

RESOLUTION NO. 2006-162

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF A SPECIAL USE AUTHORIZATION FOR UTILIZATION OF DISTRICT LANDS BETWEEN ST. JOHNS COUNTY AND ST. JOHNS RIVER WATER MANAGEMENT DISTRICT AUTHORIZING ST. JOHNS COUNTY TO TRIM OR REMOVE DECAYED, INJURED OR WIND DAMAGED TREES UPON DISTRICT LAND THAT POSE A HAZARD TO DRIVERS ALONG THE RIGHT-OF-WAY OF INTERNATIONAL GOLF PARKWAY, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE SPECIAL USE AGREEMENT ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, St. Johns County Road and Bridge Department requested permission from St. Johns River Water Management District to trim or remove trees along the right-of-way of International Golf Parkway that pose a danger to the citizens traveling along this roadway; and

WHEREAS, St. Johns River Water Management District has presented to the County a Special Use Authorization for Utilization of District Lands, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, the Special Use Authorization will allow St. Johns County to trim or remove decayed, injured or wind damaged trees upon District land along the right-of-way of International Golf Parkway that pose a hazard to drivers; and

WHEREAS, it is in the best interest of the County to approve the Authorization for the safety of the citizens traveling on International Golf Parkway.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The terms and conditions of the attached Special Use Authorization for Utilization of District Lands is hereby approved and the County Administrator is hereby authorized to execute said Special Use Authorization.

Section 3. The Clerk of Courts is instructed to file the Authorization in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 30th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk of Courts

By: Patricia DeBonde
Deputy Clerk

RENDITION DATE 6-1-06

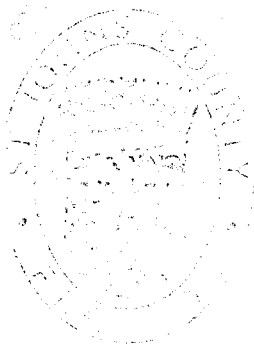


Exhibit "A" to Resolution

SPECIAL USE AUTHORIZATION FOR
UTILIZATION OF DISTRICT LANDS

This Special Use Authorization ("Authorization") given by St. Johns River Water Management District ("District") allows:

Name: St. Johns County (hereinafter "User")

Address: 4020 Lewis Speedway, St. Augustine, FL 32084

Telephone Number: (904)-209-0788 Fax (904)-209-0789 Contact – Nanette Bradbury

to use: Twelve Mile Swamp Conservation Area, all those District owned lands lying immediately fifty (50) ft. north and south of Nine Mile Road also known as International Golf Parkway ("the Property") more particularly described in the Trustee's Deed recorded in Official Records Book 1568 page 482 of the public records of St. Johns County, Florida and as indicated [map attached as Exhibit "A" hereto and by this reference made a part hereof].

(Description of District Lands)

for the purpose of: trimming or removal of decayed, injured or wind damaged trees that pose a hazard to drivers on International Golf Parkway.

on the following dates: The initial term of this Authorization shall be for a period of one (1) year, commencing on June 1, 2006 and terminating on May 31, 2007. Thereafter, this Authorization shall automatically renew for four (4) consecutive one (1) year terms, terminating on May 31, 2011, provided neither User nor District gives notice of their intent to terminate.

special conditions of use: See Exhibit "B" attached hereto and by this reference made a part hereof.

This Authorization is contingent upon the following conditions:

1. User acknowledges that separate special use authorizations may be given by the District to others for use of the Property during the same time period prescribed by this Authorization. User may use the Property to the extent required to carry on the activity for which the use is requested and shall not prevent any other authorized users from carrying on their approved activities.

2. User will not cause damage to the Property during the dates listed above.

3. User will clean and restore the Property at the conclusion of the use to not less than the condition that existed prior to the use. A security deposit for this purpose is not required.

4. User will repair any damage to the Property resulting from the use during the dates listed above. All expenses for the repair shall be borne by User.

5. User is under a duty to be vigilant for User's own safety as well as the safety of others. User understands and agrees that User is responsible for User's personal safety and the personal safety of any and all persons accompanying User on the Property or accessing the Property under the direction of User. User is fully knowledgeable of the risks that are generally associated with traversing Property that is in a substantially natural condition and assumes all such risks. User also assumes all risks associated with traversing District lands in a motor vehicle and takes the condition of District levees and other means of access "as is." User voluntarily assumes any other risks, of every kind whatsoever, whether natural or artificial, while conducting activities on the Property pursuant to this Authorization.

