scott. The pond referred to in said reservation as "Bird Pond" and said reservation refers to the conveyance of Warren F. Scott and Mary H. Scott, his wife, to Child Armstrong in that certain deed dated October 10, 1885.

Subject to the following, in addition to the objections hereinabove pointed out:

(1) There is no deed, grant or patent out of the United States of America to Moses Robinson or any other party of record which deed, grant or patent must be obtained and recorded in the public records of Nassau County, Florida.

(2) While there is no evidence that Stephen Randall ever exercised any actual or constructive possession to all or any part of said No. 2, it would be advisable as a precautionary method to obtain a deed from the said Stephen Randall, or from his heirs if he is dead.

(3) We recommend that an affidavit be obtained from the records be kept clear that Warren F. Scott and T. Scott is one and the same person.

(4) An affidavit may be obtained in order to determine whether or not Mary C. Scott and Mary E. Scott is the same person or the reason for such discrepancy in the initial.

(5) As stated in the foregoing opinion an affidavit should be obtained to clarify the fact that Alexander J. Hanley and Alex Hanley is one and the same person.

(6) In item 10, 11 of the abstract the name of the grantor is shown as Jean J. Scobious whereas item 11 of the same abstract shows the name as Jean J. Scobious. An affidavit should be obtained to clarify this discrepancy.

(7) Item 11 and 12 of the abstract shows conveyance to L. A. Ferreira and D. D. Margoss; the grantors of these conveyances presumably are the heirs of Alex Hanley. An affidavit should be obtained to determine whether or not A. Ferreira

(13) It is recommended that an affidavit be obtained reciting that Emma and S. Ruby of the name of Chardwick is one and the same person.

(14) The abstract shows that Charles W. Davis died December 3, 1905, and left surviving him Bertha S. Davis, his widow, Charles W. Davis, Jr., his son, William A. Davis, a son, Hamilton C. Davis, a son, Esther Davis Thompson, his daughter, Louise Davis Dodson, a daughter and Nell Davis Hamlin, a daughter.

(15) The abstract shows that John W. Broadbent died leaving heirs and representatives him surviving, viz, Esther Ann Gilva, a daughter and Lavin Ellen Broadbent, a daughter.

(16) By appropriate proceedings Ruby Gertrude Ferreira was appointed administratrix of the estate of Louis A. Ferreira, deceased; and likewise by appropriate proceedings Ruby G. Ferreira was appointed as Guardian of Louis A. Ferreira, Jr., John D. Ferreira, Theodore L. Ferreira, Vernon F. Ferreira and Ernest L. Ferreira, minors at law of Louis A. Ferreira, deceased.

(17) It is suggested that an affidavit be obtained merely for the purpose of clarifying the record, stating in effect that Louis A. Ferreira and L. A. Ferreira, the grantee to a portion of said Lot Numbered 3, is one and the same person.

(18) Item No. 66 of said abstract shows Certificate #280 for 1894 taxes as being unredeemed; Item No. 68 shows Certificate #531 redeemed by F. Wilson for 1896 taxes; Item No. 69 shows Certificate #309 redeemed by J. Wilson for 1899 taxes; Item No. 70 shows Certificate #203 redeemed by J. Wilson for 1900 taxes; Item No. 71 shows Certificate #1048 purchased by James Chadwick for 1913 taxes; Item No. 72 shows Certificate #107 redeemed by said Chadwick for 1916 taxes; Item No. 73

shows Certificate #495 sold to James Chadwick and marked "Certificate unredeemed" for 1919 taxes. In our opinion pursuant to Section 1001 (124) of the Compiled General Laws of Florida, Permanent Supplement, 1940 Parts, Section, in effect a twenty year statute of limitation on all tax certificates held by any private holder, the foregoing certificates are therefore void and barred by said statute.

(19) Item No. 67 of said abstract states that Certificate #281 issued as property "Unknown" and sold to the State Treasurer, such certificate was subsequently sold December 20, 1937 under House Bill #396 to Willard Howatt in the State and County Tax Sale of November 4, 1895 for 1894 taxes. In our opinion this certificate must be redeemed, and cancelled of record.

(20) Abstract Item No. 77 likewise shows that a certificate #465 was sold December 20, 1937 under House Bill #396 to Willard Howatt at the State and County Tax Sale of August 4, 1910 for 1929 taxes. In our opinion this certificate must be redeemed.

(21) An affidavit showing actual or constructive possession under Tax Deed to the S^{ts} of said Lot 2 by Charles J. Davis is recommended.

NOTE: Eva Mack was not a widow at the time she signed Deed (Item 21), her husband was living (Henry Mack) and is still living and has since re-married and now working at Tomner Fertilizer Company, Jacksonville, Florida.

