

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

PRELIMINARY AGREEMENT TO EXCHANGE REAL PROPERTY

THIS PRELIMINARY AGREEMENT TO EXCHANGE REAL PROPERTY ("Agreement") is made by and between Franklin W. Foster, Trustee and Marianne Hellauer, Trustee, FFP, Ltd. and Stafford Field North, LLP, hereinafter collectively referred to as "Foster" and the United States of America, Department of the Interior, acting by and through the National Park Service, Southeast Region, hereinafter referred to as the "NPS." Foster and the NPS are sometimes hereinafter collectively referred to as the "Parties" and sometimes individually referred to as a "Party."

RECITALS:

WHEREAS, Foster owns the fee-simple interest in a parcel of land identified as Tract No. 02-174, located within the authorized boundary of Cumberland Island National Seashore ("Park"), depicted in **Exhibit 1** attached hereto and made a part hereof, hereinafter referred to as the "Foster Property;" by virtue of a series of conveyance documents recorded in the land records of Camden County, Georgia, and

WHEREAS, the NPS owns the fee-simple interest in a parcel of land identified as Tract No. 02-110 acquired by the United States of America by virtue of a Warranty Deed dated July 16, 1974, and recorded among the land records of Camden County, Georgia, in Deed Book 117, Page 125, also located within the authorized boundary of Cumberland Island National Seashore; and

WHEREAS, the NPS administers the Park as a unit of the National Park System; and

WHEREAS, Foster desires to acquire, and the NPS is willing to convey by Quit Claim Deed, a fee-simple interest in a portion (approximately 60 acres) of Tract 02-110, hereinafter referred to as the "NPS property" or "Property," which is generally depicted in **Exhibit 1**, for the purpose of limited, non-commercial (as defined in this Agreement), single family residential use and non-commercial, non-industrial, low impact outdoor recreational use, subject to the terms and conditions of a perpetual conservation easement as more particularly described in **Exhibit B**, of **Exhibit 2**, attached hereto and made a part hereof, in exchange for Foster's conveyance of a fee-simple interest in a portion of the Foster Property to the NPS; and

WHEREAS, the NPS desires to acquire, and Foster is willing to convey by general warranty deed or limited warranty deed, as more particularly set forth herein, a fee-simple interest in a portion of the Foster Property for the purpose of enhancing resource protection and visitor services programs at the Park, in exchange for the NPS's conveyance of a fee simple interest in the NPS Property; and

WHEREAS, the NPS and Foster believe that the public interest will benefit through the accomplishment of an exchange of interests in lands as herein described; and

WHEREAS, the NPS and Foster wish to provide a process through which an exchange of interests can be consummated, and to set out the respective rights and responsibilities of the Parties in this transaction; and

WHEREAS, Foster and the NPS enter into this Agreement with the understanding and agreement that upon reaching a final agreement as to the terms and conditions of the exchange, upon compliance with all NPS exchange requirements and all legal authorities, including the National Environmental Policy Act of 1969, 42 U.S.C. §§4321 to 4370d, (NEPA), and concurrent with the execution and delivery of all conveyance documents by Foster and the NPS, the Parties will consummate the exchange as described herein;

NOW, THEREFORE, Foster and the NPS enter into this Agreement to work towards the exchange of interests in the lands described herein under authority provided by the Act of July 15, 1968 (54 U.S.C. §102901) for the mutual benefit of Foster, its successors and assigns, and the United States of America and its assigns. The terms and conditions of this Agreement are as follows:

1. **RECITALS:** The foregoing recitals are incorporated herein as if fully set forth and are an integral part of this Agreement.
2. **PURPOSE:** The purpose of this Agreement is to agree upon and note the steps necessary to finalize a conservation easement and land exchange process for the properties specified herein. Subject to the terms and conditions set forth below; subject to fulfillment of all Federal requirements, including but not limited to title and hazardous material site assessments, survey approval by NPS, and environmental and cultural compliance; and subject to agreement upon the values of the properties to be exchanged, and the willingness and ability of the Parties to make up any difference in value by a monetary or additional land contribution by the Party obligated to do so:

