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RECORD & RETURN TO:
JACOBS & ASSOCIATES, P.A.
Post Office Box 1110
Fernandina Beach, Florida 32035-1110

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INSTR # 200534899
OR BK 01352 PGS 0269-0319
RECORDED 09/23/2005 10:14:55 AM
JOHN A. CRAWFORD
CLERK OF CIRCUIT COURT
NASSAU COUNTY, FLORIDA
RECORDING FEES 435.00

PREPARED BY AND RETURN TO:

Cynthia M. Montgomery, Esquire
Akerman Senterfitt
50 North Laura Street, Suite 2500
Jacksonville, Florida 32202

**COVER PAGE
FOR**

**ASSIGNMENT AND ASSUMPTION OF LEASE
DATED OCTOBER 16, 2003
BY AND BETWEEN
KINGSLEY CREEK DEVELOPMENT COMPANY,
THE SUMMERTON INN, INC. &
THE CITY OF FERNANDINA BEACH, FLORIDA**

THIS ASSIGNMENT AND ASSUMPTION OF LEASE DATED OCTOBER 16, 2003 BY AND BETWEEN KINGSLEY CREEK DEVELOPMENT COMPANY, THE SUMMERTON INN, INC. AND THE CITY OF FERNANDINA BEACH, FLORIDA WHICH WAS FIRST RECORDED AT O.R. BOOK 1185, PAGE 1103, PUBLIC RECORDS IN AND FOR NASSAU COUNTY, FLORIDA, IS BEING RERECORDED TO ADD THE ACKNOWLEDGEMENT PAGES FOR EACH PARTY.

{JA250438;1}

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Prepared by and Record and Return to:
David Otero, Esq. and Cynthia Montgomery, Esq.
Akeman Senterfitt
50 North Laura Street, Suite 2500
Jacksonville, FL 32202

INSTR # 200340065
OR BK 01185 PGS 1103-1150
RECORDED 10/31/2003 03:11:38 PM
J. H. OXLEY JR
CLERK OF CIRCUIT COURT
FACULTY FEES 217.50

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE entered into as of October 16, 2003, by and among **KINGSLAKE DEVELOPMENT COMPANY**, a Florida corporation ("Assignor"), **THE SUMMERTON INN, INC., A WHOLLY OWNED SUBSIDIARY OF THE NATIONAL BANK OF SOUTH CAROLINA**, a national banking association ("Assignee"), and **THE CITY OF FERNANDINA BEACH**, a body politic incorporated and existing under the laws of the State of Florida ("Landlord").

Rec 017 50

WITNESSETH:

WHEREAS, Assignor is the tenant under that certain Golf Course Development and Lease Agreement dated as of July 7, 1994 by and between Nassau Sound Land Co., Inc. and Landlord, as assigned to Assignor pursuant to that certain Assignment and Assumption of Lease dated as of July 1, 1996 (the "Lease") for premises located adjacent to the Fernandina Beach Municipal Airport, as more particularly described in the Lease, a copy of which is attached hereto as **Exhibit "A"**; and

WHEREAS, Assignor desires to assign the Lease to Assignee and Assignee desires to accept such assignment and assume Assignor's obligations thereunder as of the date hereof.

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Assignee, Assignor, intending to be legally bound, does hereby grant, bargain, sell, assign, transfer and deliver unto Assignee all of Assignor's right, title and interest in and to the Lease as heretofore assigned.

TO HAVE AND TO HOLD the same for the remainder of said term for use as permitted thereunder.

1. **Assignment.** Assignor hereby assigns to the Assignee all of its right, title and interest in and to the Lease for and during the remainder of the term of such Lease, including any options to renew the Lease, subject to the covenants and conditions of said Lease.
2. **Assumption.** Assignee hereby accepts this Assignment and acknowledges and agrees to assume, observe, fulfill, perform and keep all the covenants, obligations, terms and conditions of Assignor, as tenant only, which are set forth in the Lease and arise from and after the date of this Assignment, but not before.
3. **Consent.** Landlord hereby consents to the foregoing assignment and assumption of the Lease subject to all the terms and conditions of this Assignment.
4. **Binding Effect.** This Assignment applies to and binds the parties hereto and their respective heirs, administrators, executors, successors and assigns and may be executed in any number of counterparts, each of which shall be considered an original document and together, all of which shall be considered one whole and complete document.

{JA149652;3}

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

Witnesses

David E. Otero
Print Name: David E. Otero

George W. Lindsay
Print Name: GEORGE LINDSAY

Witnesses

[Signature]
Print Name: DAN HITE

David E. Otero
Print Name: David E. Otero

Witnesses

Debra A. Braga
Print Name: DEBRA A. BRAGA

[Signature]
Print Name: FRAN MIDDLETON

ASSIGNOR:

KINGSLEY CREEK DEVELOPMENT COMPANY, a Florida corporation

By: [Signature]
Print Name: DAN HITE
Title: PRESIDENT

ASSIGNEE:

THE SUMMERTON INN, INC., a South Carolina corporation

By: [Signature]
Print Name: GEORGE LINDSAY
Title: Vice President

LANDLORD:

THE CITY OF FERNANDINA BEACH, a body politic incorporated and existing under the laws of the State of Florida

By: [Signature]
Print Name: Robert T. Mearns
Title: City Manager

ACKNOWLEDGMENTS

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Assignment and Assumption of Lease dated October 16, 2003 was acknowledged before me on the 16th day of October, 2003, by George W. Lindsay, the Vice President of The Summerton Inn, a South Carolina corporation, on behalf of the corporation. Such person did not take an oath and: *(notary must check applicable box)*

- is/are personally known to me.
- produced a current _____ driver's license as identification.
- produced _____ as identification.

{Notary Seal must be affixed}

James H Post

 Signature of Notary
James H Post

 Name of Notary (Typed, Printed or Stamped)
 Commission Number (if not legible on seal): **James H. Post**
 Commission # **DD280542**
 My Commission Expires (if not legible on seal): **Expires February 28, 2008**
Bonded Troy Fair - Insurance, Inc. 800-366-7019

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing Assignment and Assumption of Lease dated October 16, 2003 was acknowledged before me on the 16th day of October, 2003, by Don Hite, the President of Kingsley Creek Development Company, a Florida corporation, on behalf of the corporation. Such person did not take an oath and: *(notary must check applicable box)*

- is/are personally known to me.
- produced a current _____ driver's license as identification.
- produced _____ as identification.

{Notary Seal must be affixed}

James H Post

 Signature of Notary
James H Post

 Name of Notary (Typed, Printed or Stamped)
 Commission Number (if not legible on seal): **James H. Post**
 Commission # **DD280542**
 My Commission Expires (if not legible on seal): **Expires February 28, 2008**
Bonded Troy Fair - Insurance, Inc. 800-366-7019

{JA250213;1}

ACKNOWLEDGMENTS (CONTINUED)

STATE OF FLORIDA
COUNTY OF NASSAU

The foregoing Assignment and Assumption of Lease dated October 16, 2003 was acknowledged before me on the 16th day of October, 2003, by Robert T. Mearns, the City Manager of The City of Fernandina Beach, a body politic incorporated and existing under the laws of the State of Florida, on behalf of the City. Such person did not take an oath and: *(notary must check applicable box)*

is/are personally known to me.

produced a current _____ driver's license as identification.

produced _____ as identification.

{Notary Seal must be affixed}



Debra A. Braga
My Commission DD160277
Expires November 12, 2006

Debra A. Braga
Signature of Notary

DEBRA A. BRAGA
Name of Notary (Typed, Printed or Stamped)

Commission Number (if not legible on seal): _____

My Commission Expires (if not legible on seal): _____

{JA250213;1}

**CITY OF FERNANDINA BEACH
GOLF COURSE DEVELOPMENT AND LEASE AGREEMENT**

THIS AGREEMENT AND LEASE AGREEMENT, made and entered into as of the 7th day of July, 1994, by and between the CITY OF FERNANDINA BEACH, (hereinafter referred to as "City"), a body politic and corporate existing under the laws of the State of Florida, as amended, and NASSAU SOUND LAND CO., INC., a corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee")

WITNESSETH:

WHEREAS, City owns and operates an airport known as Fernandina Beach Municipal Airport; and

WHEREAS, City is desirous of giving Lessee the right to construct and operate the golf course upon its land zoned and shown on its future land use plan as "Industrial", at and adjacent to the Fernandina Beach Municipal Airport.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein by reference, and in further consideration of the mutual covenants, agreements and conditions contained herein, City does hereby demise and let unto Lessee, and Lessee does hereby lease and hire from City, certain premises and facilities and City does hereby grant unto Lessee certain rights, licenses and privileges on and in connection with certain lands located at and adjacent to the Fernandina Beach Municipal Airport as follows:

ARTICLE I

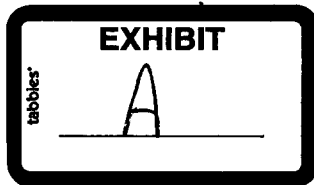
LEASED PREMISES

1.01 Leased Premises

City hereby leases to Lessee and Lessee hereby agrees to lease from City the lands at and adjacent to the Fernandina Beach Municipal Airport as shown in the shaded area on Exhibit "A". Said land and all improvements shall hereinafter be referred to as "Leased Premises." The Leased Premises shall be more specifically described in a metes and bounds legal description to be furnished to City by Lessee in a form acceptable by City.