Attorneys For City Commission

CITY OF FERNANDINA

THIS INDENTURE, Made this 30th. day of June A. D. 1943, BETWEEN EDITH E. CHADWICK FLOOD, joined by her husband, JAMES I. FLOOD, both of the County of NASSAU and State of FLORIDA, parties of the first part, and the CITY OF FERNANDINA, a municipal corporation of Nassau County, Florida, party of the second part,

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of Ten Dollars and other valuable considerations, to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, remised, released, conveyed, confirmed and by these presents to grant, bargain, sell, alien, remise, release, convey, convey and confirm unto the said party of the second part and its successors and assigns forever, all that certain parcel of land lying and being in the County of NASSAU and State of Florida, more particularly described as follows:

"ALL of the South Half (33) of the North Half (N1/2) of Lot Numbered Three (3), in Section Six (6), Township Two (2) North, Range Twenty-eight (28) East, lying and being in Nassau County, Florida; together with all of the right, title and interest said parties of the first part may have in and to all of said Section Six (6), Township Two (2) North, Range Twenty-eight (28) East, lying and being in Nassau County, Florida."

TOGETHER with all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, power and right of power, reversion, remainder and judgment thereto belonging or in anywise appertaining:

TO HAVE AND TO HOLD the same in fee simple forever.

And the said parties of the first part do covenant with the said party of the second part that they are lawfully seized of the said premises, that they are free of all incumbrance, and that they have good right and lawful authority to sell the same; and that said parties of the first part both hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year above written.

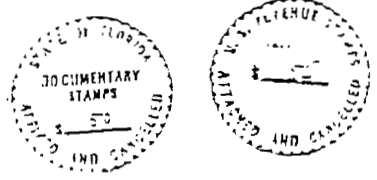
Signed, Sent and Delivered in Our Presence:

John T. Ferreira
State Seal

Edith E. Chadwick Flood ES.
James I. Flood HUSB.

Witnesses as to both signatures.

STATE OF FLORIDA,
County of Nassau.



I HEREBY CERTIFY, that on this 30th. day of June A. D. 1943, before me personally appeared EDITH E. CHADWICK FLOOD, joined by her husband, JAMES I. FLOOD, to me known to be the persons described in and who executed the foregoing conveyance to the CITY OF FERNANDINA, a municipal corporation of Nassau County, Florida, and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein mentioned; and the said EDITH E. CHADWICK FLOOD, the wife of the said JAMES I. FLOOD, on a separate and private examination taken and made by me and her, and separately and apart from her said husband, did acknowledge that she alone herself executed the said Deed of Conveyance for the purpose of renouncing, relinquishing and conveying all her right, title and interest, whether it be of separate property, statutory or community, and to the uses therein described, and that she executed said deed freely and voluntarily, and that no constraint, fear, imposition or compulsion of or from her said husband.

WITNESS my signature and official seal as City of Fernandina, in the County of Nassau and State of Florida, this 30th day of June 1943.

EXHIBIT M

STATEMENT OF INSTRUMENTS PREPARED BY THE CLERK
TO THE PROBATE COURT.

✓ (1) Preparing satisfaction of mortgage from Willie
W. Allen to said lot two (2).

✓ (2) Preparing affidavit from Marie Allen that
that Larry M. Allen died intestate and left no debts or obligations,
and he died in accordance with law.

✓ (3) Preparing deed from the heirs of Larry M. Allen,
deceased, to the City of Fernandina.

✓ (4) Preparing deed from D. C. Sturges and wife
to City of Fernandina covering all of Section Eleven (11), across
the East Sixteen (16) and on thereof.

✓ (5) Preparing affidavit of D. C. Sturges as to
the physical and actual possession of the property conveyed.

✓ (6) Preparing affidavit that John F. Broadbent and
John F. Broadbent is one and the same person and having his heirs.

✓ (7) Preparing affidavit reciting that L. A.
Ferreira and Louis A. Ferreira is one and the same person; that
H. D. Sturges and David D. Sturges is one and the same person; and
that Ruby C. Ferreira and Ruby Fertrada Ferreira is one and the
same person.

✓ (8) Preparing affidavit that Ernestine S. Chabrier
and Lucie S. Chabrier is one and the same person.

✓ (9) Preparing affidavit of J. H. Askins reciting
that his option to the said lot numbered three (3) has lapsed.

✓ (10) Preparing quit claim deed from said lot
of John F. Broadbent to the City of Fernandina.

EXHIBIT N

(11) Preparing eleven (11) wills which shall be the heirs at law of Warren E. Scott, the names of said heirs and their residences are:

- * (a) Max V. Toldstein joined by her husband, Louis Toldstein.
- * (b) Gerie E. Metallus, a widow.
- * (c) Gerda Lundgren, a widow.
- * (d) Wilbur J. Scott, an adult.
- * (e) Frank E. Scott joined by his wife, Emma Scott.
- * (f) Florida Scott Schroeder joined by her husband, Arthur Schroeder.
- * (g) Jerome David Fens, unmarried.
- * (h) Stanley E. Fens, unmarried.
- * (i) Aubrey E. Fens joined by his wife Betty Fens.
- * (j) Hazelie Scott Green joined by her husband, Daniel Edward Green.
- * (k) Eloise January Scott, a widow.

