

Prepared by, Record and Return To:

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Christopher J. Hurst, P.A.
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Jacksonville, Florida 32216

DECLARATION AND GRANT OF EASEMENT
(Eagle Street - a Private Road)

THIS **DECLARATION AND GRANT OF EASEMENT** is made the 9th day of November, 2005, by **Eagle Street Property Owners, LLC**, a Florida limited liability company, whose address is c/o Larry R. Geiger, 7830 Bagley Hollow Court, Jacksonville, Florida 32216 ("Declarant") to and in favor of the Owner's (as hereinafter defined).

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of that certain real property located in **Duval** County, Florida, on which the east/west portion of a private road known as Eagle Street is located, said property being more particularly described as follows (the "Eagle Street Easement Parcel"):

As more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

WHEREAS, a part private and part public right of way known as Eagle Street ("Eagle Street") extends in an easterly/westerly direction over the private property of Declarant from and to Belfort Road, a public right-of-way as now established, to its intersection with the north/south prolongation of the public portion of Eagle Street, which north/south prolongation extends to and from Newton Road, a public right-of-way as now established;

WHEREAS, the east/west prolongation is owned in fee simple by Declarant and the north/south prolongation is, to the best of Declarant's knowledge, owned in fee simple by the City of Jacksonville, Florida (successor in interest to Duval County, a political subdivision of the State of Florida) by virtue of that certain deed recorded in Deed Book 926, page 132 of the current public records of Duval County, Florida and which north/south prolongation is listed by the City of Jacksonville as an approved private road;

WHEREAS, the east/west prolongation of Eagle Street has been a prescriptive easement used by the Owners and/or their predecessors in title for many years;

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WHEREAS, Declarant desires and intends that this Declaration and Grant of Easement shall create a continuous way of ingress and egress and utilities over and across the entirety of Eagle Street to and from Belfort Road and Newton Road over and across the Eagle Street Easement Parcel and the City of Jacksonville owned approved private road;

WHEREAS, Declarant desires to grant and convey to certain property owners fronting on the north/south prolongation of Eagle Street a perpetual, non-exclusive easement for pedestrian and vehicular ingress, egress, drainage and utilities in, over and across the Eagle Street Easement Parcel for the use and benefit of said property owners;

WHEREAS, the fee simple owners (the "Owners") of the properties fronting on the north/south prolongation of Eagle Street to which the Easement is granted are and their properties are more particularly described as follows:

("Geiger's and the Geiger Property") - Edward R. Geiger and Larry R. Geiger, whose post office address is 5957 Camaro Dr., E., Jacksonville, Florida 32244 and 7830 Bagley Hollow Ct., Jacksonville, Florida 32216, respectively, are the fee simple owners of the real property with Parcel ID#154192 0000, which has a property address of 2621 Eagle Street, Jacksonville, Florida, and which is the same lands as described in Official Records Volume **9686**, page **1596** of the current public records of Duval County, Florida and which is more particularly described as follows:

A part of Lot 4, as shown on the plat of A.B. Campbell's Division of Tiger Hole Plantation, as recorded in Deed Book "AQ", page 260, of the Former Public Records of Duval County, Florida, being more particularly described as follows:

That certain piece, parcel or Tract of land lying and being in Duval County, State of Florida as follows: PARCEL "A" Commencing at the Southwest corner of Lot 4, Tigerhole Plantation, Deed Book "AQ", Page 260; thence East 15 feet to a point, said point being in the North line of a Forty (40) foot road; thence North one (1) degree Forty-five minutes West and parallel with and 15 feet East of the West line of Lot 4, six hundred and forty-five (645) feet to the Point of Beginning; thence North Eighty-nine (89) degrees five (5) minutes East, 498 feet to the West bank of a branch; thence along the West bank of a branch in a Northwesterly direction, 150 feet more or less to a point; thence South 89 degrees five minutes West 451 feet along a line parallel with the South line of said property and 150 feet therefrom, 451 feet to a stake, said stake being 15 feet from the East line of Lot 4; thence South one degree 45 minutes East 150 feet to the Point of Beginning.