1.02 Improvement by Lessee

- (a) Lessee shall receive the Leased Premises in a nonimproved condition and shall as a minimum, perform the following improvements as capital investment:



INSTR # 200340065
OR BK 01185 PG 1106

- (1) An eighteen (18) hole golf course to include cart paths, driving range, putting green, landscaping, perimeter fence and growing to be constructed on the shaded area of Exhibit "A" and whose cost is estimated at \$2,850,000. Lessee reserves the right to construct additional holes and facilities as it sees fit under the same terms and conditions of this agreement provided Lessee complies with Article I, Sections 1.04 and 1.05 of this Agreement as to such additional holes and facilities.
- (2) A clubhouse, cart barn, maintenance building, entry road, parking lot and landscaping with all required utilities, whose cost is estimated at \$1,100,000.
- (b) In addition to the above improvements to the Leased Premises, Lessee further agrees to provide the following equipment, fixtures and furnishings.
- (1) Golf course maintenance equipment, whose approximate cost will be \$250,000.
- (2) Clubhouse furnishings and kitchen equipment, whose approximate costs will be \$200,000.
- (c) The City shall bear no financial responsibility for development costs which may exceed the estimates provided herein.

1.03 Title to Improvements

- (a) Lessee's title to all leasehold improvements and fixtures shall vest and be part of the realty owned by City and Lessee agrees that its sole interest in the leasehold improvements, and fixtures shall be that of Lessee. City and Lessee agree that in event of early termination of this Lease Agreement for any reason other than Lessee's default or breach of contract, City shall take possession of the Leased Premises and shall compensate Lessee for its fair market value of its investment in the leasehold improvements as determined by a mutually acceptable AIA appraiser. Nothing in this Lease Agreement shall be deemed to prohibit or restrict Lessee from leasing or financing any such leasehold improvements, fixtures, equipment and/or furnishings with a third party. In such event the third party financing arrangements of Lessee shall be unaffected by City's rights under this Lease Agreement.
- (b) Notwithstanding the above, City shall have no right to take possession, transfer, use, or in any form or manner deprive Lessee from the use and possession of the leasehold improvements except by reason of default, breach of contract or after financial compensation for its fair market value of its investment in the leasehold improvements, in the

event of early termination.

- (c) In the event of early termination for reasons other than default or breach of contract, or as provided by law, Lessee shall have the right to require immediate cash compensation for its fair market value of the improvements made by Lessee at the time of surrender of the Leased Premises.
- (d) Any compensation received by Lessee as a result of an early termination of this Lease Agreement for reasons other than default or breach of contract by Lessee, shall be utilized to the extent necessary to pay off any outstanding liens arising by, through or under Lessee for the purpose of making improvements to the Leased Premises. City reserves the right to make payments directly to lienholders at its option.

1.04 Design of Improvements

Lessee shall develop plans for constructing, erecting and installing the leasehold improvements on the Leased Premises which shall consist of: (1) working drawings, (2) technical specifications, (3) schedule for accomplishing improvements, (4) schedule of finishes and graphics, (5) cost estimates. Lessee shall submit all the foregoing documents to City for review and comments prior to construction of any improvements.

1.05 Approval by City

City shall have the prior right to approve, in writing, Lessee's plans for the leasehold improvements and the budgeted cost thereof. Said approval shall not be unreasonably withheld. City shall render appropriate assistance to the Lessee in its efforts to seek and obtain approvals and permits necessary to proceed with development and construction as provided herein.

1.06 Architectural Requirements

All construction, improvements, signs, equipment, or landscape must be made in accordance with the requirements stated in Sections 1.04 and 1.05 of this Lease Agreement and shall conform in all respects to applicable statutes, ordinances, building codes and rules and regulations. The approval given by City shall not constitute a representation or warranty as to such conformity; responsibility, therefore, shall at all times remain with Lessee.

1.07 Construction and Financing of Improvements

- (a) Upon the written approval of Lessee's plans and specifications by City, and approval of all construction permits, Lessee shall have the right and obligation to enter the Leased Premises and take possession

thereof and to commence construction of the leasehold improvements. City's approval shall not be unreasonably withheld.

- (b) Other than liens on the leasehold interest of Lessee for financing the construction and/or acquisition (including both construction financing and permanent financing), no leasehold improvements, fixtures or equipment shall be subject to any liens, whether created by operation of law or by agreement. All construction shall in all respects conform to and comply with applicable statutes, ordinances, building codes, rules and regulations of such authorities as may have jurisdiction over any aspect of said construction. Lessee, at its sole cost and expense, shall procure all building, fire, safety and other permits necessary for any construction. City hereby consents to construction and acquisition financing by Lessee in an amount up to one hundred percent (100%) of all hard and soft costs of such construction and acquisition. Nothing in this section shall be deemed to permit Lessee to encumber any interest in the Leased Premises other than the leasehold estate of Lessee under this Lease Agreement. Any mortgage or security agreement between Lessee and a third-party lender shall contain a clause to the effect that any lien or security interest acquired shall not be enforceable against City if City has terminated the Lease Agreement as a result of Lessee's default or breach of contract and the third-party lender, after proper written notification, has elected not to cure the default of Lessee or institute foreclosure or other proceedings against Lessee, or otherwise enforce its rights against Lessee or acquire the leasehold interest of Lessee.
- (c) Prior to commencement of construction, Lessee shall submit a performance bond in the amount of one hundred percent (100%) of the approved budgeted cost of leasehold improvements as to any contract or subcontract in excess of One Hundred Thousand and No/100 Dollars (\$100,000.00), and liability insurance evidence of coverage satisfactory to City.
- (d) A memorandum of this Development and Lease Agreement shall be executed by the parties hereto in a form satisfactory for recording in the Official Records of the public records of Nassau County, Florida, and such memorandum shall provide that no mechanic's lien for labor, materials or supplies may be placed upon the Leased Premises without City's consent.
- (e) Any term or provision of this Lease Agreement to the contrary notwithstanding:
- (1) Lessee and every successor and assigns of Lessee, is hereby given the right by City, in addition to any other rights herein granted, to mortgage its interests in this Lease Agreement, or any part

thereof, under one or more first Leasehold Mortgage(s) or under a purchase money first or second Leasehold mortgage(s) in connection with any sale of such interest, and assign this Lease Agreement, or any part thereof, and any sublease(s) as collateral security for such Mortgage(s). Provided however, and subject to the conditions contained herein, neither City's interest in this Lease Agreement nor its fee title to the lands demised hereunder, shall be subordinate to any Mortgage(s) secured by Lessee's interest in the Lease Agreement, and that all rights acquired under such Mortgage(s) secured by Lessee's interest in the Lease Agreement, and that all rights acquired under such Mortgage(s) shall be subject to all of the covenants, conditions and restrictions set forth in this Lease Agreement, and to all rights and interests of City herein, none of which covenants, conditions or restrictions is or shall be waived by City by reason of the right given so to mortgage, such interest in this Lease Agreement.

- (2) This Lease Agreement shall not be modified or surrendered by City or cancelled or terminated by City and/or Lessee, nor shall City accept a surrender of this Lease Agreement except as expressly provided in this subparagraph (e).
- (3) So long as any Leasehold Mortgage shall remain a lien on Lessee's leasehold estate hereunder, City agrees, simultaneously with the giving of any notice to Lessee (i) of default, or (ii) of a matter on which a default may be predicated or claimed, to give duplicate copies thereof or of any process in any action or proceeding brought to in any way affect this Lease Agreement, to each Leasehold Mortgagee of record, by certified U. S. Mail or by private courier service, and no such notice to Lessee or process shall be effective unless a copy of such notice is given such Leasehold Mortgagee in the manner herein provided for. Each Leasehold Mortgagee will have the same period after receipt of the notice aforesaid to it for remedying the default or causing the same to be remedied as is given Lessee after notice to it plus thirty (30) days thereafter and City agrees to accept such performance on the part of the leasehold Mortgagee as though the same had been done or performed by Lessee.
- (4) For purposes of this sub-paragraph (e) it shall be the responsibility of any Leasehold Mortgagee to provide City with the current address and name of designated person to whom to address any notice required by this Agreement, and failure of any Leasehold Mortgagee to provide such information to City shall excuse City's requirement hereunder to provide such notice to that Leasehold Mortgagee.

- (5) No payment made to City by a Leasehold Mortgage shall constitute agreement that such payment was, in fact, due under the terms of this Lease Agreement; and a Leasehold Mortgagee having made any payment to City pursuant to City's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof.
- (6) City agrees that if Lessee for any reason shall fail, or shall not be entitled, to exercise its right to renew this Lease Agreement for any renewal term as herein provided, City shall notify each Leasehold Mortgagee that Lessee has failed as aforesaid, or is not entitled, to exercise its right to renew this Lease Agreement, as the case may be, and each Leasehold Mortgagee shall have the right, for a period of thirty (30) days after the receipt of such notice to elect that this Lease Agreement be renewed for such renewal term upon the same terms and conditions and with the same effect as though such right had been exercised by Lessee. If more than one Leasehold Mortgagee shall exercise the election provided for in this subparagraph (e) City shall only be required to execute the instrument certifying such renewal with the Leasehold Mortgagee whose Leasehold Mortgage is prior in lien to any and all other Leasehold Mortgages, and the election of any Leasehold Mortgagee whose Leasehold Mortgage is subordinate in lien shall be null and void and of no force and effect.
- (7) If the Leasehold Mortgagee or any person claiming by, through or under it (including but not limited to a purchaser at foreclosure sale) shall become owner of the leasehold estate and if the improvements shall become materially damaged, then such Leasehold Mortgagee shall be obligated to repair, replace or reconstruct the improvements to their pre-existing condition prior to the casualty.
- (8) Any assignment of rents and/or leases contained in any Leasehold Mortgage shall be fully effective as between mortgagor and mortgagee but shall be subordinate to the rights of City to the extent necessary to secure payment to City of any sums due it under this Lease Agreement.
- (9) Wherever the term "Leasehold Mortgage" is used, it shall mean any mortgage which at the time in question is a lien on Lessee's leasehold estate and upon the interest of Lessee in this Lease Agreement and any supplement to, modification, renewal, consolidation, replacement or extension thereof. The term "Leasehold Mortgagee" shall mean the holder of such Leasehold

Mortgage, its successors and assigns, and any successful bidder at foreclosure sale under any Leasehold Mortgage.