* (12) Obtaining certified copy of grant from the United States of America to Moses Robinson.

* (13) Preparing affidavit that Warren E. Scott and W. E. Scott is one and the same person; that Mary E. Scott, Mary G. Scott and Mary C. Scott is one and the same person, and reciting all of the heirs at law of Warren E. Scott.

* (14) Preparing deed from wife Gladys E. Flood to and by her husband, James H. Flood, to the City of Ferris, Texas.

* (15) Preparing affidavit of Harry Armstrong setting forth all the heirs at law of Cupid Armstrong and reciting the relation as to the said Cupid Armstrong.



✓ (16) Preparing Warranty Deed for the tract deed joined by her husband, said deed to the City of Ferdinand.

✓ (17) Preparing Warranty Deed from Henry Mack to the City of Ferdinand.

✓ (18) Preparing five (5) Warranty Deeds from the heirs at law of Charles J. Davis as to the N¹/₂ of the S¹/₂ of said Lot numbered Three (3) with "Blind Pond" in a certain right of way in Section 14 (4), Township Two (2) North, Range Twenty-eight (28) East, said deeds being from the following:

- ✓ (a) Nell G. Davis, a widow;
 - Edward Davis Upchurch, joined by husband, Frank D. Upchurch;
 - William A. Davis, joined by his wife, Angel Starke Davis.
- ✓ (b) Charles J. Davis, Jr. joined by his wife, Jane Duncan Davis.
- ✓ (c) Hamilton J. Davis joined by his wife, Elizabeth B. Davis.
- ✓ (d) Louise Davis Dodson joined by her husband, Curtis S. Dodson.
- ✓ (e) Nell Davis Paulin joined by her husband, James T. Paulin, Jr.

✓ (19) Preparing five (5) quit claim deeds from the heirs at law of Charles J. Davis as to all of said Lot numbered Three (3), said quit claim deeds being from:

- ✓ (a) Nell G. Davis, a widow.
- ✓ (b) William A. Davis, joined by his wife, Angel Starke Davis.
- ✓ (c) Edward Davis Upchurch, joined by her husband, Frank D. Upchurch.
- ✓ (d) Charles J. Davis, Jr., joined by his wife, Jane Duncan Davis.



Six (6); all of fractional Section Seven (7) (except right-of-way on Amelia Road, known as Fernandina-Swanin Road); and all of Section Eight (8); all being in Township Two (2) North, Range Twenty-eight (28) East, Nassau County, Florida.

v (26) Obtaining Deed, agreements, etc., and clearing matter in regard Nassau Truck and Farm Company.

v (27) Obtaining possession affidavit from J. J. J. Cooper as to Alexander J. Hanley, deceased. in re property of Ruth Hanley Sorrells

v (28) Obtaining affidavit of Ruth Hanley Sorrells that she is sole heir of Alexander J. Hanley, deceased.

WORK ORDER 1 - AIRPORT LAYOUT PLAN UPDATE

WC NO. 1

REYNOLDS, SMITH AND HILLS, INC. (RS&H) agrees to perform and complete the following services, in accordance with the terms and conditions of the Master Consulting Services Agreement (dated _____, 1996) all of which terms and conditions are incorporated herein by reference:

Project Location: Fernandina Beach Municipal Airport, Fernandina Beach, Florida

Project Description: Airport Layout Plan Update and Technical Report, Boundary Survey, Aerial Photography and Mapping

Scope of Basic Services: Airport Layout Plan Update & Technical Report (See attached Scope of Work)

Scope of Special Services: Boundary Survey, Aerial Photography and Mapping (See attached Scope of Work)

Client Manager/Project Coordinator: Mr. James Higginbotham, Public Works Director

RS&H Project Director: Mr. Andrew M. Holeczo

Basic Services Compensation and Method of Payment: Lump Sum \$70,000.00

Special Services Compensation and Method of Payment: Lump Sum \$15,000.00 (Exact Cost to be Determined)

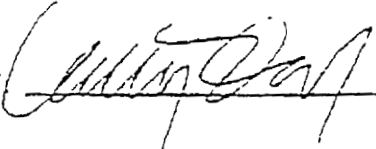
Schedule: To be determined at Notice-to-Proceed.

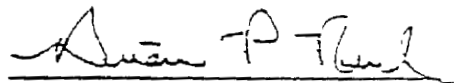
Deliverables: Airport Layout Plan Update and Technical Report

Other Considerations (if applicable): None.

"CLIENT"
CITY OF FERNANDINA BEACH

"RS&H"
REYNOLDS, SMITH AND HILLS, INC.