Foster will convey a portion of the Foster Property, such portion to contain all of Tract 02-174 except for the property west of Main Road and except a 5-6 acre portion on the east part of the tract, as depicted in **Exhibit 1**, to the United States of America, on behalf of the NPS, in fee simple, free of liens or encumbrances, except for those encumbrances otherwise mutually agreed upon by the Parties in writing prior to closing. The exact acreage and layout of the real property to be conveyed by Foster to the NPS shall be mutually agreed upon by the Parties prior to closing, and this Agreement shall be amended to reflect that exact acreage and layout. Foster will retain an access easement across that portion of Stafford Beach Road that crosses the property. Foster will convey the property using a general warranty deed, unless the Department of the Interior Solicitor's Office ("Solicitor's Office") grants a waiver of the Department of Justice Title Standard's general requirement for a general warranty deed. The NPS, upon receiving written justification from Foster, will present the warranty deed waiver request to the Solicitor's Office. If the NPS is unable to obtain such a waiver from the Solicitor's Office, then Foster must convey the portion of the Foster Property to the NPS via general warranty deed.

The United States of America, through the NPS, will convey the NPS Property, approximately 60 acres in total, as generally depicted on **Exhibit 1** to Foster in fee simple, by quitclaim deed, without warranty of title. The land that the NPS will convey to Foster will be subject to and encumbered by the conservation easement/restrictions more particularly described on **Exhibit B, part of Exhibit 2**. The United States will retain all oil, gas, and minerals both surface and subsurface. The exact acreage and layout of the real property to be conveyed by the NPS to Foster shall be mutually agreed upon by the Parties prior to closing, and this Agreement, including the proposed deed attached hereto as **Exhibit 2** shall be amended to reflect that exact acreage and layout.

The NPS will additionally convey to Foster non-exclusive ingress/egress easements along certain portions of Old House Road to provide both northerly and southerly access between the Main Road and the conveyed NPS property, as depicted on **Exhibit D**. Foster shall have no rights to maintain, improve, or in any way alter the roadway across which such easements run. The NPS will retain a non-exclusive ingress/egress easement across the portion of Old House Road that lies within the conveyed NPS property for the purpose of NPS administrative use and for the ingress/egress use of property immediately to the South of this property.

The NPS will also convey to Foster a non-exclusive ingress/egress easement over the existing Stafford Beach roadway as depicted on **Exhibit E** for the purpose of accessing the property retained by Foster.

The NPS agrees to use its best efforts to maintain those portions of Old House Road which will remain in NPS ownership, subject to budgetary constraints. However, it is acknowledged that nothing herein shall require the NPS to expend any sum in excess of appropriations made by Congress or administratively allocated for the purpose of compliance with the conditions of this road; and this agreement shall not bind the NPS under any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations; and nothing in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies.

3. **APPRAISAL:** The NPS agrees to pay the costs for the services of a real estate appraiser to appraise the market values of the interests in lands to be exchanged. Both the Foster Property and the NPS Property will require separate appraisal reports. The appraiser will work under the direction of the Department of the Interior, Appraisal Valuation and Services Office, hereinafter referred to as "AVSO," in order to ensure that the completed appraisals comply with the Uniform Appraisal Standards for Federal Land Acquisition. Only upon the written approval of the appraisals by AVSO acknowledging the appraised values as the basis for an approximate equal value exchange of interests in land will the NPS be authorized to proceed with the exchange of interests as contemplated herein.