- (10) The rights of Leasehold Mortgagees contained in this subparagraph (e) are for the benefit of Leasehold Mortgagees and shall be enforceable by them.

1.08 Lessee's Cost for Leasehold Improvements, Fixtures and Equipment

The cost of all leasehold improvements, fixtures and equipment related to the golf course project shall be borne by Lessee. Upon completion of the leasehold improvements of Leased Premises, Lessee will furnish City a statement of all improvement costs, and that the same have been satisfactorily paid in full.

1.09 Encumbrances on Leased Premises

Subject to title evidence acceptable to Lessee evidencing marketable fee simple title and the right of City to enter into this Lease Agreement, the Leased Premises shall be accepted by Lessee subject to any and all then existing easements or other encumbrances. City shall have the right to obtain any excess fill material from the proposed golf course lakes not required for development by Lessee and to have it deposited or stored by Lessee in a predetermined area owned by City outside the Leased Premises. No right of City provided for in this paragraph shall be so exercised as to interfere unreasonably with Lessee's operations hereunder nor result in substantially added expense to Lessee in conducting operations hereunder.

1.10 City's Right to Enter and Inspect

City shall have the right to enter any part of the Leased Premises at reasonable times for the purpose of inspection, protection or exercising any rights under this Lease Agreement.

ARTICLE II

LEASED TERM AND CONDITIONS

2.01 Term

This Lease Agreement shall become effective upon signing by both City and Lessee. The base term of this Lease Agreement shall begin and run a period of thirty (30) years commencing with the certification of completion of all leasehold improvements or October 1, 1995 whichever shall first occur. The first payment of \$21,600, made upon the execution of this Lease Agreement shall constitute the total consideration paid by Lessee until the completion of the improvements or October 1, 1995, whichever shall first occur.

2.02 Options

- (a) Provided Lessee is not in default of any provisions of this Agreement at the time of its exercise of a renewal option, Lessee shall have the right to exercise two successive twenty (20) year lease renewal options of the Leased Premises before the expiration of each preceding lease term or renewal.
- (b) Each renewal option shall be exercised by written notice of such exercise signed by an authorized representative of Lessee and shall be deemed as given at the time such notice sent by registered or certified U. S. Mail is received by City. Each renewal option shall be exercised no later than twelve (12) months prior to the expiration of the term of the then existing Agreement.

2.03 Early Termination

Lessee shall have the right to terminate this Lease Agreement if Lessee, acting in good faith and with due diligence, is unable to obtain all required clearances, permits and/or approvals from all required local, state and federal entities or agencies, or if both Lessee and City mutually agree to such termination. In the event of early termination under this provision only, City shall not be liable for reimbursement of any costs incurred by Lessee. However, Lessee shall be entitled to reimbursement of first lease payment. If a phase one environmental study or other environmental investigation reveals a potential environmentally hazardous condition Lessee shall have the option to terminate this lease agreement and Lessee shall be entitled to reimbursement of first lease payment. Lessee shall have 90 days from the execution of this agreement to conduct said environmental study and investigation.

2.04 Restriction on Use

The Leased Premises and the leasehold improvements and all other property located thereon shall be used solely and exclusively for the purposes of operating a golf course and related facilities and for no other use whatsoever without written permission of City which shall not be unreasonably withheld.

ARTICLE III**RENT, FEES AND CHARGES****3.01 Ground Rent**

For the use of the Leased Premises and privileges granted hereunder Lessee shall pay a monthly ground rent of one-twelfth (1/12) of the annual payment set forth on the attached schedule marked Exhibit "B". Said rental shall be paid in advance without demand, on the first day of each calendar month. Said rent

schedule shall begin on October 1, 1995 or the opening of the golf course whichever shall first occur. However, if the opening date of the golf course occurs prior to October 1st, 1995, as referred to in Article 2.02, said first monthly payment shall begin on such opening date and the rent shall be pro-rated for the fractional portion of the first month of operation.

3.02 Percentage Rent

In addition to the ground rental fees stated in Section 3.01, Lessee shall also pay a monthly percentage of all gross revenues per attached schedule marked Exhibit "B", and made a part hereof. Said percentage rent shall be paid each month two months in arrears, on the first day of the month, two months subsequent to the month for which percentage rent is due.

3.03 Gross Revenues

The term "gross sales," "gross receipts" or "gross revenues" shall mean the total sum of money paid to Lessee for and in connection with the operation of the clubhouse, restaurant, store, golf cart rental, driving range and green fees, or any other type of activity with the exclusive exception of golf club memberships fees. Such memberships shall be limited to 1,000 members.

3.04 Commencement of Rent and Rental Adjustments

Ground rent shall commence upon execution of this Agreement. Monthly rent due from the date of the execution of this Agreement to October 1, 1995, or until the golf course opens, whichever shall first occur, shall be \$21,600.00. Upon October 1, 1995, or the opening of the golf course, whichever shall first occur, the monthly rental shall be pursuant to the attached schedule B.

3.05 Late Charges

Lessee shall pay to City a late payment fee of one and one-half percent (1.5%) per month or fraction thereof of any amounts that are more than ten (10) days past due under this Lease Agreement; provided, however, such late charges shall not accrue with respect to disputed items being contested in good faith by Lessee, in which event the legal rate of interest shall be charged from the due date on all disputed items determined to have been due to City.

3.06 Books of Account and Auditing

Lessee shall keep within Fernandina Beach true and complete records and accounts of all gross receipts from the golf course operation. All rental contracts or transactions shall be prenumbered and Lessee shall maintain records and controls insuring that the transactions accurately reflect all gross receipts of Lessee. Beginning in the eighth year Lessee shall provide annually, within ninety (90) days after the end of each lease year, statement of all such receipts for the preceding

lease year. Such statement shall be reviewed by an independent certified public accountant with a related opinion of special procedures performed. Lessee agrees to give to City access, during reasonable hours for inspection, Lessee's books and records, and Lessee agrees that it will keep and preserve for at least five (5) years all rental contracts and other evidence of gross receipts for such period. City shall have the right at any time and from time to time to audit all of the records of Lessee relating to business transacted at the golf course including, but not limited to, gross receipts, and Lessee upon request shall make all such information available for such examination at the Leased Premises. Notwithstanding the foregoing, no request by the City may infringe on Lessee's quiet enjoyment of the premises.

3.07 Licenses, Fees and Taxes

Lessee agrees to pay, when due, all licenses, fees, taxes, ad valorem taxes and assessments charged, assessed or levied by any governmental authority on either Lessee's business, any activity necessary for Lessee's business or on the Leased Premises, leasehold improvements, equipment or material, including any fines, penalties, fees or costs of remediation imposed or required by any regulatory authority or governmental unit as a result of the operation of the Leased Premises by Lessee and for events occurring during this Lease Agreement or any renewal thereof. No such payment shall be considered a payment of rent entitling Lessee to a credit under any other provision of this Lease Agreement. The failure of Lessee to pay any items enumerated in this sub-paragraph, the validity of which shall be contested in good faith and with reasonable promptness, shall not be interpreted as a violation of this covenant until such contest shall have been abandoned or the time for objection or appeal has expired.

3.08 Revenue Control Equipment

Lessee shall install and use, or cause to be installed and used, cash registers, sales slips, invoicing machines and other automatic accounting equipment or devices required to properly and accurately record the Gross Sales or Revenues made by Lessee under this Lease Agreement.

ARTICLE IV

OPERATIONAL STANDARDS

4.01 Lessee shall provide the highest standard of service within the golf course industry to include but not necessarily limited to:

- (a) Hours of Operation: Subject to normal course maintenance requirements the golf course must be open seven days a week with hours of operation consistent with comparable public and private courses.

- (b) **Membership:** The golf course shall be open to the public on a space available basis in compliance with all covenants, conditions, laws or regulations imposed upon City by any federal, state or local government and in full compliance with Article XII, paragraph 12.02, hereof.
- (c) **Maintenance and Operation:** Golf course maintenance and operation shall be of the highest industry standards.
- (d) **Food and Beverage Operation:** All items served at the golf course food and beverage facility shall be of the best quality and shall conform to all regulations as it relates to safety, health and cleanliness.
- (e) **Supervision:** All activities herein authorized shall be supervised at all times by an active, qualified, competent manager or a qualified subordinate in the manager's absence. The manager or his qualified representative shall be available at the Leased Premises during normal business hours.
- (f) **Employees:** All employees of Lessee shall be properly trained, and be of the highest professional and moral standards.
- (g) **Operational Standards:** Lessee shall maintain operational standards equal to the highest within the industry.

4.02 City shall have the right to evaluate the operational performance of Lessee at any time there is reasonable indication that the level of service is below the highest industry standards. Should City's evaluation reflect operational deficiencies, Lessee agrees to immediately correct the same.

ARTICLE V

MAINTENANCE AND REPAIRS

5.01 Maintenance and Repairs of Leased Premises

Lessee agrees to provide at its own expense such repairs, replacements, maintenance, custodial and cleaning services and supplies as may be necessary or required in the operation and maintenance of the Leased Premises and leasehold improvements including maintaining clear zones so as to comply with FAA or any other regulatory requirements. All such repairs, replacements shall be of quality equal to the original in materials and workmanship.

5.02 Condition and Termination

Lessee agrees to surrender and deliver the Leased Premises and leasehold improvements at the termination of this Lease Agreement in good order and

INSTR # 200340065
OR BK 01185 PG 1116

condition, reasonable wear and tear excepted.

5.03 Alterations to Leased Premises and/or Leasehold Improvements

Lessee shall make only reasonable alterations to the Leased Premises or leasehold improvements that are consistent with plans approved by the City of Fernandina Beach and this Agreement.