BY: 


BY: 

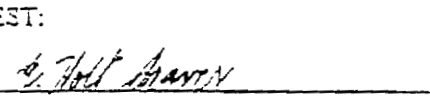
Zachary Z. Zoul
Typed Name

Brian P. Reed
Typed Name

Title: City Manager

Title: Vice President

ATTEST:
BY: 

ATTEST:
BY: 

Vicki P. Cannon
Typed Name

Holt Graves
Typed Name

Title: City Clerk

Title: Assistant Corporate Secretary

EXHIBIT 1

AIRPORT LAYOUT PLAN UPDATE (ALPU) AND TECHNICAL REPORT
for
FERNANDINA BEACH MUNICIPAL AIRPORT
CITY OF FERNANDINA BEACH, FLORIDA

Basic Services Scope of Work

I. SCOPE PREPARATION

Meet with the City of Fernandina Beach (OWNER) and FDOT representatives to determine the following. Prepare a conceptual layout of future improvements proposed for the airport property. The layout will provide a guide or path for the orderly development of the airport facilities with emphasis on the first five-year phase of development. A preliminary draft and a final draft submission will be made to the OWNER, FDOT, and the FAA with one set of revisions to be made per each submittal. A descriptive report will accompany the plan which will support the facilities recommendations in accordance with current FAA and FDOT guidelines and practices.

The scope of work is limited to the study items needed for an Airport Layout Plan Update (ALPU) and five-year Capital Improvements Plan (CIP) update, only. The scope of this amendment is not intended to be a full and extensive master plan. Under this scope of work, three documents will be produced:

- A. Executive Summary
- B. Technical Report
- C. Airport Plans Set

II. EXECUTIVE SUMMARY

The executive summary will be produced as a separate document. This document will contain a brief overview and explanation of the ALPU and Technical Report. It shall also include an abridged review of the current Airport Master Plan (AMP) which began in 1985 and was approved in 1990. The overview will address the development items recommended under the current AMP, discuss the developments that have been accomplished to date and determine which items still need to be pursued. The updated five-year CIP will be presented in a tabular form and represented on a reduced (11 inch X 17 inch) ALP.

III. TECHNICAL REPORT

Elements of the Technical Report provide a detailed update to the previous master plan study. Since this last airport planning effort, many changes have occurred in both the national and regional aviation systems; the economy; and the activity at the Fernandina Beach Municipal Airport. Sections of the Technical Report shall include forecasts, facility requirements, land use and ground access. When combined together, these elements will create an updated airport plan for the next 20 years.

A. Forecasts

Forecasts will include 5-year, 10-year and 20-year projections. If necessary, data will be extrapolated for the current AMP (1990). The following forecast items will be accessed:

- 1. Based aircraft and total annual operations data based on the current Continuing Florida Aviation System Plan Process (CFASPP).
- 2. Local and Itinerant operations based on the current Airport Master Record data (Federal Aviation Administration 5010 form).

3. Aircraft mix from 1990 AMPF will be reused.

B. Facilities Requirements Determination

Future facilities requirements will be primarily based on the forecasts for the airport. This element will consist of establishing a tabulation of projected facility requirements for a short term (five-years) and a long term (20 years) planning period. Considerations of this analysis include:

1. Verify current critical aircraft.
2. Re-evaluate future critical aircraft.
3. Classification and Role based on the latest Florida Aviation System Plan (FASP).
4. Determination of the existing and future FAA Airport Reference Code (aircraft design group and approach category).
5. Utilities Infrastructure.
6. Potential expansion of airfield facilities into the adjacent property located on the north side of the airport.
7. Explore Global Positioning Satellite (GPS) instrument approaches.
8. Conduct a site analysis for a future Airport Rescue and Firefighting Facility (ARFF).
9. Update terminal area requirements. Consider other quadrants of the airfield for aviation and non-aviation uses.
10. Evaluate FBO facilities.
11. Conduct a site analysis for future t-hangar development.
12. Locate a future terminal building.
13. Determine recommended runway lengths.
14. Include a summary of the required facilities.

C. Land Use

This section of the Technical Report will evaluate the present and future use for all land within the airport's boundary, and for the land adjacent to the airport to the extent that such land is related to airport operations. Elements include:

1. Identify direct aviation and aviation-related land uses.
2. Identify compatible non-aviation-related land uses (i.e., business airpark, golf course, recreation facilities, etc.).
3. Conduct an existing and future noise analysis based on the FAA's Integrated Noise Model (INM).

D. Ground Access

The ground access section of the Technical Report will evaluate the current and future airport access plans as related to the proposed developments. This element will be limited to the ground vehicles access throughout the terminal area; airfield perimeter (for crash/rescue and maintenance vehicles access); and access to revenue generating areas on the airport property. Traffic volume counts or projections will not be included in this element.