6. Each party shall throughout the term of this Authorization provide, maintain and keep in force a program of insurance covering its liabilities as prescribed by Section 768.28, Florida Statutes and shall be responsible for the actions and inactions of their own employees and agents in connection with any activities conducted under this Authorization.

7. Except as authorized herein, User shall comply with of the District's Water Management Lands Acquisition and Management Rule, Chapter 40C-9, Florida Administrative Code.

8. This Authorization is revocable at will.

9. Nothing contained in this Authorization shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the District as it

now or hereafter exists under applicable laws, rules and regulations.

10. User/contractor(s) shall physically have a copy of this Special Use Authorization at all times while on the Property.

11. User shall assist in the protection of the Property against trespassers, poachers, and vandals to the best of its ability and immediately report all acts of trespass and vandalism to the District and to proper authorities.

12. This Special Use Authorization does not convey any real property interests or rights to User of any kind. The authorization granted hereby shall neither be transferred nor assigned. User is solely responsible for obtaining any permits or other forms of authorization required by law from federal, state or local governmental entities in order to engage in the activities that are the subject of this Authorization.

I agree to the conditions of this Authorization, and I am an authorized representative of User's organization.

ST. JOHNS COUNTY

By: _____
Signature

Print Name: Ben W. Adams, Jr.

Title: St. Johns County Administrator

Date: _____

Authorization based on conditions above is approved.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

KIRBY B. GREEN III, Executive Director

Date

APPROVED

By: _____
STANLEY J. NIEGO, Esq.
Office of General Counsel
S.J.R.W.M.D.