5.04 City's Inspection Rights

The duly authorized representative of City shall have the right to enter the Leased Premises areas to:

- (a) inspect the areas at reasonable intervals during Lessee's regular business hours or at any time in case of emergency, to determine whether Lessee has complied with and is complying with the terms and conditions of this Lease Agreement;
- (b) perform any and all things which Lessee is obligated by law or this agreement, to perform and has failed to commence within thirty (30) days after written notice to act. The cost of all labor, materials and overhead charges required for performance of such work will be paid by Lessee to City within fifteen (15) days following receipt of the invoice by Lessee.

ARTICLE VI

LIABILITY, INDEMNITY AND INSURANCE

6.01 Indemnification

Lessee shall indemnify, hold harmless, and defend City, its officials, agents and employees, its successors and assigns, individually or collectively, from and against any claim, action, loss, damage, injury, liability and the cost and expense whatsoever kind of nature (included but not limited to, attorneys' fees, court costs, and expert fees) based upon injury to persons, including death or damage to property arising out of, resulting from, or incident to this Lease Agreement, and/or in conjunction with Lessee's use and occupancy of Leased Premises unless occasioned by the negligence of City.

Lessee shall indemnify, save, hold harmless, and defend City, its agents and employees, its successors and assigns, individually or collectively, from and against any liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, resolutions,

or regulations, by Lessee, its agents, employees, licensees, successors and assigns, or those under its control.

6.02 Insurance

Lessee shall procure and maintain at his own expense, the following types and amounts of insurance for the term of this Lease Agreement.

- (a) Comprehensive General Liability Insurance: Coverage shall include automobile for owned, hired and nonowned vehicles; premises-operations; independent contractors; personal injury (deleting any exclusions related to its employees); product and contractual liability, including but not limited to the liability assumed by Lessee under the hold harmless provisions of this Lease Agreement. Said policy or policies shall cover loss or liability for damages in an amount not less than One Million Dollars (\$1,000,000), combined single limits for each occurrence for bodily injury, death or property damage occurring by reason of Lessee's operation in, on or about the Leased Premises.
- (b) Worker' Compensation and Employers Liability Insurance: In the amount and form required by Worker's Compensation Act and insurance laws of the State of Florida.
- (c) Fire Insurance: Lessee shall insure against the perils of fire, extended coverage, and other perils on any and all of Lessee's improvements on the Leased Premises. Such insurance shall be in an amount equal to the full insurable replacement value of such improvements. The coverage shall begin from the initiation of construction through a "Builder's Risk" insurance for the period of time the construction of the improvements covered herein shall have commenced to the time when such construction shall become insurable under the policy or policies herein described.

Such "Builder's Risk" insurance policy or policies shall cover all work incorporated in the building and all material for the same in, on, or about the Leased Premises and shall be written on the "Completed Value Form." City shall be named as additional insured under the policy or policies herein described. On completion of the improvements, Lessee shall then insure such improvements. All property damage insurance policies shall contain loss payable endorsements in favor of the parties as their respective interest may appear hereunder. City agrees that any payments received by it from such insurance companies by reason of loss under such policy or policies shall be applied toward repair and reconstruction of said improvements, if in the event that such repairs and reconstruction can be completed prior to the termination of this Lease Agreement.

The insurance specified above shall, either by provision in the policies or by special endorsements attached thereto, insure City against the risks to which it is exposed as the owner of the Leased Premises and as the grantor of the right to operate the concession business authorized to be conducted under this Lease Agreement. Except for Worker's Compensation and Employers' Liability coverage, all policies shall include City and all of its officers, employees and agents as an additional insured and shall contain a standard cross-liability provision and shall stipulate that no insurance held by City will be called on to contribute to a loss covered thereunder. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not, make City a partner or joint venturer with Lessee in Lessee's operations on the Leased Premises. Such policies shall also insure Lessee against the risks to which it is exposed as the operator of the concession business authorized under this Lease Agreement, and shall be for a full coverage with any deductibles and/or retentions subject to approval by City and shall contain provisions on the part of the respective insurers waiving the right of such insurers to subrogation.

The original or a certified copy of above policy or policies, plus certificates evidencing the existence thereof, all in such form as the City Manager, or his designee may require, or binder, shall be delivered to said Manager upon the execution of this Lease Agreement. In the event a binder is delivered, it shall be replaced within ten (10) days by the original or a certified copy of the policy. Each such policy or certificate shall contain a valid provision or endorsement that "This policy will not be cancelled or materially changed or altered without first giving (60) days written notice in advance thereof to the City Manager, or his designee, City of Fernandina Beach, Post Office Box 668, Fernandina Beach, Florida 32034" sent by certified U. S. mail, return receipt requested.

A renewal policy shall be delivered to the City Manager, or his designee, at least thirty (30) days prior to a policy's expiration date, except for any policy expiring on the expiration date of this Lease Agreement or thereafter.

Lessee may require that any contractor or contractors who perform the work contemplated herein under a contract in excess of One Hundred Thousand and No/100 Dollars (\$100,000.00) furnish a good and sufficient performance bond in an amount not less than the full amount of the contract price for completing the improvements of the Leased Premises, as surety for the faithful performance of the contract by contractor, and for the payment of all persons performing labor and furnishing material in connection with the work.

City reserves the right to review once every five (5) years, the insurance provisions stated herein as to the amount of coverage, new types of insurance and new terms (such as combined single limit coverage). If such review indicates that Lessee's insurance coverage is below the recommended minimums of the prevailing standards of the insurance industry, the City reserves the right to require modification of the insurance coverage under this Agreement.

ARTICLE VII

DAMAGE OR DESTRUCTION TO LEASED PREMISES

Lessee shall be responsible to replace or repair the Leased Premises in the event of damage or casualty to any or part of the same. Insurance proceeds received by reason of any such damage or destruction shall be applied to such replacement or repair to the extent necessary to restore the damaged property to its predamaged condition.

ARTICLE VIII

ASSIGNMENT AND SUBLETTING

Lessee shall neither assign nor transfer this Lease Agreement or any right or leasehold interest granted to it by this Lease Agreement without the consent of City, such consent not to be unreasonably withheld. Provided, however, Lessee may assign and transfer this Lease Agreement in its entirety without such consent to any successor-in-interest of Lessee with or into which Lessee may merge or consolidate or which may succeed to the assets of Lessee or a major portion thereof. No such assignment or sublease shall serve to release Lessee from any of its obligations, duties or responsibilities under this Lease Agreement unless City agrees thereto in writing. Any such assignment or transfer shall be in writing and promptly upon the execution thereof, Lessee shall furnish a copy to City.

ARTICLE IX

BREACH BY CITY

In addition to all other remedies available to Lessee, this Lease Agreement shall be subject to cancellation by Lessee by giving a thirty (30) day written notice to City, should any one or more of the following events occur:

- (a) The breach by City in the performance of any covenant or any agreement required to be performed by City and the failure of City to commence to remedy such breach for a period of thirty (30) days after receipt of notice of breach of City, unless there is a good faith controversy as to whether a breach has been committed by City, in which event resolution of this issue prior to cancellation of the Lease Agreement must occur.
- (b) The assumption by the United States government, or any authorized agency thereof, of the operation, control or use of the City's Municipal Airport in such manner as to substantially restrict Lessee from operating upon the Leased Premises for a period of at least ninety (90) consecutive days.

- (c) Failure of City to approve Lessee's plans, specifications or construction when the same were performed in accordance with City's direction or approvals, and met all architectural and engineering requirements.

ARTICLE X

BREACH BY LESSEE

10.01 In addition to all other remedies provided herein or at law, City may cancel this Lease Agreement by giving thirty (30) days written notice to Lessee should any one or more of the following events occur:

- (a) The breach by Lessee in the performance of any covenant or any agreement required to be performed by Lessee and the failure of Lessee to commence to remedy such breach for a period of thirty (30) days after receipt of notice of breach by Lessee except as follows:
- (1) Lessee's failure to make payments required hereunder when due to city or within thirty (30) days after receipt of written notice from City of nonpayment, in which case Lease Agreement cancellation shall be within thirty (30) days of written notice.
 - (2) Lessee's failure to correct an unsanitary, hazardous or safety condition within ten (10) days after receipt of written notice from City, if such can be corrected or reasonably improved within ten days, in which case Lease Agreement cancellation shall be within thirty (30) days of written notice.
- (b) The interest of Lessee under this Lease Agreement is transferred, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation without the written consent of City, except as provided in Article VIII.
- (c) The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which is not vacated, dismissed, set aside or bonded to the satisfaction of a reputable title insurer, within a period of one hundred twenty (120) days and which does, or as a direct consequent of such process will, interfere with Lessee's use of the Leased Premises or with its operations under this Lease Agreement.
- (d) Lessee becomes insolvent, or takes the benefit of any present or future insolvency statute, or makes assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the Federal bankruptcy laws or under any

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other law or statute of the United States, or under any state law, or consents to the appointment of a receiver, trustee or liquidator of all or substantially all of its property or the property located within the Leased Premises.

- (e) A petition under any part of the Federal bankruptcy laws, or an action under any present or future insolvency law or statute is filed against Lessee and is not dismissed within ninety (90) days.
- (f) By or pursuant to, or under authority of, any legislative act, resolution or rule, order or decree of any court, government board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of Lessee, and such possession or control continues in effect for a period of ninety (90) days.
- (g) Any lien not specifically authorized by this Lease Agreement is filed against the Leased Premises because of any act or omission of Lessee and such lien is not removed, enjoined or a bond for satisfaction of such lien is not posted within ninety (90) days.
- (h) Lessee abandons, deserts, vacates or discontinues its operation of the business herein authorized for a period of thirty (30) days without prior written consent of City.

10.02 Waiver

No waiver by City of default by Lessee of any of the terms, covenants, or conditions hereof to be performed, kept and preserved by Lessee shall be constructed to be a waiver of any subsequent default. The acceptance of rental or the performance of all or any part of this Lease Agreement by City for or during any period after default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of City to declare a default or cancel this Lease Agreement for a subsequent breach thereof.

