

16

Return to:  
Leanne Zinn  
Sunbelt Title  
4881 Tamiami Track N #100  
Naples, FL

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INSTR # 4884396  
OR BK 03259 PG 3744

RECORDED 05/25/00 03:48 PM  
CHARLIE GREEN CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 73.50  
DOC TAX PD (F.S. 201.02) 7,000.00  
DEPUTY CLERK K Cartwright

This Instrument Prepared By:  
Richard V.S. Roosa  
1714 Cape Coral Parkway  
Cape Coral, Florida 33904

# Exhibit E

## PERSONAL REPRESENTATIVE'S DEED

THIS INDENTURE, made this 18<sup>th</sup> day of May A.D. 2000, between ELIZABETH C. MEYER, not individually but as Personal Representative of the Estate of FLORENCE C. LONG, Deceased of the County of DuPAGE in the State of ILLINOIS, grantor, and the Town of Fort Myers Beach, a Florida Municipal Corporation, whose post office address is 2523 Estero Boulevard, Fort Myers Beach, Florida, grantee,

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and their heirs, legal representatives, successors and assigns. "Grantor" and "grantee" are used for singular and plural, as the context requires and the use of any gender shall include all genders.)

WITNESSETH: That the said grantor, for and in consideration of the sum of Ten Dollars and other good and valuable considerations, to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's successors and assigns forever, the following described land situate, lying and being in Lee County, Florida, to-wit:

See Exhibit "A" attached hereto and by this reference made a part hereof.

By acceptance of this Personal Representative's deed, grantee herein hereby agrees that the use of the Property described herein shall be subject to the covenants and restrictions as set forth in the Grant Award Agreement attached hereto as Exhibit "B". These covenants and restrictions shall run with the Property herein described. If any of the covenants and restrictions of the Grant Award Agreement are violated by the grantee or by some third party with the knowledge of the grantee, fee simple title to the Property described herein shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida in accordance with the Grant Award Agreement without further notice to grantee, its successors and assigns, and grantee, its successors and assigns shall forfeit all right, title and interest in and to the Property described herein.

Property Appraiser's Parcel Identification Number: 29-46-24-W2-00146.0010

This conveyance is subject to easements, restrictions, limitations and conditions of record if any now exist, but any such interests that may have been terminated are not hereby re-imposed.

This property is not the homestead property of the grantor, nor contiguous to homestead property, as such homestead is defined under Florida law.

IN WITNESS WHEREOF the grantor has hereunto set grantor's hand and seal, the day and year first above written.

Signed, sealed and delivered in the presence of:

ELIZABETH C. MEYER, not individually but as Personal Representative of the Estate of FLORENCE C. LONG, Deceased

Elizabeth C. Meyer

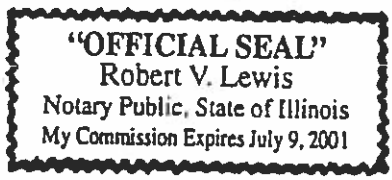
Marilyn E. Meyer  
Witness Marilyn E. Meyer

Melissa M. Hernandez  
Witness Melissa M. Hernandez

The foregoing instrument was acknowledged before me this 18 day of May, 2000, by ELIZABETH C. MEYER, not individually but as Personal Representative of the Estate of FLORENCE C. LONG, Deceased, who was not placed under oath and is personally known to me or who has produced \_\_\_\_\_ as identification.

Robert V. Lewis Notary Public  
Robert V. Lewis  
My Commission Expires: \_\_\_\_\_

202245



## EXHIBIT "A"

Lot 46, CASE SUBDIVISION OF GOVERNMENT LOTS NO. ONE, TWO AND THREE of Section 29, Township 46 South, Range 24 East, in Lee County, Florida, according to the plat recorded in Plat Book 1, page 58, as affected by conveyance and affidavit recorded in Deed Book 131, pages 300 through 304, all of the public records of Lee County, Florida.

## LESS AND EXCEPTING THE FOLLOWING:

Beginning at the southeasterly corner of Lot 47 of CASE'S SUBDIVISION; thence running northeasterly along the easterly boundary of Lot 47 of said subdivision to the northeasterly corner of said Lot 47 to the point of beginning of the land herein excepted; thence running northeasterly in a direct line along the easterly boundary of said Lot 47 projected in a northerly direction to a point intersecting the south line of Section 29, Township 46 South, Range 24 East; thence running west along the south line of said Section 29 to a point intersecting the northeasterly corner of Lot 45 of CASE'S SUBDIVISION aforesaid; thence running southwesterly along the easterly boundary of said Lot 45 to the northwesterly corner of Lot 47 of said subdivision; thence running southeasterly along the northerly boundary of said Lot 47 to the Point of Beginning.

