

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Natural Lands Program: Spring Hammock: Oakwood Inc. Property

DEPARTMENT: Planning & Development **DIVISION:** Community Resources

AUTHORIZED BY: Donald Fisher  **CONTACT:** Colleen Rotella  **EXT.** 7352

Agenda Date <u>05/27/2003</u> Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>
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MOTION/RECOMMENDATION:

Authorize staff to exercise the Option Agreement for purchase of the 2.9 acre Oakwood Inc. property located on General Hutchison Parkway for \$220,000 contingent upon receipt of a Conservation Easement over a 1.8 acre tract owned by Fleet Financial Center, Inc. and located behind Big Tree Park. Authorize Chairman and Clerk to execute and staff to record Conservation Easement upon receipt from Fleet Financial Center, Inc.
(District #2: Morris)


BACKGROUND:

On April 22, the Board approved an Option agreement to acquire the approximate 2.9 acre Oakwood Inc. property contingent upon the placement of a conservation easement and ultimate fee simple dedication of a 1.8 tract of land owned by Fleet Financial Center, Inc. and located behind Big Tree Park.

The owner has agreed to the Board's stipulation, with the dedication to occur no later than December 31, 2015, (prior financial obligations preclude the dedication from occurring sooner). Attached is a Conservation Easement which incorporates the dedication as requested by the Board. Staff recommends the Board authorize staff to exercise the Option Agreement to purchase the 2.9 acre tract located on General Hutchison Parkway contingent upon receipt of a Conservation Easement by time of closing over an approximate 1.8 acre tract owned by Fleet Financial Center, Inc. and located behind Big Tree Park. Staff also recommends the Board authorize the Chairman and Clerk to execute and staff to record the Conservation Easement upon receipt at time of closing.

Attachments:

- Option Contract
- Conservation Easement

Reviewed by:  Co Atty: _____ DFS: _____ Other: _____ DCM: <u>SS</u> CM: <u>Kb</u> File No. <u>-rpd01</u>
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Prepared by:
Stephen P. Lee, Esq.
Seminole County Attorney's Office
1101 East First Street
Sanford, Florida 32771

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is made this ____ day of _____, 2003, by FLEET FINANCIAL CENTER, INC., a Florida corporation, having an address of 754 Fleet Financial Court, Longwood, Florida 32750 ("**Grantor**"), in favor of SEMINOLE COUNTY, a Political Subdivision of the State of Florida, having an address of 1101 East First Street, Sanford, Florida 32771 ("**Grantee**").

WITNESSETH:

WHEREAS, Grantor solely owns in fee simple certain real property in Seminole County, Florida, more particularly described in Exhibit "A" attached hereto and incorporated by this reference (the "**Property**"); and

WHEREAS, Grantor desires to preserve the Property in its natural condition in perpetuity, except for the limited purpose provided herein; and

WHEREAS, Grantor agrees to convey to Grantee the fee simple interest in the Property no later than December 31, 2015;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the provisions of section 704.06, Florida Statutes, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter

set forth (the "**Conservation Easement**"). Grantor fully warrants title to said Property and will warrant and defend the same against the lawful claims of all persons whomsoever.

1. Purpose. The purpose of this Conservation Easement is to assure that the Property will be retained in its existing natural condition to the maximum extent possible.
2. Prohibited Uses. Any activity on or use of the property inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited by an individual or entity:
 - A. Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.
 - B. Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
 - C. Removing or destroying trees, shrubs, or other vegetation.
 - D. Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
 - E. Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
 - F. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
 - G. Acts or uses detrimental to retention of the land or water areas in a natural state.
 - H. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

3. Reserved Rights. Grantor reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement.
4. Rights of Grantee. To accomplish the purposes stated herein, Grantor conveys the following rights to Grantee:
 - A. To enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement.
 - B. To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Property that may be damaged by any activity inconsistent with this Conservation Easement.
5. Grantee's Discretion. Grantee may enforce the terms of this Conservation Easement at its discretion, but if Grantor breaches any term of this Conservation Easement and Grantee does not exercise its rights under this Conservation Easement, Grantee's forbearance shall not be construed to be a waiver by Grantee of such term, or of any subsequent breach of the same, or any other term of this Conservation Easement, or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

6. Grantee's Liability. Grantor will assume all liability for any injury or damage to the person or property of third parties which may occur on the Property arising from Grantor's ownership of the Property, with the exception of injury or damage to representatives or agents of Seminole County or other agency which may occur on the Property, for which Seminole County or such agency shall assume liability. Neither Grantors, nor any person or entity claiming by or through Grantors, shall hold Grantee liable for any damage or injury to person or personal property which may occur on the Property.
7. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property or to persons resulting from such causes.
8. Recordation. Grantor shall record this Conservation Easement in timely fashion in the Official Records of Seminole County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.
9. Successors. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property. Grantee will hold this Conservation Easement exclusively for conservation purposes.

10. Liability of Grantor. Upon Grantor's conveyance of the Property to any third party, Grantor shall be released from liability for all acts and obligations arising after the date of such conveyance.

11. Agreement to Convey Fee Simple Interest. On or before December 31, 2015, Grantor shall convey the fee simple interest in the Property, by standard warranty deed, to Grantee, without any cost to Grantee, except that Grantee shall pay the recording fees for the deed of conveyance. The fee simple interest shall be conveyed to Grantee free and clear of all liens and encumbrances.

IN WITNESS WHEREOF, Grantor has executed this Conservation Easement on the day and year first above written.

Signed, sealed and delivered
in our presence as witnesses

GRANTOR:
FLEET FINANCIAL CENTER, INC.

Signature

Print Name

By: _____
Michael F. Towers, President

Signature

Print Name

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 2003, by Michael F. Towers, the President of FLEET FINANCIAL CENTER, INC., a Florida corporation. He is personally known to me or has produced _____ as identification.

Notary Public
State of Florida at Large.
My Commission Expires:
Serial No. _____

THE FOREGOING CONSERVATION EASEMENT IS HEREBY ACCEPTED BY GRANTEE.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
DARYL G. MCLAIN, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____,
2003, regular meeting.

County Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

[TO BE PROVIDED]