ARTICLE XI EFFECT OF DEFAULT

11.01 Upon the happening of any event of default by Lessee and the failure of Lessee to cure such default in the time period set forth herein, City shall have the right to cancel the term of this Lease Agreement by written notice from City to Lessee, which cancellation shall be effective as of the date of such written notice. Upon the cancellation of the term hereof, whether by lapse of time or otherwise, Lessee shall promptly surrender possession and vacate the Leased Premises and delivery possession thereof to City, including all leasehold improvements, and

Lessee hereby grants to City a full and free license to enter into and upon the Leased Premises in such event and with process to expel or remove Lessee and any others who may be occupying the Leased Premises and to remove therefrom any and all property.

11.02 In the event this Lease Agreement is cancelled by City, or in the event City re-enters, regains or resumes possession of Lessee's Premises, then City shall have all rights and remedies against Lessee as City may be entitled under Florida law or under applicable federal law. All remedies shall be cumulative.

11.03 Upon the happening of any event of default by City under this Lease Agreement, then Lessee shall have all rights and remedies afforded under Florida law, or under federal law as applicable, including but not limited to the right to require specific performance to the full extent allowed by law by City, its successors or assigns. All remedies shall be cumulative.

ARTICLE XII

GENERAL PROVISIONS

12.01 Subordination to Agreements with the City of Fernandina Beach and the United States Government

This Lease Agreement is subject to the provisions of any agreement heretofore or hereafter made between City and the United States Government, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to City for Airport purposes, or the expenditure of federal funds for the improvement or development of the Airport. City covenants that it has not entered into any existing agreements with the United States Government in conflict with the express provisions hereof. Should City hereafter enter into any agreement which restricts or prohibits the use of the Leased Premises for its intended use then Lessee shall be entitled to just compensation for any loss incurred by Lessee.

12.02 Nondiscrimination

Lessee, for itself, its personal representatives, successor in interest, suboperators, and assigns, as part of the consideration hereof, does hereby covenant and agree; (1) that no person, on the grounds of race, color, creed, political ideas, sex, age or physical or mental handicap (for which reasonable accommodations may be made), shall be excluded from participation, denied the benefits or, be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements and the furnishings of services, no person on the grounds of race, color, creed, political ideas, sex, age, or physical or mental handicaps (for which reasonable accommodations may be made), shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; that Lessee shall use the Leased Premises in compliance with all other

requirements imposed by any State, Federal or local laws or regulations, as amended from time to time, applicable to the Leased Premises including, but not limited to, Title 49, Code of Federal Regulation, Department of Transportation, Subtitled A, Office of the Secretary Part 21, Nondiscrimination in Federal Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Acts of 1964, and said Regulations may be amended.

12.03 Nonwaiver of Rights

No waiver of breach by either party of any of the terms, covenants, and conditions hereof to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent breach of any of the terms, covenants, or conditions herein contained, to be performed, kept and observed by the other party.

12.04 Time is Essence

Time is expressed to be of the essence in this Lease Agreement

12.05 Successor and Assigns Bond

This Lease Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, where permitted by this Lease Agreement.

12.06 Governing Law

This Lease Agreement is governed by the laws of the State of Florida. Any disputes relating to this Lease Agreement must be resolved in accordance with the laws of the State of Florida.

12.07 Force Majeure

Neither party hereto shall be liable to the other for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Lease Agreement due to causes beyond the control of that party, including, but not limited to, strikes, boycotts, labor disputes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage, or other circumstances for which such party is not responsible or which are not in its power to control.

12.08 Toxic Waste

Lessee, for itself and on behalf of its officers, agents, employees, assigns, and contractors, does agree to protect, defend, ensure and indemnify City for any manner of loss, damage, cost or assessment which may result from or in any manner be related to the presence, use, distribution or disposition of any dangerous

toxic waste, or any other substance or derivative. This provision shall survive the expiration of this lease. This shall not apply to conditions which pre-exist the date this lease. By execution of these presents, City mutually agrees that there is no known condition constituting a violation of this paragraph at the inception of this lease.

12.09 Quiet Enjoyment

City agrees that Lessee, upon payment of all fees, charges and other payments required under the terms of this Lease Agreement and observing the keeping of the conditions and covenants of this Lease Agreement on its part to be observed and kept, shall lawfully acquire, hold use and enjoy the Leased Premises during the term of this Lease Agreement.

12.10 Lessee's Dealings with City

Whenever in this Lease Agreement, Lessee is required or permitted to obtain the approval of, consult with, give notice to, or otherwise deal with City, Lessee shall deal with City's authorized representative; and unless or until City shall give Lessee written notice to the contrary, City's authorized representative shall be the City Manager or his designee.

12.11 Approvals and Notices

(a) All notices, consents and approvals required to authorized by this Lease Agreement to be given by or on behalf of either party to the other shall be in writing and signed by a duly designated representative of the party by or on whose behalf they are given, and shall be deemed given at the time a registered or certified letter properly addressed, postage prepaid, deposited in any United States post office or delivered to a private courier service, is received by the addressee.

(b) Notice to City shall be addressed to it and delivered at the office of:

CITY: City Manager
City of Fernandina Beach
Post Office Box 668
Fernandina Beach, Florida 32034

(c) Notice to Lessee shall be addressed to the attention of:

LESSEE: President
Nassau Sound Land Company, Inc.
401 Centre Street, Second Floor
Fernandina Beach, Florida 32034

12.12 Independent Contractor

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The parties hereto agree that Lessee is an independent contractor and not subject to direction or control of City, except as specified in this Lease Agreement.

12.13 Interpretation

The language of this Lease Agreement shall be construed according to its plain meaning, the section headings appearing herein are for the convenience of the parties and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of provisions of this Lease Agreement. If any provision of this Lease Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease Agreement and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Lease Agreement is capable of two constructions, one which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

12.14 Right to Develop Airport

It is further covenanted and agreed that City reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Lessee and without interference or hindrance. Lessee agrees that it shall have no claim against City for damages arising out of the development and normal operations conducted by City at its Municipal Airport. Provided the parties mutually agree, City may re-acquire from the leasehold estate granted herein, undeveloped lands of the Leased Premises if such lands are necessary for future development of the City's Municipal Airport. If the City decides to grant an access easement to the developers of Crane Island, it shall have the right to designate and grant such easement through the undeveloped portion of Parcel I of the Leased Premises as depicted on Exhibit "A".

12.15 Incorporation of Exhibits

All exhibits referred to in this Lease Agreement are intended to be and hereby are specifically made part of this Lease Agreement.

ARTICLE XIII

DISPUTE RESOLUTION AND ATTORNEYS' FEES

Any controversy or claim arising out of or relating to this Agreement, or the breach of this Agreement, shall be settled by arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over the matter. Notwithstanding any provision contained herein to the contrary, a cause

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of action for eviction and/or for injunctive relief and any issues related to these causes of action may be brought by City directly in a court of competent jurisdiction without having to first resort to the arbitration process as provided herein for dispute resolution. Lessee may bring a cause of action for injunctive relief and related issues directly in a court of competent jurisdiction.

Attorneys' Fees and Costs

If any action at law or in equity or any arbitration proceeding is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which that party may be entitled.

ARTICLE XIV

ENTIRE AGREEMENT

The parties hereto understand and agree that this instrument contains the entire agreement between the parties. The parties further understand and agree that neither party nor its agents have made representations or promises with respect to this lease Agreement except as expressly set forth herein; and that no claim or liability shall arise for any representations or promises not expressly stated in this Lease Agreement. Any other writing or parol agreement with the other party being expressly waived.

ARTICLE XV

COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective duly authorized officers as of the day and year first above written.

Signed, sealed and delivered in the presence of:

"CITY"
CITY OF FERNANDINA BEACH

Mary Mercer
Cassandra Mitchell

By: Charles L. Alford
Its: Mayor

Attest: Vicki P. Cannon
Its: Clerk

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DR BK 0185 PG 1127

"LESSEE"
NASSAU SOUND LAND CO. INC.

Vicki P. Cannon
Mary Mercer

By: [Signature]
Its: PRESIDENT
Attest: [Signature]
Its: Sec.

APPROVED AS TO FORM:

[Signature]
Counsel [Signature] City Attorney

STATE OF FLORIDA
COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this 7 day of July, 1994, by Charles H. Albert, Jr. and Vicki P. Cannon, the (title) Mayor, and the (title) City Clerk, respectively, of the CITY OF FERNANDINA BEACH, a public body corporate and politic of the State of Florida, on behalf of the City.

Cassandra Mitchell
Notary Public, State of Florida
at Large

My Commission Expires:



CASSANDRA P. MITCHELL
MY COMMISSION # CC306971 EXPIRES
May 15, 1998
BONDED THRU TROY FAH INSURANCE, INC.