ALSO LESS AND EXCEPTING that part of Lot 46, CASE SUBDIVISION, according to a plat thereof recorded in Plat Book 1, at page 58 and plat and affidavit recorded in Deed Book 131, at pages 300 to 304, of the public records of Lee County described as follows:

Beginning at the corner common to Lots 46 and 50 of said CASE SUBDIVISION on the northwesterly side of Connecticut Street, run northeasterly along said street for 461 feet; thence run northwesterly perpendicular to said street for 100 feet; thence run northeasterly parallel with said street for 100 feet; thence run northwesterly perpendicular to said street for 315 feet; thence run northeasterly parallel to said street for 400 feet, more or less, to the waters of Otago Bay; thence run northwesterly along said Bay to a point on the north line of said Section 29; thence run west along said section line to an intersection with a northeasterly prolongation of the line dividing Lots 47 and 48 of CASE SUBDIVISION; thence run southwesterly along said prolongation for 564.0 feet to the northeasterly corner of said Lot 47; thence run southeasterly along the southwesterly line of said Lot 46 to the Point of Beginning.

## ALSO LESS AND EXCEPTING:

A tract or parcel of land lying in Lot 48 of CASE SUBDIVISION, according to plat recorded in Plat Book 1, at page 58 and plat and affidavit recorded in Deed Book 131, at pages 300 to 304, inclusive, of the public records of Lee County, which tract or parcel is described as follows:

Beginning at the most easterly corner of Lot 6, Block A of Shell Mound Park, according to plat recorded in Plat Book 11, at page 4 of said public records, run northeasterly along a prolongation of the southeasterly line of said Lot 6, along the northwesterly line of Connecticut Street for 100 feet; thence deflect 90°00' to the left and run northwesterly, parallel with the northeasterly line of said Lot 6 for 100.0 feet to the southeasterly corner of a waterway as shown on said plat of Shell Mound Park; thence deflect 90°00' to the left and run southwesterly along the southeasterly line of said waterway for 100.0 feet to the most northerly corner of said Lot 6; thence run southeasterly along said northeasterly line of said lot for 100 feet to the Point of Beginning.

REORDER'S MEMO  
 Legibility of Writing, Typing or  
 Printing Unsatisfactory in this  
 Document when Received.

EXHIBIT "B"

This document prepared by:  
Ann J. Wild  
Florida Communities Trust  
Department of Community Affairs  
2555 Shumard Oak Blvd.  
Tallahassee, FL 32399

FLORIDA COMMUNITIES TRUST  
P7A AWARD#96-046-P7A  
FCT Contract# DO. CT. ST. 57. 7A-51. 046

GRANT AWARD AGREEMENT

THIS AGREEMENT is entered into this 10<sup>th</sup> day of MAY, 2000, by and between the FLORIDA COMMUNITIES TRUST ("FCT"), a nonregulatory agency within the State of Florida Department of Community Affairs, and the TOWN OF FORT MYERS BEACH ("FCT Recipient"), in order to impose terms, conditions, and restrictions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds and as described in Exhibit "A" attached hereto and made a part hereof ("Project Site"), as shall be necessary to ensure compliance with applicable Florida Law and federal income tax law and to otherwise implement provisions of Chapters 253, 259, and 380, Florida Statutes.

WHEREAS, Part III Chapter 380, Florida Statutes, the Florida Communities Trust Act, creates a nonregulatory agency within the Department of Community Affairs, which will assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans and in otherwise conserving natural resources and resolving land use conflicts by providing financial assistance to local governments to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, Section 1 of the Florida Preservation 2000 Act provides for the distribution of ten percent (10%) of the net Preservation 2000 Revenue Bond proceeds to the Department of Community Affairs to provide land acquisition grants and loans to local governments through the FCT;

WHEREAS, the Governor and Cabinet authorized the sale and issuance of State of Florida Department of Natural Resources

Preservation 2000 Revenue Bonds ("Bonds");

WHEREAS, the Bonds were issued as tax-exempt bonds, meaning that the interest on the Bonds is excluded from the gross income of Bondholders for federal income tax purposes;

WHEREAS, Rule 9K-4.010(2)(f), F.A.C., authorizes FCT to impose conditions for funding on those FCT applicants whose projects have been selected for funding in accordance with Rule Chapter 9K-4, F.A.C.;