Also,

Part of Lot Four (4), Tiger Hole Plantation, according to plat thereof recorded in Deed Book "AQ", Page 260, Duval County, Florida, Former Public Records,

described as: Commencing at the Southwest corner of said Lot 4, thence 15 feet East, along the South line thereof; thence North 1 degree 45 minutes West and parallel to the West line of said Lot 4, a distance of 795 feet to the Point of Beginning; thence North 1 degree 45 minutes West and parallel to the West line of said Lot 4, a distance of 353 feet to the Easterly side of Belfort Road; thence Northeasterly along the Easterly side of said Belfort Road, 7.7 feet more or less, to a branch; thence Southeasterly down and along the West bank of said branch, following its meanderings, to a point which is 451 feet North 89 degrees 5 minutes East from the Point of Beginning; thence South 89 degrees 5 minutes West 451 feet to the Point of Beginning.

Being the same lands described and recorded in Deed Book 1163, Page 172, of the Current Public Records of Duval County, Florida.

LESS AND EXCEPT those lands described and recorded in Official Records Volume 8472, Page 2375, of the Current Public Records of Duval County, Florida, as follows:

A part of Lot 4, Tiger Hole Plantation, as recorded in Deed Book "AQ", Page 260, of the Former Public Records of Duval County, Florida, also being a part of the lands described in Deed Book 989, Page 139, of the Current Public Records, being more particularly described as:

Commencing at the Southwest corner of lands described in Deed Book 989, Page 139; thence North 1° 45' West, 69 feet to a Point of Beginning; thence continuing North 1° 45' West, 291.2 feet to a point in the Easterly line of Belfort Road; thence North 26° 53' East, 7.7 feet to a Branch; thence Southeasterly along the Branch to a point that is North 89° 5' East, 459 feet from the Point of Beginning; thence South 89° 5' West, 459 feet to the Point of Beginning.

("McDonald, Thurmond and the McDonald/Thurmond Property") - Elsie M. McDonald, a single woman, as to a life estate for her natural life and Jeanette H. Thurmond, a single woman, as to the remainder interest, whose post office address is 2639 Eagle Street, Jacksonville, Florida 32216 and 6141 Bartram Road, Jacksonville, Florida 32207, respectively, are the life estate and remainder interest, respectively, owners of the real property with Parcel ID#154191 0000, which has a property address of 2639 Eagle Street, Jacksonville, Florida, and which is the same lands as described in Official Records Volume 2723, page 0254 of the current public records of Duval County, Florida and which is more particularly described as follows:

All that certain property described in warranty deed from John Elbert Bryant and wife to S. E. McDonald and wife, which said deed is dated December 17, 1945, and was recorded in Deed Book 1129, page 112 of the public records of Duval County,

Florida, on December 18, 1945, said property being more particularly described as follows:

Begin at SW corner of Lot 4, Tiger Hole Plantation, in Plat Book AQ, page 260 and running E 15' to a point, said point being in N line of a 40' road; thence in $1^{\circ} 45$ min. W and parallel with & 15' E of W line of Lot 4, 495' to a stake; thence $89^{\circ} 5$ min. E, 636' to a stake to W bank of a branch. Thence, in a northerly direction 150' more or less along the W bank of said branch 150' to a stake. Thence, parallel and 150' from S line of said property S $89^{\circ} 5$ min. W, 498' to a stake, said stake being 15' from W line of Lot 4, thence, S $1^{\circ} 45$ min. E and parallel with W line of Lot 4 and 15' therefrom, 150' to the place of beginning.

BEING the same property which is also described as follows:

Commencing at the Southwest corner of Lot 4 TIGER HOLE PLANTATION, according to Plat thereof recorded in Deed Book "AQ" at Page 260 of the former public records of Duval County, Florida, and running East 15 feet to a point, said point being in the North line of a 40 foot road, thence North 1 degree 45 minutes West and parallel with and 15 feet East of the West line of Lot 4, a distance of 495 feet to a stake for the POINT OF BEGINNING, thence North 89 degrees, 5 minutes East 636 feet to a stake on the West bank of a branch, thence in a northerly direction 150 feet more or less along the West bank of said branch, 150 feet to a stake, thence parallel with and 150 feet from the South line of said property, South 89 degrees, 5 minutes West 498 feet to a stake, said stake being 15 feet from the West line of Lot 4, thence South 1 degree, 45 minutes East and parallel with the West line of Lot 4 and 15 feet therefrom, 150 feet to the place of beginning.