STATE OF FLORIDA
COUNTY OF NASSAU

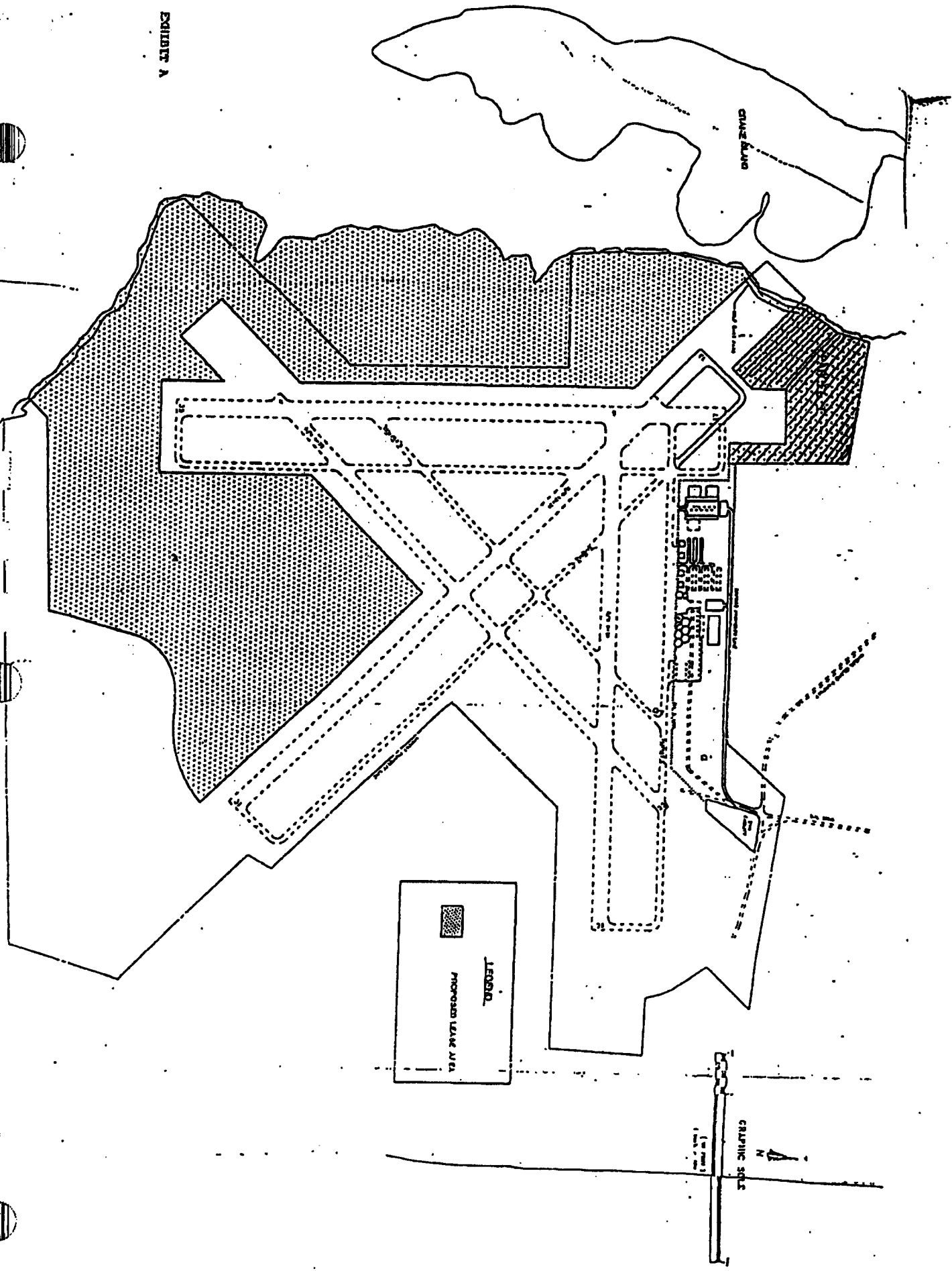
The foregoing instrument was acknowledged before me this 6th day of July, 1994, by Scott Brian Parliament and Clinch Kavanaugh, the (title) President, and the (title) Secretary, respectively, of NASSAU SOUND LAND CO., INC., a Florida corporation.

Mary Mercer Mary Mercer
Notary Public, State of Florida
at Large
#172641 CC

My Commission Expires: Dec. 31, 1998
NOTARY PUBLIC, STATE OF FLORIDA
BONDED THRU NOTARY PUBLIC UNDER

INSTR # 200340065
OR BK 01185 PG 1128

EXHIBIT A



INSTR # 200340065
OR BK 01185 PG 1129

FERNANDINA BEACH MUNICIPAL AIRPORT
FERNANDINA BEACH, FLORIDA

Hoyle, Tenner & Associates, Inc. 1978

PROJECT NO. _____

Golf Course Land Lease Schedule

City of Fernandina Beach

<u>Year</u>	<u>Annual Land Rental</u>	<u>% of Gross</u>
1	43,200	0.00%
2	43,200	0.00%
3	86,400	0.00%
4	100,800	0.00%
5	115,200	0.00%
6	129,600	0.00%
7	144,000	0.00%
8	149,760	0.00%
9	149,760	1.50%
10	149,760	1.50%
11	149,760	1.50%
12	149,760	1.50%
13	155,750	1.50%
14	155,750	1.50%
15	155,750	1.50%
16	155,750	1.50%
17	155,750	1.50%
18	161,980	2.50%
19	161,980	2.50%
20	161,980	2.50%
21	161,980	2.50%
22	161,980	2.50%
23	168,460	2.50%
24	168,460	2.50%
25	168,460	2.50%
26	168,460	2.50%
27	168,460	2.50%
28	175,198	2.50%
29	175,198	2.50%
30	175,198	2.50%

EXHIBIT B

INSTR # 200340065
 OR BK 01185 PG 1130

Golf Course Land Lease Schedule

City of Fernandina Beach

<u>Year</u>	<u>Annual Land Rental</u>	<u>% of Gross</u>
31	175,198	2.50%
32	175,198	2.50%
33	182,206	2.50%
34	182,206	2.50%
35	182,206	2.50%
36	182,206	2.50%
37	182,206	2.50%
38	189,494	2.50%
39	189,494	2.50%
40	189,494	2.50%
41	189,494	2.50%
42	189,494	2.50%
43	197,074	2.50%
44	197,074	2.50%
45	197,074	2.50%
46	197,074	2.50%
47	197,074	2.50%
48	204,957	2.50%
49	204,957	2.50%
50	204,957	2.50%

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OR BK 01185 PG 1131

EXHIBIT B

Golf Course Land Lease Schedule

City of Fernandina Beach

<u>Year</u>	<u>Annual Land Rental</u>	<u>% of Gross</u>
51	204,957	2.50%
52	204,957	2.50%
53	213,155	2.50%
54	213,155	2.50%
55	213,155	2.50%
56	213,155	2.50%
57	213,155	2.50%
58	221,681	2.50%
59	221,681	2.50%
60	221,681	2.50%
61	221,681	2.50%
62	221,681	2.50%
63	230,549	2.50%
64	230,549	2.50%
65	230,549	2.50%
66	230,549	2.50%
67	230,549	2.50%
68	239,771	2.50%
69	239,771	2.50%
70	239,771	2.50%

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OR BK 0185 PG 1132

EXHIBIT B

**FIRST AMENDMENT TO
CITY OF FERNANDINA BEACH
GOLF COURSE LICENSE AND LEASE AGREEMENT**

THE GOLF COURSE LICENSE AND LEASE AGREEMENT, (hereinafter referred to as "the Agreement" was made and entered into on or about the 7th day of July, 1994, by and between the CITY OF FERNANDINA BEACH, (hereinafter referred to as "City"), a body politic and corporate existing under the Laws of Florida, as amended, and NASSAU SOUND LAND CO., INC., a corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee").

WITNESSETH

WHEREAS, Lessee desires to amend the Agreement to exclude from the leased Premises certain lands adjoining the Fernandina Beach Municipal Airport in exchange for the inclusion of other lands adjoining the Fernandina Beach Municipal Airport, and Lessor is willing to effectuate this amendment to the Agreement as an even exchange without any cost adjustment.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein by reference, and in further consideration of the mutual covenants, agreements and conditions contained herein, the undersigned parties agree that the Agreement is hereby amended as it relates to the definition of the leased Premises; any and all references to Exhibit "A" contained in the Agreement are hereby replaced with references to Exhibit A-1"; the attachment to the Agreement of "Exhibit "A" is hereby replaced with Exhibit "A-1"; and all other provisions of the Agreement, except as amended by the provisions of this First Amendment to City of Fernandina Beach Golf Course Lease and License Agreement, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective duly authorized officers this 7th day of March, 1995.

INSTR # 200340065
DR BK 0185 PG 1133

STATE OF FLORIDA
COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this 7th day of March, 1995, by Charles L. Albert, Jr. and Mary Mercer, the (title) Mayor, and the (title) City Clerk, respectively, of the CITY OF FERNANDINA BEACH, a public body corporate and politic of the State of Florida, on behalf of the City.

Charles L. Albert, Jr.
Charles L. Albert, Jr., Mayor, DATE

Mary Mercer #172671
Notary Public, State of Florida
at Large

ATTEST:
Mary Mercer 4/3/95
Mary Mercer, Deputy Clerk DATE

My Commission Expires:
NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES: Dec. 30, 1995.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

STATE OF FLORIDA
COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this 7th day of March, 1995, by Scott Brian Parliament and Clinch Kavanaugh, the (title) President, and the (title) Secretary, respectively, of NASSAU SOUND LAND CO., INC., a Florida corporation.

Clinch Kavanaugh
Clinch Kavanaugh, Vice President DATE

Mary Mercer #172671
Notary Public, State of Florida
at Large

My Commission Expires:
NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES: Dec. 30, 1995.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

INSTR # 200340065
DR BK 01185 PG 1134

7/25-15

AUG 9 1995

MEMORANDUM OF DEVELOPMENT AND LEASE AGREEMENT BK 0736 PG 0178
OFFICIAL RECORDS

On July 7, 1994, a Development and Lease Agreement was entered into between the City of Fernandina Beach and Nassau Sound Land Co., Inc.. This memorandum of that Development and Lease Agreement is presented for recording:

1. Name of lessor in Lease Agreement: City of Fernandina Beach
2. Name of lessee therein: Nassau Sound Land Co., Inc.
3. Address set forth in Development and Lease Agreement as addresses of

lessor and lessee:

Lessor: Post Office Box 668
Fernandina Beach, Florida 32034

Lessee: 401 Centre Street, Second Floor
Fernandina Beach, Florida 32034

4. Date of Development and Lease Agreement: July 7, 1994
5. Description of leased premises as set forth in Development and Lease Agreement: As depicted in Exhibit "A", attached hereto and made a part hereof.
6. The date on which the Development and Lease Agreement became effective: July 7, 1994.
7. Term of Development and Lease Agreement: From October 1, 1995, to September 30, 2025.
8. Date of expiration of final period for which the Development and Lease Agreement may be renewed: September 30, 2065.