IV AIRPORT PLANS

The work under this element will produce a set of drawings for the Fernandina Beach Municipal Airport to graphically display the existing and proposed conditions of the facilities on the airport site and in the airport vicinity. The airport plans set will include:

- A. Title Sheet
 - 1. Depict airport vicinity.
 - 2. Depict airport location.
- B. Airport Layout Plan
 - 1. Depict existing and proposed facilities, airport access and acquisition.
 - 2. Depict maximum build-out and highlight first five-year improvements.
- C. Terminal Area Plans
 - 1. Depict in greater detail the current and future improvements.
 - 2. Two (2) plans will be required.
- D. Runway Protection Zone (RPZ) Plan and Profile.
 - 1. Depict current obstructions within the FAR Part 77 Imaginary surfaces.
 - 2. Depict future RPZ as required.
- E. Property Map
 - 1. Complete a boundary survey for the airport.
 - 2. Update in accordance with other available surveys from the City of Fernandina Beach.
 - 3. Incorporate the latest lease information available from the City of Fernandina Beach.
 - 4. Depict any lands proposed for easement or acquisition.
 - 5. Depict future lease parcels and FBO expansion areas.

V SCHEDULE OF CAPITAL IMPROVEMENTS

The updated CIP schedule will be presented in a tabular form for each year of the initial five-year phase of development. This shall include the probable costs for construction, engineering and administration.

VI PRESENTATIONS AND MEETINGS

RS&H will attend three project steering group meetings and make two presentations to the City of Fernandina Beach. The project steering group members will be appointed by the City, and likely be comprised of representatives of the City, Nassau County, FDOT, FAA, based aircraft owners, local businesses, and other representatives that the City feels should be represented. Presentation and meeting times and dates will be determined by the City.

VII DELIVERABLES

RS&H will provide ten (10) sets of the Technical Report (bound) and five (5) full size Airport Plans sets (24 inch by 36 inch blue line drawings).

The Executive Summary will be provided as a bound report in the amount of twenty (20) copies.

I. BASIC SERVICES

A. TOTAL LABOR LUMP SUM (SEE ATTACHED SPREADSHEET)

\$67,431.15

B. EXPENSES

1. TRAVEL EXPENSES

Commercial Carrier	3 Trips @		\$300.00	
Overnight Accommodations	3 Nights @		\$95.00	30.00
Car Rental (Inc. Tax)	3 Trips @		\$45.00	30.00
Car Private (Mileage)	21 Trips @	100 Miles	\$0.290 Mile	\$609.00
Meals	3 Days @		\$35.00	\$0.00

Subtotal: 2609.00

2. COMMUNICATION EXPENSES.

Telephone	56 Weeks @		\$15.00	2840.00
U S Postage/Express Service			\$100.00	2100.00

Subtotal: 3940.00

3. PRODUCTION EXPENSES.

AIRPORT LAYOUT PLAN SET = 12 SHEETS (24" x 36")
 TECHNICAL REPORT = 300 SHEETS

SUBMITTAL	MASTER PLAN	ALP PLAN SETS	CADD PLOTS	MYLAR
00%	3 EACH	3 EACH	12	
30%	6 EACH	6 EACH	12	
FINAL	1 EACH	0 EACH	12	12

TOTAL: 13 BOOKS 13 BOOKS 36 12

DIAZO -

Blueine Prints:	14 sets @	12	sheets @	\$0.60 /sheet	\$100.80
Mylar Separ:	1 sets @	95	sheets @	\$1.75 /sheet	\$165.25
Technical Report Printing:	25 reports @	200	sheets @	\$0.08 /sheet	\$400.00
CADD Plots:		36	sheets @	\$2.25 /sheet	\$81.00
Miscellaneous: Film, etc.					3126.80

Subtotal: 3674.35

4. MISCELLANEOUS

Subtotal: 3145.00

RS&H Expenses 32,558.35

C. SUBCONSULTANT

None

\$0.00

TOTAL BASIC SERVICES

TOTAL LABOR: 67,431.15

TOTAL EXPENSES: 32,558.35

370,000.00

II. SPECIAL SERVICES

Survey & Aerial Mapping Subconsultant: Coastal Land Surveyors, Inc. (Exact Cost to be Determined)

\$15,000.00

III. PROFESSIONAL SERVICES FEE TOTAL

BASIC SERVICES

\$70,000.00

SPECIAL SERVICES

\$15,000.00

GRAND TOTAL

\$85,000.00

Location: FERNANDINA BEACH MUNICIPAL AIRPORT - FERNANDINA BEACH, FL
 Project Description: AIRPORT LAYOUT PLAN & TECHNICAL REPORT
 Service Phase: WORK ORDER NO. 1

REYNOLDS, SMITH and HULLS, INC.
 Date Prepared: December 10, 1988
 Prepared By: AMH/RLM
 PAGE 2 OF 2
 File Name: WONO1.wk3