WHEREAS, the FCT has approved the terms under which the Project Site is acquired and the deed whereby the FCT Recipient acquires title to the Project Site shall contain such covenants and restrictions as are sufficient to ensure that the use of the Project Site at all times complies with Section 375.051, Florida Statutes and Section 9, Article XII of the State Constitution and shall contain clauses providing for the conveyance of title to the Project Site to the Board of Trustees of the Internal Improvement Trust Fund upon the failure of the FCT Recipient to use the Project Site acquired thereby for such purposes; and

WHEREAS, such covenants and restrictions shall be imposed by an agreement which shall describe with particularity the real property which is subject to the agreement and shall be recorded in the county in which the real property is located; and

WHEREAS, the purpose of this Agreement is to set forth the covenants and restrictions that are imposed on the Project Site subsequent to its acquisition with the FCT Preservation 2000 Bond award.

NOW THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, FCT and FCT Recipient do hereby contract and agree as follows:

#### I. GENERAL CONDITIONS.

1. Upon execution and delivery by the parties hereto, the FCT Recipient shall cause this Agreement to be recorded and filed in the official public records of Lee County, Florida, and

referenced by the warranty deed vesting fee simple title to the Project Site in the FCT Recipient, and in such manner and in such other places as FCT may reasonably request, and shall pay all fees and charges incurred in connection therewith.

2. The FCT Recipient and FCT agree that the State of Florida Department of Environmental Protection will forward this Agreement to Department of Environmental Protection Bond Counsel for review.

In the event Bond Counsel opines that an amendment is required to this Agreement so that the tax exempt status of the Preservation 2000 Bonds is not jeopardized, FCT and FCT Recipient shall amend the Agreement accordingly.

3. This Agreement may be amended at any time. Any amendment must be set forth in a written instrument and agreed to by both the FCT Recipient and FCT.

4. This Agreement and the covenants and restrictions contained herein shall run with the Property herein described and shall bind, and the benefits shall inure to, respectively, the FCT and the FCT Recipient and their respective successors and assigns.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, with respect to both substantive rights and with respect to procedures and remedies.

6. Any notice required to be given hereunder shall be given by personal delivery, by registered mail or by registered expedited service at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto, and any such notice shall be deemed received on the date of delivery if by personal delivery or expedited delivery service, or upon actual receipt if sent by registered mail.

FCT: Florida Communities Trust  
Department of Community Affairs  
2555 Shumard Oak Blvd.  
Tallahassee, FL 32399-2100  
ATTN: Executive Director

FCT Recipient:

Town of Fort Myers Beach

P.O. Box 3077  
Fort Myers Beach, FL 33932  
ATTN: Marsha Segal-George - Town Manager

7. If any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

II. PROJECT SITE REQUIREMENTS IMPOSED BY CHAPTER 259, CHAPTER 375, AND CHAPTER 380, PART III, FLORIDA STATUTES.

1. If any essential term or condition of this grant agreement is violated by the FCT Recipient or by some third party with the knowledge of the FCT Recipient and the FCT Recipient does not correct the violation within 30 days of notice of the violation, fee simple title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund. The FCT shall treat such property in accordance with Section 380.508(4)(e), Florida Statutes.

2. Any transfer of the Project Site shall be subject to the approval of FCT and FCT shall enter into a new agreement with the transferee, containing such covenants, clauses, or other restrictions as are sufficient to protect the interest of the people of Florida.

3. The interest, if any, acquired by the FCT Recipient in the Project Site will not serve as security for any debt of the FCT Recipient unless FCT approves the transaction.

4. If the existence of the FCT Recipient terminates for any reason, title to all interest in real property it has acquired with the FCT award shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, unless FCT negotiates an agreement with another local government or nonprofit organization which agrees to accept title to all interest in and to manage the Project Site.

5. In the event that the Project Site is damaged or destroyed or title to the Project Site, or any part thereof, is taken by any governmental body through the exercise or the threat of the exercise of the power of eminent domain, the FCT Recipient shall deposit with the FCT any insurance proceeds or any

condemnation award, and shall promptly commence to rebuild, replace, repair or restore the Project Site in such manner as is consistent with the Agreement. The FCT shall make any such insurance proceeds or condemnation award moneys available to provide funds for such restoration work. In the event that the FCT Recipient fails to commence or to complete the rebuilding, repair, replacement or restoration of the Project Site after notice from the FCT, the FCT shall have the right, in addition to any other remedies at law or in equity, to repair, restore, rebuild or replace the Project Site so as to prevent the occurrence of a default hereunder.