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OR BK 01185 PG 1136

BK 0736 PG 0179

- 9. The Development and Lease Agreement referred to herein was amended by the First Amendment to City of Fernandina Beach Golf Course License and Lease Agreement dated March 7, 1995, whereby the description of the Leased Premises was modified as shown on Exhibit "A" attached hereto.
- 10. No mechanic's lien for labor, materials, supplies or professional services may be placed upon the Leased Premises without the consent of the Lessor, the City of Fernandina Beach, Florida.

Executed on August 8, 1995.

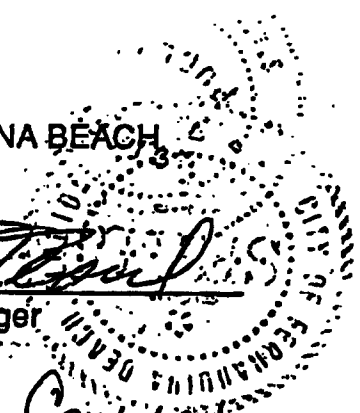
Signed, sealed and delivered in the presence of:

Lisa R. Burch
Bonnie L. Magee

"CITY"
CITY OF FERNANDINA BEACH

By [Signature]
 Its: City Manager

Attest: [Signature]
 Its: Clerk



Signed, sealed and delivered in the presence of:

[Signature]
 Suzanne E. Short
[Signature]
 Anthony J. Leggio

"LESSEE"
NASSAU SOUND LAND CO., INC.

By [Signature]
 Its: Vice President and Secretary

INSTR # 200340065
DR BK 01185 PG 1137

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OFFICIAL RECORDS

STATE OF FLORIDA
COUNTY OF NASSAU

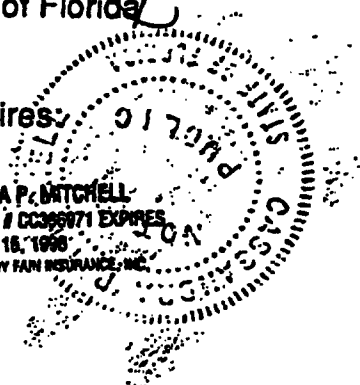
The foregoing instrument was acknowledged before me this 8th day of August, 1995, by Zachary Z. Zoul and Vickie Cannon, the City Manager and the City Clerk, respectively, of the CITY OF FERNANDINA BEACH, a public body corporate and politic of the State of Florida, on behalf of the City.

Cassandra P. Mitchell

Notary Public, State of Florida
at Large
Print Name:
My Commission Expires:



CASSANDRA P. MITCHELL
MY COMMISSION # CC39971 EXPIRES
May 15, 1998
BONDED THROUGH TRUITY FARM INSURANCE, INC.

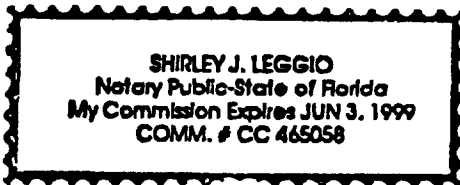


STATE OF FLORIDA
COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this 8th day of August, 1995, by Clinch Kavanaugh, the Vice-President and the Secretary, of NASSAU SOUND LAND CO., INC., a Florida corporation, on behalf of the corporation. He is personally known to me.

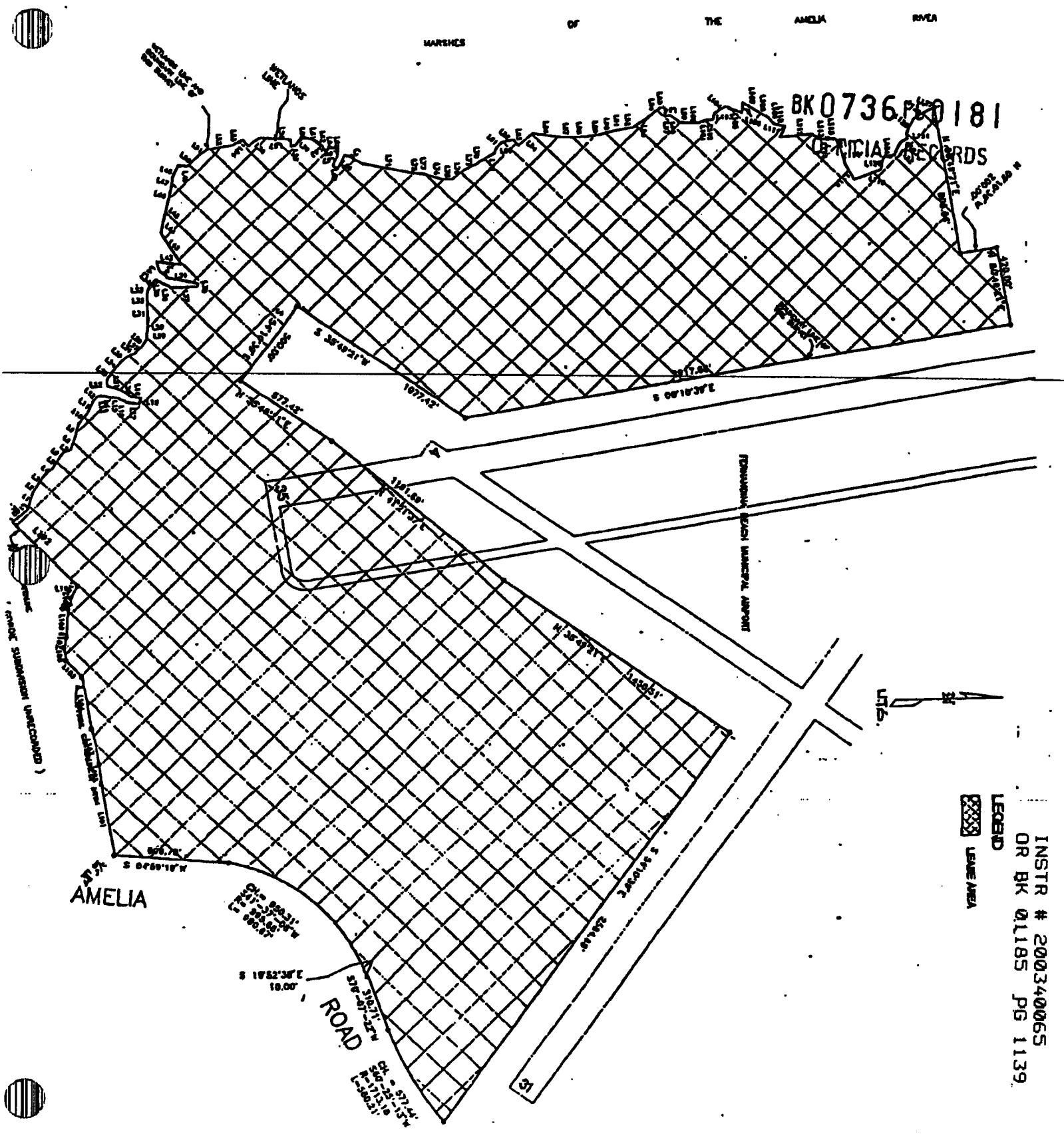
Shirley J. Leggio

Notary Public, State of Florida
at Large
Print Name: Shirley J. Leggio
My Commission Expires: 6/2/99

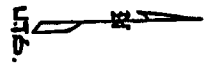


This document prepared by Anthony J. Leggio, Esquire, 303 Centre Street, Suite 102, Fernandina Beach, Florida 32034.

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OR BK 01185 PG 1138



BK 0736 PG 0181
 OFFICIAL RECORDS



INSTR # 200340065
 OR BK 01185 PG 1139

LEGEND
 [Cross-hatch symbol] LEASE AREA

AUG - 6 1996

ASSIGNMENT AND ASSUMPTION OF LEASEBK 0767 PG 1058
OFFICIAL RECORDS

THIS ASSIGNMENT AND ASSUMPTION OF LEASE is dated as of July 1, 1996 by and between NASSAU SOUND LAND CO., INC., a Florida corporation ("Assignor"), and KINGSLEY CREEK DEVELOPMENT COMPANY, a Florida corporation ("Assignee").

Assignor has entered into that certain Lease dated as of July 1, 1995, as amended (the "Lease") with The City of Fernandina Beach, Florida ("Landlord"), for premises adjacent to the Fernandina Beach Municipal Airport, as more particularly described in the Lease (the "Leased Premises"). In consideration of the entry by the parties hereto into a Lease Acquisition Agreement dated January of 1996, as amended on even date herewith relating to the Lease, the Leased Premises and other assets to be acquired by Assignee (the "Acquisition Agreement") and other good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Assignment. Assignor hereby assigns, transfers and sets over to Assignee all of Assignor's right, title and interest in, to and under the Lease and the Leased Premises.
2. Assumption. Assignee hereby assumes all of the obligations and duties of Assignor under the Lease and with respect to the Leased Premises.

- 1 -

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9616475 PG 059
OFFICIAL RECORDS

3. Successors. This Agreement shall be binding upon and shall inure to the benefit of the heirs, successors and assigns, respectively, of Assignor and Assignee.

4. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida.

5. Acquisition Agreement. This Assignment shall be deemed to incorporate, and shall be subject to the terms and conditions of, the Acquisition Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ASSIGNOR:

NASSAU SOUND LAND CO., INC.