TASK DESCRIPTION	PROJECT OFFICER		PROJECT MANAGER/ SENIOR PLANNER		SENIOR ENGINEER (AVIATION)		SENIOR ENGINEER (DRAINAGE)		JUNIOR ENGINEER (AVIATION)		JUNIOR PLANNER		CADD TECHNICIAN		CLERICAL		TOTAL HOURS	TOTAL FEES
	Hours	Rate \$38.00	Hours	Rate \$30.00	Hours	Rate \$33.00	Hours	Rate \$30.00	Hours	Rate \$19.00	Hours	Rate \$18.00	Hours	Rate \$17.50	Hours	Rate \$10.00		
TASK 1 - Boundary Survey	0	\$0	10	\$300	8	\$198	0	\$0	3	\$57	2	\$32	0	\$0	1	\$10	24	\$387
TASK 2 - Aerial Photography/Mapping	0	\$0	30	\$900	5	\$165	0	\$0	3	\$57	2	\$32	0	\$0	1	\$10	41	\$1,164
TASK 3 - Scope Preparation	4	\$152	40	\$1,200	6	\$198	0	\$0	0	\$0	9	\$144	33	\$578	2	\$20	94	\$2,292
TASK 4 - Facilities Requirements	2	\$76	60	\$1,800	0	\$0	10	\$300	0	\$0	74	\$1,184	0	\$0	2	\$20	148	\$1,300
TASK 5 - Land Use & Ground Access	8	\$304	30	\$900	0	\$0	10	\$300	0	\$0	40	\$720	0	\$0	3	\$30	91	\$2,174
TASK 6 - Airport Layout Plans	2	\$76	54	\$1,620	24	\$792	20	\$600	0	\$0	80	\$1,200	300	\$5,250	24	\$240	504	\$9,028
TASK 7 - Schedule of Capital Improvements	2	\$76	15	\$450	55	\$1,815	0	\$0	0	\$0	30	\$480	0	\$0	4	\$40	106	\$2,861
TASK 8 - Presentations & Meetings	2	\$76	21	\$720	0	\$0	0	\$0	0	\$0	20	\$320	0	\$0	3	\$30	46	\$1,146
TASK 9 - Follow up Review Comments	0	\$0	25	\$750	0	\$0	0	\$0	0	\$0	0	\$120	31	\$505	3	\$30	70	\$1,201
SUBTOTALS	20	\$760	288	\$8,640	98	\$3,188	40	\$1,200	0	\$114	265	\$1,210	307	\$5,123	43	\$130	1,125	\$21,973

TOTAL DIRECT LABOR, \$21,971.50
 OVERHEAD AND PROFIT \$12,150.00
 TOTAL LABOR, \$34,121.50

FLORIDA

LAWTON CHILES
GOVERNOR



DEPARTMENT OF TRANSPORTATION

BEN G. WATTS
SECRETARY

Post Office Box 1089
Lakeland City, FL 32056-1089
Mail Station 2018
February 12, 1997

(800) 749-2967
(904) 752-3300

Mr. Zachary Z. Zoul
City Manager
City of Fernandina Beach
204 Ash Street
Post Office Box 668
Fernandina Beach, FL 32034

Project Name:	<u>Joint Participation Agreement</u> Update Airport Layout Plan (ALP) And Technical Report at the Fernandina Beach Municipal Airport
W.F.I. Number	2828046 (FY 96/97)
State Job Number:	74000-3868
Federal Job Number:	N/A
County:	Nassau

Dear Mr. Zoul:

We are pleased to enclose an originally executed Joint Participation Agreement in the amount of \$68,000 for the State share (80%) of the above referenced project cost.

You may consider this letter as a notice to proceed with the project and to begin billing our office for reimbursement of the State's share of all incurred eligible and allowable project costs.

All related project costs incurred since the date of this Agreement (February 10, 1997) will be considered eligible for reimbursement of the State's share (80%) of those project costs.

Mr. Zachary Z. Zoul
February 12, 1997
Page Two


Please note that this Agreement expires on June 30, 2002 (Paragraph 18.00) unless an extension of the time period is requested by your Agency and granted in writing by our District Secretary, District III. Expiration of this Agreement will be considered termination of the project and the procedure established in paragraph 9.00 of this Agreement shall be initiated. If your Agency allows this Agreement to expire and/or the project is terminated, your Agency must submit a final invoice on the project to the Department within 120 days after the expiration of this Agreement (Paragraph 18.10). Invoices submitted after the 120 day time period will not be paid.

Please be reminded that to remain eligible for State funding participation, it will be mandatory that compliance with the "JPA Requirements" (check list attached) be completed and documented in our project files prior to project close-out.

We have also enclosed some of our "Invoice Summary" forms for your use when requesting reimbursement of the State's share of the project costs.

If we may be of further assistance, please do not hesitate to call our office at (904) 752-3300 or Jacksonville at phone number (904) 695-4041.