Notwithstanding any of the foregoing, FCT will have the right to seek specific performance of any of the covenants and restrictions of this Agreement concerning the construction and operation of the Project Site.

**III. PROJECT SITE OBLIGATIONS IMPOSED BY FCT ON THE FCT RECIPIENT.**

1. The Project Site shall be managed only for the conservation, protection and enhancement of natural and historical resources and for passive, natural resource-based public outdoor recreation which is compatible with the conservation, protection and enhancement of the Project Site, along with other related uses necessary for the accomplishment of this purpose. The proposed uses for the Project Site are specifically designated in the Project Plan as approved by FCT.

2. The FCT Recipient shall prepare and submit to FCT an annual report as required by Rule 9K-4.013, F.A.C.

3. The FCT Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation, or outdoor recreation uses as appropriate. If an amendment to the FCT Recipient's comprehensive plan is required to comply with this paragraph, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the FCT Recipient.

4. FCT Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the adopted and approved comprehensive plan for the jurisdiction as applicable. Evidence



shall be provided to FCT that all required licenses and permits have been obtained prior to the commencement of any construction.

5. The FCT Recipient shall, through its agents and employees, prevent the unauthorized use of the Project Site or any use thereof not in conformity with the FCT approved Project Plan.

6. FCT staff or its duly authorized representatives shall have the right at any time to inspect the Project Site and the operations of the FCT Recipient at the Project Site.

7. All buildings, structures, improvements, and signs shall require the prior written approval of FCT as to purpose. Further, tree removal, other than non-native species, and/or major land alterations shall require the written approval of FCT. The approvals required from FCT shall not be unreasonably withheld by FCT upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources of the Project Site. The approval by FCT of the FCT Recipient's management plan addressing the items mentioned herein shall be considered written approval from FCT.

8. If archaeological and historic sites are located on the Project Site, the FCT Recipient shall comply with Chapter 267, Florida Statutes. The collection of artifacts from the Project Site or the disturbance of archaeological and historic sites on the Project Site will be prohibited unless prior written authorization has been obtained from the Department of State, Division of Historical Resources.

9. The FCT Recipient shall ensure that the Project Site is identified as being publicly owned and operated as a passive, natural resource-based public outdoor recreational site in all signs, literature and advertising regarding the Project Site. The FCT Recipient shall erect a sign(s) identifying the Project Site as being open to the public and as having been purchased with funds from FCT and FCT Recipient.

#### IV. OBLIGATIONS INCURRED BY FCT RECIPIENT AS A RESULT OF BOND PROCEEDS BEING UTILIZED TO PURCHASE THE PROJECT SITE.

1. If the Project Site is to remain subject, after its acquisition by the State and the FCT Recipient, to any of the below listed activities or interests, the FCT Recipient shall provide at

least 60 days written notice of any such activity or interest to FCT prior to the activity taking place, and shall provide to FCT such information with respect thereto as FCT reasonably requests in order to evaluate the legal and tax consequences of such activity or interest:

a. any lease of any interest in the Project Site to a non-governmental person or organization;

b. the operation of any concession on the Project Site to a non-governmental person or organization;

c. any sales contract or option to buy things attached to the Project Site to be severed from the Project Site, with a non-governmental person or organization;

d. any use of the Project Site by non-governmental persons other than in such person's capacity as a member of the general public;

e. a management contract of the Project Site with a non-governmental person or organization; and

f. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

2. FCT Recipient agrees and acknowledges that the following transaction, events, and circumstances may not be permitted on the Project Site as they may have negative legal and tax consequences under Florida law and federal income tax law:

a. a sale of the Project Site or a lease of the Project Site to a non-governmental person or organization;

b. the operation of a concession on the Project Site by a non-governmental person or organization;

c. a sale of things attached to the Project Site to be severed from the Project Site to a non-governmental person or organization;

d. any change in the character or use of the Project Site from that use expected at the date of the issuance of any series of bonds from which the disbursement is to be made;

e. any use of the Project Site by non-governmental persons other than in such person's capacity as a member of the general public;

f. a management contract of the Project Site with a non-governmental person or organization; and

g. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE FCT RECIPIENT AND OTHER GOVERNMENTAL BODIES, NOT FOR PROFIT ENTITIES, OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE FCT RECIPIENT OF THE RESPONSIBILITY TO ENSURE THAT THE CONDITIONS IMPOSED HEREIN ON THE PROJECT SITE AS A RESULT OF UTILIZING BOND PROCEEDS TO ACQUIRE THE PROJECT SITE ARE FULLY COMPLIED WITH BY THE CONTRACTING PARTY.