4. **EQUAL VALUES:** The Parties understand that the exchange must be an equal value exchange, as such values are established by the appraisal of both the property of Foster and the property of the NPS, which appraisals must be undertaken according to standards established by the U.S. Department of Justice and reviewed and approved by AVSO. Therefore, Foster agrees,

subject to the termination provision herein, to compensate the NPS, as required by law, by means of either conveying additional lands or interests therein or a cash payment in an amount equivalent to any disparity in value in favor of the NPS as determined by the AVSO approved appraisals of the interests in land to be exchanged. Likewise, the NPS agrees, subject to the termination provision herein, to compensate Foster as required by law, by means of either conveying additional lands or interests therein or a cash payment in an amount equivalent to any disparity in value in favor of Foster as determined by the AVSO approved appraisals of the interests in land to be exchanged, unless Foster chooses to donate the difference in fair market value.

5. TITLE: The NPS will obtain a preliminary title insurance commitment and subsequent title insurance policy for the interests in land to be conveyed by Foster. Title exceptions noted in the preliminary title commitment discovered through the title search process or by other means in the course of due diligence, which are not acceptable to the NPS, must be eliminated or otherwise resolved to the satisfaction of the NPS prior to the consummation of the exchange contemplated herein. Foster agrees that all taxes, assessments, and encumbrances that are a lien against the land at the time of conveyance to the United States shall be satisfied of record by Foster at or before transfer of title.

6. ENVIRONMENTAL SITE ASSESSMENT: Foster understands that before the NPS acquires or conveys an interest in real property, a pre-acquisition environmental site assessment or survey must be undertaken, and said survey reviewed and approved by NPS; that the NPS may not accept or convey property with hazardous material contamination problems, and if present, such problems must be resolved by the appropriate Party before the exchange takes place. The NPS will undertake a Phase 1 Environmental Site Assessment of the Foster Property and the NPS Property to identify, to the extent feasible, recognized environmental conditions (REC's) in general accordance with 40 CFR Section 312.10 and ASTM E2247-23. As defined, a REC is: "the presence or likely presence of any hazardous substances or petroleum products in, on or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment."

7. ENVIRONMENTAL AND CULTURAL COMPLIANCE; PUBLIC NOTICE; NOTICE TO HOUSE AND SENATE: It is understood by both Parties that this exchange will be subject to the requirements of environmental (including NEPA) and cultural (including State Historical Preservation Office review) compliance laws and regulations, and requirements of public notice. It is possible that the results of such investigations may alter the proposed exchange.

In accordance with existing NPS guidelines governing proposed land exchanges, the NPS shall undertake the following actions: (a) notify the public and various governmental bodies of the proposed exchange (public notification shall include publication of a Notice of Realty Action in a local newspaper providing a minimum 45-day period for public comment), and (b) consider the effects of the proposed exchange as required by all applicable laws, including but not limited to NEPA, prior to rendering a final determination on whether to consummate the exchange contemplated herein.

The NPS agrees to pay all costs associated in publishing the requisite public notification of the proposed exchange, and in conducting an environmental compliance review and documentation process of the potential effects of the proposed exchange, including reasonable costs incurred by the NPS staff in administering the completion of the environmental compliance review and documentation process and other aspects of the exchange process. The environmental compliance review and documentation process is to be conducted under the direction of the NPS and in compliance with the Agency's DO-12, National Environmental Policy Act Guidelines.

If the value of the NPS Property to be conveyed exceeds \$1,000,000. the exchange shall not be consummated until the Senate and House Committees on Appropriations have had a 30-day period in which to examine the proposed exchange. The Committees shall be provided advance notification of the exchange if valued between \$500,000 and \$1,000,000. Such exchange proposals are submitted to the House and Senate Appropriations Subcommittees on Interior, Environment, and Related Agencies, and shall be considered approved after expiration of the 30-day review period if the Committees have posed no objection.

8. POTENTIAL LOSS: Foster and the NPS agree that loss or damage to their respective properties by fire or acts of God shall be at their respective risks until the title to the land and the deeds to Foster and the NPS, respectively, have been accepted by both parties through their duly authorized representatives; and in the event that such loss or damage occurs, Foster and the NPS may, without liability, refuse to accept the conveyance of the title or they may elect to accept conveyance of title to such property, in which case there shall be an equitable adjustment of the values of the lands to be exchanged.