Sincerely,



David J. Lee
Project Manager
Aviation/Ports

DTL/cb

Enclosure

cc: Mr. Lorenzo Alexander, District Public Transportation
Manager

Mr. Russ Tagliareni, Aviation Office, Tallahassee, MS 46

10a-5

ORDINANCE NO. 571
CITY OF FERNANDINA BEACH, FLORIDA

AN ORDINANCE ESTABLISHING THE FERNANDINA BEACH AIRPORT ADVISORY COMMISSION; DEFINING ITS POWERS, DUTIES AND RESPONSIBILITIES; PROVIDING FOR MEMBERSHIP, VACANCIES, REMOVAL, QUORUM; ORGANIZATION, RULES, FINANCES; REPORTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, THE CITY OF FERNANDINA BEACH is the owner of the Fernandina Beach municipal airport; and

WHEREAS, the City Commission has determined it to be advisable and appropriate to establish an airport advisory commission to advise the City Commission and City Manager on matters relating to the maintenance and operation of said airport. now, therefore,

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH:

SECTION 1: That Sections 4A-1 through 4A of the Code of Ordinances of the City of Fernandina Beach are established to read as follows:

ARTICLE I. IN GENERAL

Sec. 4A-1. AIRPORT ADVISORY COMMISSION.

There is hereby created and established the City of FERNANDINA BEACH AIRPORT ADVISORY COMMISSION. The Commission shall consist of seven (7) members, who shall be residents of the City of Fernandina Beach, Florida, and appointed by the City Commission of the City. The terms of the members shall be for four (4) years, except that in the appointment of the first Airport Advisory Commission under the terms of this Ordinance, the first two members shall be appointed for terms of one year each, the third and the fourth members shall be appointed for terms of two years, the fifth and sixth members shall be appointed for terms of three (3) years, and the seventh member shall be appointed for a term of four (4) years, each with eligibility for reappointment. Any vacancy in membership shall be filled for the unexpired term by the City Commission who shall have the authority to remove any member for cause, upon written notice of the reasons for such removal and after a public hearing on the same, if such hearing is requested by the member in accordance with Section 1A-22 of the Code. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

Sec. 4A-2. Quorum.

Four (4) members of the Airport Advisory Commission shall constitute a quorum for the transaction of business, providing, however, that no action shall be taken which is binding upon said Commission unless concurred in by not less than a majority of all members comprising the Commission.

Sec. 4A-3. Organization, Rules, Staff and Finances.

A.) The Airport Advisory Commission shall elect its Chairman from among its members. The term of the Chairman shall be one (1) year with eligibility for re-election. The Commission shall appoint a Secretary, who may be an officer or employee of the municipality. The Commission shall adopt its own rules of procedure and determine its time of meeting. All meetings of the Commission shall be open to the public and all records of the Commission shall be public records.

EXHIBIT. 

3.) The Airport Advisory Commission may appoint such employees and staff as it may deem necessary for its work. Any expenditures made by the Commission shall be within the amounts appropriated by the City Commission of the City of Fernandina Beach.

Sec. 4A-4. Powers and Duties.

From and after the time when the Airport Advisory Commission shall have organized and selected its officers and shall have adopted its rules of procedure, then said Commission shall have the powers, duties and responsibilities set forth as follows:

a.) Prepare and recommend to the City Commission for adoption a comprehensive plan for the physical development and betterment of the airport and revise and perfect it from time to time;

b.) Prepare and forward to the City Commission periodic reports on the operation of the airport and make recommendations for the improvement of such operation, including, but not limited to, the fixed base operator or operators, as they may exist from time to time;

c.) Make recommendations to the City Commission for the sale or lease of property owned by the City and located adjacent to the airport;

d.) Make recommendations to the City Commission regarding the requested or proposed grant of concessions on the airport;

e.) Make recommendations to the City Commission regarding policies and rates to be charged for the use of the airport property, including hangar rentals, landing and parking fees and other charges to the general public for the use of said airport;

f.) Make recommendations to the City Commission for the expenditure of public funds and assist in the preparation of budgets for the expenditures of such funds at or on the airport property;

g.) Prepare and submit to the City Commission as soon as possible after the end of each fiscal year a comprehensive annual report of its activities, and assist in the preparation and presentation to state and federal officials such reports as may be required by law, regulation or contract;

h.) Assist the City Manager and City Commission in the application for state and federal funds or grants for the development and improvement of the airport; and

i.) Perform all acts requested by the City Commission to advise and assist the City Commission in the continued operation and betterment of the airport.

SECTION 2. This Ordinance shall take effect as provided by law.

CITY OF FERNANDINA BEACH

Attest: Vicki P. Wingate
VICKI P. WINGATE
Its: City Clerk

By: John J. ...
JOHN J. ...
Its: Mayor-Commissioner

First Reading: 6/19/84
Second Reading: 7/11/84
Date of Publication: 7/11/84
Approval: 7/11/84

April 10, 2000

Engineering
Architecture
Planning
Program Management

Chip Seymour (904-741-2011)
Aviation Planning Manager
Jacksonville Port Authority
2400 Yankee Clipper Dr., Suite 313
Jacksonville, FL 32218

Re: Proposed Public Use Access Road (and Associated Residential Development) on and adjacent to Fernandina Beach Municipal Airport.