("Stevenson's and the Stevenson Property") - Gayle O. Stevenson and James E. Stevenson, husband and wife, whose post office address is 2709 Eagle Street, Jacksonville, Florida 32216, are the fee simple owners of the real property with Parcel ID#154189 0000, which has a property address of 2709 Eagle Street, Jacksonville, Florida, and which is the same lands as described in Official Records Volume **8491**, page **2406** of the current public records of Duval County, Florida and which is more particularly described as follows:

Beginning at the southwest corner of Lot #4, Tiger Hole Plantation, Plat Book AQ, page 260, Duval County Records, and running east 15 feet to a point, said point being in the northline of a 40 foot road; thence north 1 degree and 45 minutes west and parallel with and 15 feet east of the west line of lot #4, 346 feet to a stake; thence, north 89 degrees and 5 minutes east, 646 feet to the west side of the run of a branch; thence, along the west side of the run of the said branch in a northerly direction 149 feet more or less to a stake in the west side of said branch; thence, south 89 degrees 5 minutes west along a line parallel with the south line of said

property and 149 feet therefrom 636 feet to a stake, said stake being 15 feet east of the west line of lot #4; thence, south 1 degree, 45 minutes east along a line parallel with and 15 feet east of the west line of lot #4, 149 feet to the point of beginning.

("Zippel's and the Zippel Property") - Raymond Zippel and Sharon F. Zippel, husband and wife, whose post office address is 2720 Eagle Street, Jacksonville, Florida 32216, are the fee simple owners of the real property with Parcel ID#154205 0000, which has a property address of 2720 Eagle Street, Jacksonville, Florida, and which is the same lands as described in Official Records Volume **8927**, page **0644** of the current public records of Duval County, Florida and which is more particularly described as follows:

A portion of Lot 5, Campbell's Subdivision of Tiger Hole Plantation, as recorded in Deed Book "AQ", page 260, of the Former Public Records of Duval County, Florida, also being a portion of lands described in Deed recorded in the Official Records of said County in Volume 1238, page 519 of the current public records of said county, being more particularly described as follows: For a point of reference commence at the intersection of the Northerly line of said Lot 5 with the Easterly right-of-way line of Belfort Road, a 66 foot right-of-way as now established; thence South 27°09'54" West, along said Easterly right-of-way line, 338.79 feet to the South line of lands described in deed recorded in the Official Records of said county in Volume 1488, page 138, the same being the North line of lands described in Volume 1238, page 519 of said official records for the Point of Beginning.

From the Point of Beginning thus described thence South 73°09'08" East, along last said North line and the South line of lands described in Volume 1696, page 171 of said Official Records, 407.92 feet to the Easterly line of aforementioned Lot 5; thence South 01°34'11" East, along said Easterly line, 77.89 feet to a South line of said lands described in Volume 1238, page 519, the same being the North line of lands described in Volume 7528, page 2311, of said official records; thence South 89°58'06" West, along last said North line, 209.78 feet to the Northeast corner of last said lands; thence North 18°53'51" East, 71.47 feet; thence North 72°44'17" West, 245.58 feet to the aforementioned Easterly right-of-way line of Belfort Road; thence North 27°09'53" East, along said right-of-way line, 62.63 feet to the Point of Beginning.

WHEREAS, the Easement shall be subject to the provisions hereinafter set forth, and is established to protect both the interest of Declarant, and the interest of the Owners and the lands of the Owners abutting Eagle Street as described herein.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Declarant, Declarant hereby provides as follows:

1. The above recitals are true and correct and incorporated herein.
2. Declarant hereby grants and establishes a perpetual, non-exclusive easement for ingress, egress, drainage and utilities in, over and across the Eagle Street Easement Parcel, together with the right, privilege and authority to the Owners, their successors and/or assigns, to construct, operate, lay, maintain, improve and/or repair, either above, or below the surface of the ground, such facilities, improvements or associated equipment as may be necessary or desirable for the full use and enjoyment by the Owners of such easement.
3. This Declaration and Grant of Easement shall inure to the benefit of and be binding upon Declarant and the Owners, their respective successors, successors-in-title, assigns, heirs, tenants and invitees. The easement provided for herein shall run with the lands of the Owners that abut Eagle Street and as such lands are described herein.
4. The easement is not intended to, and should not be construed to dedicate the easement to the general public. There are other property owners that abut Eagle Street which have not been named herein. This easement shall NOT inure to their benefit. This easement shall only inure to the benefit of the Owners (as defined herein, their successors and/or assigns).
5. Declarant reserves the right to grant similar easements in, over and across Eagle Street to such other persons or parties as Declarant may determine.
6. In the event Eagle Street is dedicated to and accepted by Duval County, Florida as a publicly dedicated right-of-way, this easement shall automatically terminate upon such dedication.
7. By acceptance of the rights hereby granted and by use of the Eagle Street Easement Parcel each Owner agrees to the following:
 - a. Its anticipate that minimal maintenance of the right of way will be required. However, in the event any maintenance is required, such as, but not limited to, grading, road stabilization, and the like, as may be necessary to maintain the road in a condition approved by the majority of the Owners, any future maintenance will be paid for on a prorata basis by the Owners and any others having rights to use the road. That prorata basis is currently anticipated as follows:
 - 20% by the 2639 Eagle Street property owner;
 - 20% by the 2621 Eagle Street property owner;
 - 20% by the 2709 Eagle Street property owner;
 - 20% by the 2720 Eagle Street property owner;
 - 20% by the 2603 Belfort Road property owner.

It is acknowledged that the Zippels own properties which currently have two residences on them and fronting on Eagle Street. Should the Zippels no longer commonly own the current two residences, the prorata basis shall be

reallocated among the current property owners and the new owners such that rather than a 1/5 each, expenses shall be paid on a 1/6 each basis.

b. Should any Owner fail to pay their share of the maintenance expenses such failure shall entitle Declarant or any Owner to file a lien against non-paying Owner's property, which lien shall be enforceable in the same manner as a mortgage under Florida law.

IN WITNESS WHEREOF, this Declaration and Grant of Easement has been executed on the day and year first above written.

Signed, sealed and delivered in our presence:

Eagle Street Property Owners, LLC, a Florida limited liability company

Martha A. Keedy
Witness #1 signature

MARTHA A. KEEDY
Witness #1 printed name

By: *Larry R. Geiger*
Larry R. Geiger
Its Authorized Managing Member

Connie Camann
Witness #2 signature

Connie Camann
Witness #2 printed name

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 9th day of November, 2005, by **Larry R. Geiger**, the Authorized Managing Member of **Eagle Street Property Owners, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced drivers license as identification.

Martha A. Keedy
Notary Public
My Commission Expires:



Martha A. Keedy
MY COMMISSION # DD305835 EXPIRES
May 6, 2008
BONDED THRU TROY FAIN INSURANCE, INC.

(Notary Seal)

Exhibit "A"

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MAP SHOWING BOUNDARY SURVEY OF

A PORTION OF LOT 4 1/2 AS SHOWN ON MAP OF CAMPBELLS ADDITION TO TIGER HOLE PLANTATION AS RECORDED IN DEED BOOK AQ, APGE 260 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID LOT 33, BLOCK 3, AS SHOWN ON MAP OF FAIRMONT AS RECORDED IN PLAT BOOK 20, PAGE 85 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 72° 45' 30" EAST ALONG THE NORTH LINE OF LOT 5 OF SAID CAMPBELLS ADDITION; SAID LINE ALSO BEING THE SOUTHERLY LINE OF SAID LOT 4 1/2, 66.74 FEET TO THE POINT OF BEGINNING, SAID POINT LYING ON THE EASTERLY RIGHT-OF-WAY LINE OF BELFORT ROAD (AS NOW ESTABLISHED); THENCE NORTH 26° 54' 50" EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE; 35.34 FEET; THENCE SOUTH 70° 41' 39" EAST, 213.21 FEET; THENCE NORTH 64° 18' 21" EAST, 9.45 FEET TO THE EASTERLY LINE OF SAID LOT 4 1/2; THENCE SOUTH 01° 47' 49" EAST ALONG SAID EASTERLY LINE, 35.00 FEET TO THE SOUTHERLY LINE OF SAID LOT 4 1/2; THENCE NORTH 72° 41' 57" WEST ALONG SAID SOUTHERLY LINE, 237.61 FEET TO THE POINT OF BEGINNING.