9. RIGHT OF ENTRY: Both parties agree from the date hereof, officers and accredited agents of either party, shall have at all proper times, rights and privileges to survey and enter upon the respective properties, for all lawful purposes in connection with the acquisition thereof. Such examinations shall be non-impairing to the environment and to the activities of the owners thereon, and prior notification will be given to the other party in each instance.

10. NATURE AND CONTINUATION OF AGREEMENT: The Parties agree that either Party may decline, without penalty, to complete the exchange of land interests as set forth in this Agreement prior to the completion of the exchange of land interests.

This Agreement shall terminate, without penalty, upon the earliest of: (a) the completion of the exchange of interests contemplated herein; (b) upon 30 days prior written notification by either Party, in its sole discretion, to the other Party that it will not proceed with the exchange, provided that such notice must be given prior to the exchange of land interests; or (c) the passage of four (4) calendar years from the Effective Date of this Agreement provided the NPS encounters no major setbacks

11. INTEREST OF MEMBERS OF CONGRESS: Pursuant to 41 U.S.C. § 22, Interest of Member of Congress, "No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon."

12. **ANTI-DEFICIENCY ACT:** Pursuant to the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1), as amended, nothing herein contained shall be construed as binding the United States to expend in any one fiscal year any sum in excess of appropriations made by Congress for this purpose, or to involve the United States in any contract or other obligation for the further expenditure of money in excess of such appropriations.

13. **ALL TERMS INCLUDED HEREIN:** All terms and conditions with respect to this Agreement are expressly contained herein and Foster agrees that no representative or agent of the United States of America has made any representation or promise with respect to this Agreement not expressly contained herein. Furthermore, the NPS agrees that no representative or agent of Foster has made any representation or promise with respect to this Agreement not expressly contained herein.

This Agreement contains the complete agreement between the Parties and may only be amended by a written instrument executed by both Parties.

The terms and conditions aforesaid are to apply to and bind the heirs, executors, administrators, successors and assigns of Foster and the NPS and its assigns.

The captions inserted in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement or any provision hereof, or in any way affect the interpretation of this Agreement.

14. **COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which counterpart shall for all purposes be deemed to be an original; but for all such counterparts together shall constitute but one instrument.

15. **EFFECTIVE DATE:** The effective date (“Effective Date”) of this Agreement shall be deemed to be the last date, in point of time, on which all parties hereto have executed this Agreement.

16. **NOTICE:** Notice concerning the Agreement shall be provided to the parties at the addresses provided below:

FOSTER

NATIONAL PARK SERVICE

United States of America
National Park Service, Interior Region 2
South Atlantic-Gulf
Land Resources Program Center
100 Alabama Street, S.W., 1924 Building
Atlanta, GA 30303-8701

Any notice required or permitted hereunder shall be deemed to have been received either (i) when delivered by hand to the Party and when the Party giving such notice has received a signed receipt therefore, or (ii) when delivered by the United States Postal Service, postage prepaid, or by a recognized commercial air or local courier service, addressed as noted above (or addressed

in such other manner as the Party being notified shall have requested by such written notice to the other Party), except that refusal to accept delivery of notice shall be deemed to be receipt and acceptance hereunder.

***[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES APPEAR ON
NEXT PAGE.]***

SIGNED, SEALED AND DELIVERED THIS _____ day of _____, 2025.