Dear Mr. Seymour:

This letter provides information to your office regarding a private proposal to develop a new public use access road across the northwest portion of Fernandina Beach Municipal Airport. The intent of this road is to access Crane Island, immediately adjacent to the airport, to develop approximately 250+ high-end residences on the island. This letter is also a request to your office to provide the City with review comments associated with this private proposal.



We have attached three simple graphics to this submission, for your review. Figure 1 is a reduced copy of the Airport Layout Plan, highlighting the proposed extension of Runway 13-31 to the northwest. Figure 2 depicts each of the two proposed access road locations. As you can see, each of the proposed road locations traverses existing and proposed runway safety areas, runway object free areas, runway protection zones and runway extension areas. Figure 3 depicts each of the two proposed access road locations, using USGS mapping as a base map.

To-date, the City has contacted both the FAA and FDOT regarding potential negative impacts to airport operations, non-conformance with airport design standards, state airport licensing and future capital improvement funding issues related to the proposal. The City is requesting any information that your office can provide relative to the importance of Fernandina Beach Municipal Airport as a "reliever" airport to Jacksonville International Airport (JIA).

1600 Airport Road, Suite C
Fernandina Beach, FL 32034

904-91-3304 FAX: 904-91-3340

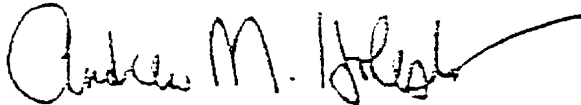
EXHIBIT 5

Specifically, any information (and opinions) from your office regarding the importance of the airport as the closest "reliever" airport to JIA. Also, as the sponsor of the recently-updated "Northeast Florida Aviation System Plan" (which incorporated Cecil Field into the civilian airport system), any opinions regarding the importance of the recommendations of the system plan which may not be able to be carried out as a result of the private development on and adjacent to the airport.

The City notes that the Aviation System Plan designated Fernandina Beach Municipal Airport as a "High Performance" coastal, reliever airport, with a corresponding recommended runway length up to 7,000-feet. The proposed private development would likely have a negative impact on Runway 13-31's ability to meet that recommendation.

If you have any questions, please contact me.

Sincerely yours,



Andrew M. Holesko
Program Manager / Senior Consultant

Cc: Wesley Poole, City Attorney
Jim Higginbotham, Public Works Director



City of Fernandina Beach

WESLEY R. POOLE
CITY ATTORNEY

April 12, 2000

Mr. Richard Owen
FAA, Orlando Airports District Office
5950 Hazeltine National Drive
Suite 400
Orlando, FL 32820-5024

Re: Willis, et al v. City of Fernandina Beach

Dear Mr. Owen:

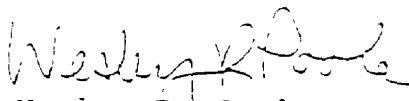
In furtherance of our conversation of this afternoon, and in order to clarify my letter of April 10, enclosed, please find, also enclosed, a copy of sheet from our Airport Master Plan, wherein I have sketched the approximate location of the 60' right of way requested by the owners of Crane Island.

As we discussed, this has nothing to do with the proposed perimeter road on the ALP for airport use; what is being requested of the city is a 60' public road in the location as indicated.

Finally, I have also enclosed a copy of the developer's plan for development of Crane Island.

Thank you for your assistance.

Yours sincerely,


Wesley R. Poole
City Attorney



Florida Department of Transportation

JEB BUSH
GOVERNOR

Post Office Box 1089
Lake City, FL 32056-1089

THOMAS F. BARRY, JR.
SECRETARY

August 9, 2000

Mr. Arthur I. Jacobs, Esquire
Jacobs & Associates, P.A.
Post Office Box 1110
Fernandina Beach, Florida 32035

RE: Access Road for Crane Island

Dear Mr. Jacobs:

I have looked into how an access road can be built through the Fernandina Beach Airport property for Crane Island.

After consulting with my District Aviation Section I found the current approved Master Plan/Airport Layout Plan for Fernandina Beach Airport does not show an existing or future planned access road for Crane Island. To add an access road the City of Fernandina Beach would have to update their existing Master Plan/Airport Layout Plan adding the proposed access road alignment. Once the updated Master Plan/Airport Layout Plan is approved by the Federal Aviation Administration (FAA) and the Florida Department of Transportation (FDOT) the access road for Crane Island could be built.

Should you have any questions or need additional information, please contact Mr. Roland Luster, District Aviation Administrator, at 1-800-749-2967, Ext. 3671.

Sincerely,

Huey R. Hawkins, P.E.
District Secretary

cc Betty Holzendorf, Florida State Senator

EXHIBIT U