V. CONDITIONS THAT ARE PARTICULAR TO THE PROJECT SITE AS A RESULT OF THE FCT APPROVED MANAGEMENT PLAN.

1. Outdoor recreational facilities including wildlife observation areas and interpretive displays shall be provided. The facilities shall be developed in a manner that allows the general public reasonable access for observation and appreciation of the natural resources on the Project Site without causing harm to those resources.

2. The FCT Recipient shall provide environmental educational programs at the Project Site. The programs shall be conducted on a regularly scheduled basis.

3. The FCT Recipient shall conduct a survey of plant species on the Project Site. The FCT Recipient shall detail how the survey shall be used during development of the site to insure the protection, restoration, and preservation of the natural resources on the Project Site.

4. The wetland communities that occur on the Project Site shall be preserved, enhanced, and appropriately managed to ensure the long-term viability of these communities.

5. The FCT Recipient shall ensure that the Project Site is

managed in a manner that will protect and enhance the listed and non-listed native wildlife species and their habitat. The FCT Recipient shall coordinate with the Florida Game and Fresh Water Fish Commission and the Bureau of Protected Species to ensure the preservation and viability of listed and non-listed native wildlife species and their habitat.

6. The FCT Recipient shall restore the degraded wetland communities along the shoreline in terms of biological composition and ecological function.

7. The FCT Recipient shall replant approximately 40 percent of the site with native vegetation.

8. Invasive exotic vegetation that occurs on the Project Site shall be eradicated. The FCT Recipient shall reference the Exotic Pest Plant Council's List of Florida's Most Invasive Species to assist in identifying invasive exotics on the Project Site.

9. The FCT Recipient shall coordinate the management of the Project Site with the land managers of other conservation and preservation lands in the project area, including the Estero Bay Aquatic Preserve.

10. The FCT Recipient shall coordinate all development on the Project Site with the Department of State, Division of Historic Resources in order to prevent the disturbance of significant historic features located on the Project Site.

11. The FCT recipient shall ensure that the location and design of the parking facility will have minimal impacts on natural and historic resources. The parking area shall incorporate pervious material wherever feasible.

12. A vegetative buffer shall be provided along the boundary of the Project Site that interfaces the residential developments to the north and west of the Project Site.

13. The FCT recipient shall provide bike parking stands at the Project Site to provide an alternative to automobile transportation to the Project Site.

14. The requirements imposed by other grant program funds that may be sought by the FCT Recipient for activities associated with the Project Site shall not conflict with the terms and

conditions of the FCT award.

THIS GRANT AWARD AGREEMENT embodies the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

Witness:

TOWN OF FORT MYERS BEACH

Daniel L. Hughes  
Print Name

BY: Daniel L. Hughes  
Its: Mayor

Marsha Segal-George  
Print Name

Date: 5.1.00

Attest: Marsha Segal-George  
Clerk

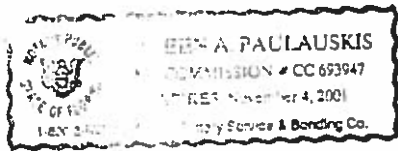
Accepted as to Legal Form and Sufficiency: [Signature]

Date: 5.1.00

STATE OF FLORIDA  
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of May, 2000, by Daniel L. Hughes, as Mayor. He\She is personally known to me.

Janeen Paulauskis  
Notary Public  
Print Name: Janeen A. Paulauskis  
Commission No. CC 693947  
My Commission Expires: Nov. 4, 2001



FLORIDA COMMUNITIES TRUST

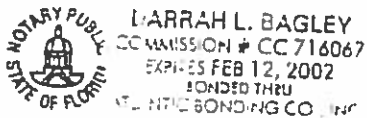
Teresa Divers  
Print Name: Teresa Divers  
Heidi Recksiek  
Print Name: Heidi Recksiek

Ralph Cantral  
Ralph Cantral  
Acting Executive Director  
Date: 5/10/00

Accepted as to Legal Form and  
Sufficiency:  
Ann J. Wild  
Ann J. Wild, Trust Counsel  
Date: 5-10-00

STATE OF FLORIDA  
COUNTY OF DEEN

The foregoing instrument was acknowledged before me this 10  
day of May, 2000, by Ralph Cantral, as Acting  
Executive Director of the Florida Communities Trust. He is  
personally known to me.



Darrah L. Bagley  
Notary Public  
Print Name: Darrah L. Bagley  
Commission No. CC 716067  
My Commission Expires: 02-12-2002