By: *[Signature]*

Attest: *[Signature]*

ASSIGNEE:

KINGSLEY CREEK DEVELOPMENT COMPANY

By: *[Signature]*

Attest: *[Signature]*

SM

9616475

FILED & RECORDED IN PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA

96 AUG -6 AM 10:48

[Signature]
CLERK OF COURTS
NASSAU COUNTY, FLORIDA

RESOLUTION NO. 95-64

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH TRANSFERRING DEVELOPMENT AND LEASE AGREEMENT WITH THE NASSAU SOUND LAND COMPANY TO THE KINGSLEY CREEK DEVELOPMENT COMPANY; PROVIDING FOR DEFERRAL OF RENT PAYMENT TIMETABLE; AND PROVIDING FOR TERMS.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA that:

- 1) The request of the Nassau Sound Land Company to transfer and assign the Development and Lease Agreement between the City and the Nassau Sound Land Company to the Kingsley Creek Development Company is approved.
- 2) The request of the Kingsley Creek Development Company for deferral of the timetable for the commencement of rental payments until March 1, 1999 or the completion of golf course construction (whichever occurs first) is approved in consideration of a one-time payment of \$21,600.
- 3) The Agreement be further amended to provide that the Kingsley Creek Development Company shall provide the City with a written quarterly progress report.
- 4) The City's acceptance of these terms is contingent upon a closing of not later than March 1, 1996. In the interim, rent payments by the Nassau Sound Land Company shall continue pursuant to the existing Agreement.

ADOPTED this 2nd day of January, 1996.

CITY OF FERNANDINA BEACH

Charles L. Albert, Jr.
CHARLES L. ALBERT, JR.
Mayor-Commissioner

ATTEST:

Vicki P. Cannon
VICKI P. CANNON
City Clerk

RESOLUTION NO. 95-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING RESOLUTION NO. 95-64 BY EXTENDING THE CLOSING DATE FOR THE LEASE TRANSFER BETWEEN NASSAU SOUND LAND CO. AND KINGSLEY CREEK DEVELOPMENT COMPANY.


BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

Section One. That Paragraph 4 of Resolution No. 95-64 be amended to read as follows:

- 4) The City's acceptance of these terms is contingent upon a closing of not later than May 1, 1996. In the interim, rent payments shall be suspended during the period from March 1, 1996 through May 1, 1996.

ADOPTED this 20th day of February, 1996.

CITY OF FERNANDINA BEACH


CHARLES L. ALBERT, JR.
Mayor-Commissioner

ATTEST:


VICKI P. CANNON
City Clerk

RESOLUTION NO. 96-44

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING RESOLUTION NOS. 95-64 AND 96-20 BY EXTENDING THE CLOSING DATE FOR THE LEASE TRANSFER BETWEEN NASSAU SOUND LAND CO. AND KINGSLEY CREEK DEVELOPMENT COMPANY.


BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

Section One. That Paragraph 4 of Resolution No. 95-64, and as amended by Resolution No. 96-20, be amended to read as follows:

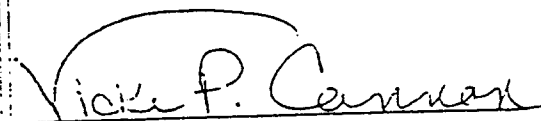
- 4) The City's acceptance of these terms is contingent upon a closing of not later than July 1, 1996. In the interim, rent payments shall be suspended during the period from March 1, 1996 through July 1, 1996.

ADOPTED this 16th day of April, 1996.

CITY OF FERNANDINA BEACH


CHARLES L. ALBERT, JR.
Mayor-Commissioner

ATTEST:


VICKI P. CANNON
City Clerk

RESOLUTION NO. 99-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH REQUESTING THE FEDERAL AVIATION ADMINISTRATION TO RELEASE CERTAIN LANDS AT THE FERNANDINA BEACH MUNICIPAL AIRPORT ON WHICH A GOLF COURSE IS BEING CONSTRUCTED AS THE PROPERTY NO LONGER SERVES ANY AVIATION PURPOSES.

WHEREAS, on the 7th day of July, 1994, the City of Fernandina Beach entered into a development and construction lease agreement with the Nassau Sound Land Company, and

WHEREAS, the City determined that the use of this property is no longer necessary for aeronautical purposes, and

WHEREAS, on the 3rd day of April, 1995, the agreement was amended, and

WHEREAS, on the 1st day of July, 1996, the lease was transferred to Kingsley Creek Development Company, and

WHEREAS, Kingsley Creek Development Company has begun construction on an 18 hole golf course on said property, and

WHEREAS, the National Bank of South Carolina is the lender for Kingsley Creek Development Company to construct said golf course, and

WHEREAS, the National bank of South Carolina, in order to finance the project, requires that the Federal Aviation Administration give the same or similar Release with Restrictions and Reservations as made between the United States of America and the City of Fernandina Beach on the 24th day of November, 1954, prior to completing the closing, and

WHEREAS, the attached legal description marked Exhibit "A" is the golf course property.

THEREFORE, be it resolved by the City Commission of the City of Fernandina Beach, Florida that:

- (1) The City of Fernandina Beach requests that the Federal Aviation Administration release or enter into an agreement with the City of Fernandina Beach that is the same or similar to the November 24, 1954 Release with Restrictions and Reservations recorded at Book 218 Page 148 of the Nassau County Public Records for those

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certain lands leased by the Kingsley Creek Development Company for the construction of a golf course, more particularly described in the legal description attached hereto marked as Exhibit "A".

ADOPTED this 18th day of May, 1999.

CITY OF FERNANDINA BEACH

S/Ronald Sapp
RONALD SAPP
Mayor-Commissioner

ATTEST:

S/Vicki P. Cannon
VICKI P. CANNON
City Clerk

INSTR # 200340065
OR BK 01185 PG 1146

LANDLORD'S ESTOPPEL CERTIFICATE

April 14, 1999

LESSOR: City of Fernandina Beach, Florida

LESSEE: Kingsley Creek Development Company

LEASED PREMISES: 297.75 Acres, Amelia Road at Fernandina Beach
Airport, Fernandina Beach, Florida

DATE OF LEASE: July 7, 1999

The above-named Lessor acknowledges that it has been informed of the intention of the Lessee to mortgage its leasehold interest in the real property owned by Lessor to The National Bank of South Carolina, Sumter, South Carolina ("Lender") to provide construction and permanent financing for Royal Amelia Golf Course. In connection with that loan and pursuant to that certain Non-Disturbance and Attornment Agreement between Lessor, Lessee and Lender, Lender has required that Lessee obtain this Landlord's Estoppel Certificate from Lessor and Lender will make its loan to Lessee in reliance upon the representations contained herein. Lessor hereby Warrants and represents to Lender as follows:

1. That the copy attached hereto of the City of Fernandina Beach Golf Course Development and Lease Agreement dated July 7, 1994, as amended by a First Amendment thereto dated March 7, 1995, and that

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certain Assignment and Assumption of Lease dated July 1, 1996, and recorded on August 6, 1996 in the Public Records of Nassau County, Florida in Book 767, p. 1058 (collectively, the "Lease") to which reference is hereinabove made is a true and complete copy of that Lease and any and all amendments thereto and that said Lease is in full force and effect.

2. That to the best of Lessor's knowledge and belief, there are not existing defaults with respect to such Lease upon the part of either Lessor or Lessee, nor are there in existence any facts or situations which would, upon the giving of notice, the passage of time, or otherwise constitute a default under such Lease except the issue of the contested real estate taxes for the years 1995, 1996, 1997 and 1998 which are currently being contested by Lessee in a lawsuit pending in The Circuit Court for Nassau County, Florida.

3. That there exists no security deposit under such Lease and that no other deposits have been paid by Lessee to Lessor under such Lease.

4. That rental payments by Lessee to Lessor have been made through April 30, 1999.

5. That the term of said Lease commenced on October 1, 1995 and the rental payments due Lessor by Lessee under said Lease commenced March 1, 1999.

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6 4. That rental payments by Lessee to Lessor have been made through April 30, 1999.

5. That the term of said Lease commenced on October 1, 1995 and the rental payments due Lessor by Lessee under said Lease commenced March 1, 1999.

6. That Lessor has granted no other possessory interests in the real property which is the subject of said Lease except for easements recorded in the Public Records of Nassau County, Florida.

IN WITNESS WHEREOF Lessor has caused this instrument to be executed by its duly authorized City Manager the date first above written.

WITNESSES:

CITY OF FERNANDINA BEACH,
FLORIDA

Susan W. Whitely
Karen J. Larr

Fred H. Hays
By: Fred H. Hays
Its: City Manager

APPROVED AS TO FORM:

Wesley R. Poole
CITY ATTORNEY

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OR BK 01185 PG 1149

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

CERTIFICATION OF TRUE COPY
OF GROUND LEASE AND AMENDMENTS

IN RE: The National Bank of South Carolina \$4,860,000.00 loan to Kingsley Creek Development Company

The undersigned, Kingsley Creek Development Company by its duly authorized officer does hereby represent and warrant to The National Bank of South Carolina, its successors and assigns, that the copies of (1) the City of Fernandina Beach Golf Course Development and Lease Agreement dated July 7, 1994 as amended by (2) the First Amendment to the City of Fernandina Beach Golf Course License and Lease Agreement dated March 7, 1995 as evidenced by (3) the Memorandum of Development and Lease Agreement dated August 8, 1995 and recorded on August 9, 1995 in the Official Records of Nassau County, Florida in Book 736 at page 178 and with the Lessees rights thereunder being assigned from Nassau County Land Co., Inc. to Kingsley Creek Development Company by (4) an Assignment and Assumption of Lease dated as of July 1, 1996 and recorded in said Official Records on August 6, 1996 in Book 767 at page 1058, attached hereto and made a part hereof as Exhibit "A" are true, valid and accurate copies of said Lease Agreement, First Amendment, Memorandum and Assignment and that no other changes, modifications or amendments thereto have been made.

Dated at Columbia, South Carolina this _____ day of May, 1999.

WITNESSES:

KINGSLEY CREEK DEVELOPMENT
COMPANY

By: _____
Its: _____

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