FOSTER

by: _____

Printed Name: _____

Title: _____

NATIONAL PARK SERVICE

by: _____

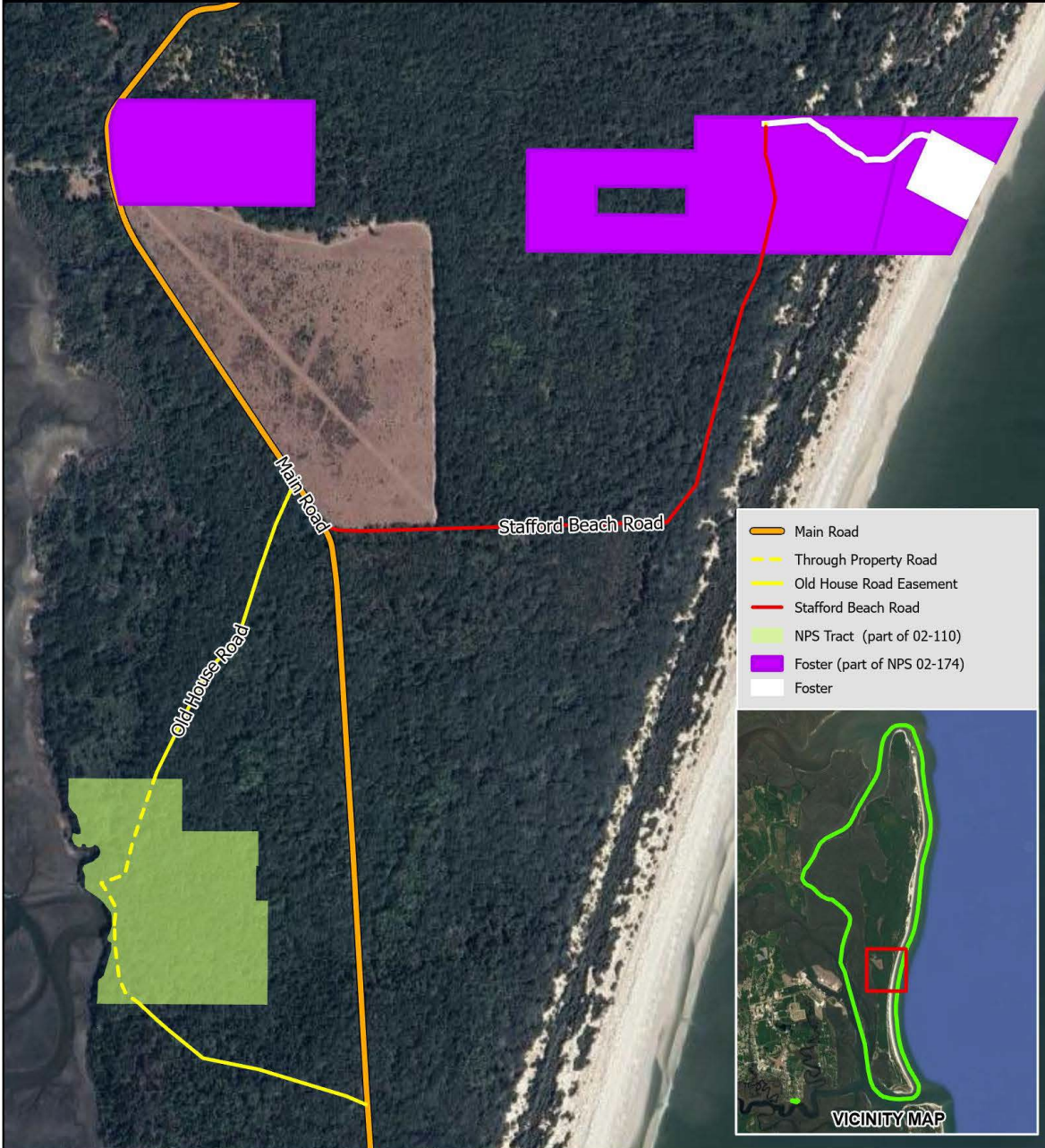
Printed Name: Darrell L. Echos

Title: Acting Regional Director,
NPS Southeast Region

Cumberland Island National Seashore

Potential NPS/Foster Exchange Tracts

Southeast Regional Office
National Park Service
U.S. Dept. of the Interior



Land Resources Division
Southeast Regional Office
Exhibit Map

Exhibit 1

August 2025



Replace with finalized Exhibit 2 which is currently a separate document

EXHIBIT "2"
PROPOSED DEED with CONSERVATION EASEMENT AND RESTRICTIONS

Exhibit 2 will include Exhibits A, B, C, D, and E.