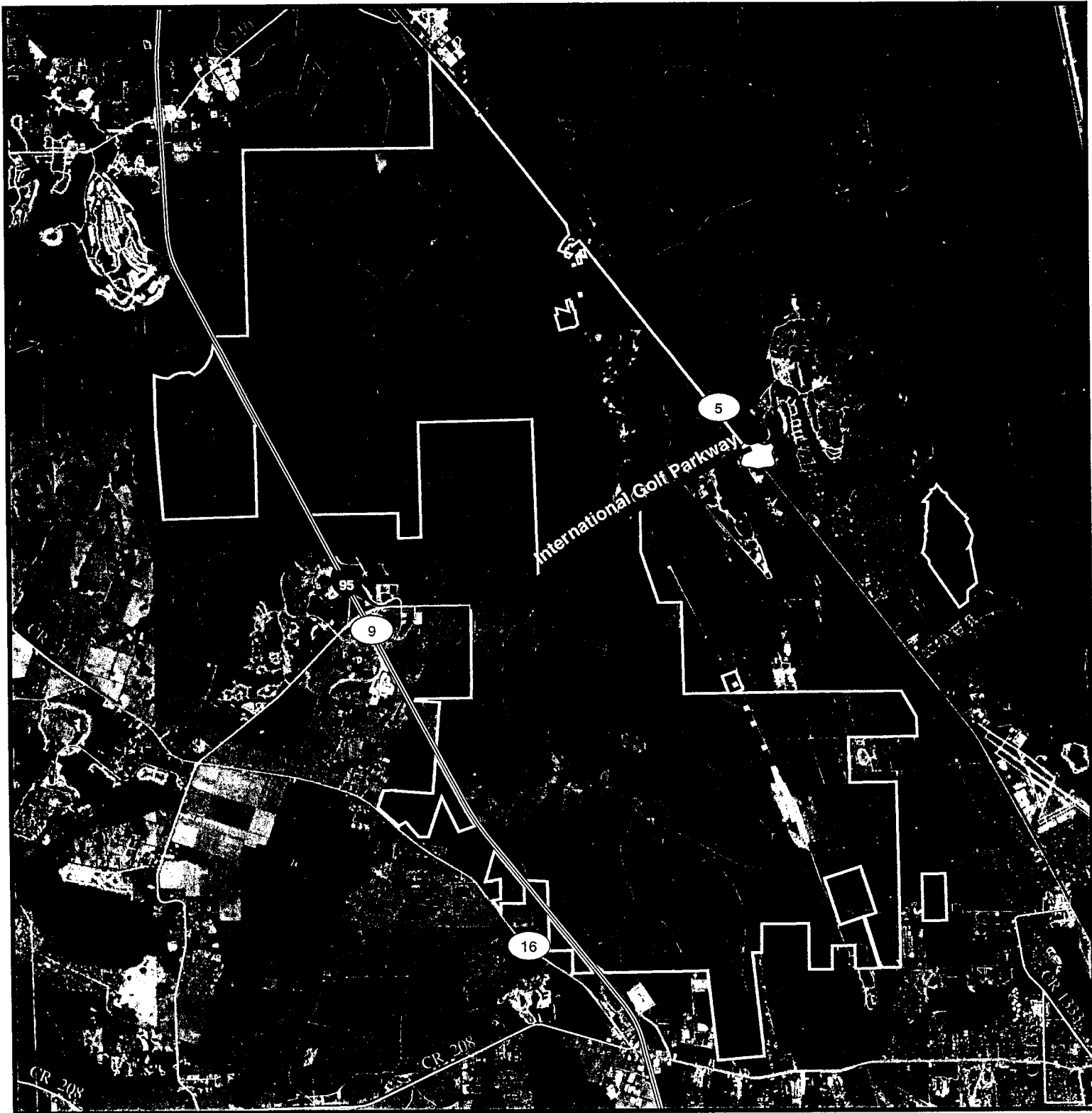


Exhibit "A"

Twelve Mile Swamp Conservation Area

Twelve Mile Swamp Conservation Area

— Approved trimming/
removal area of
damaged trees



6,000 3,000 0 Miles

The St. Johns River Water Management District prepares and uses this information for its own purposes and this information may not be suitable for other purposes. This information is provided as is. Further documentation of this data can be obtained by contacting: St. Johns River Water Management District, Geographic Information Systems, Program Management, P.O. Box 1429, 4049 Reid Street Palatka, Florida 32178-1429 Tel: (386) 329-4176.

EXHIBIT "B"

SPECIAL CONDITIONS OF USE

1. No trees outside the designated tree trimming/removal area shall be damaged by the operations of User. For any standing trees outside the approved trimming/removal area damaged or removed by User, the District will be compensated at twice the current stumpage value indicated for region 1 in Timber Mart South.
2. All power and telephone poles, lines, ditches, fences, cattle gaps, and gates located within or immediately outside the tree trimming/removal area shall be protected from damage by the User's tree trimming/removal services, and if damaged, shall be repaired immediately by and at the expense of User.
3. Due care shall be exercised against starting and spreading fires during the tree trimming/removal services provided by User and or its employees. User shall be held liable for all damages caused by such fires.
4. Roads, trails, and firelines will be kept free of logs, tops, brush and debris resulting from User's operations hereunder, and any road, trail or firebreak used by User in connection with this Authorization that is damaged or injured beyond ordinary wear and tear by User and or its employees use, shall be repaired promptly by User at User's expense to its original condition. The District retains the right to close tree trimming/removal operations in inclement weather if damage to roads is deemed by the District's Land Manager to be too severe.
5. User agrees to remove from within the tree trimming/removal area all objectionable debris in order to properly conduct the tree removal.
6. User shall notify District of any third party contractor(s) that will be accessing the Property under the terms of this Authorization. Any such contractor(s) shall at all times during the term of this Authorization, be required to maintain a policy of general liability insurance covering personal injury and property damage in an amount acceptable to the District's Executive Director. A certificate of insurance naming the District as an additional insured under the policies shall be presented prior to access by said contractor(s).
7. User /contractor(s) shall at all times during the term of this Authorization maintain automobile liability insurance with appropriate limits of coverage acceptable to the District's Executive Director and shall be required to produce evidence of such insurance upon request.
8. The Discharge of any fuel, oils, petroleum products, litter or other harmful materials that may result from User's use of the Property is prohibited. Should any harmful materials be discharged on the Property by User during the term of this Authorization, the District shall be immediately notified, and the User shall be solely responsible for any and all costs associated with any resulting clean up and remediation.

9. The District shall bear no financial cost, expense or obligation to the User as a result of this Authorization.
10. User shall notify Land Manager of actual commencement date of activities.
11. User must notify Land Manager within 72 hours after emergency removal of trees from within the tree trimming/removal area. Notification may be either by telephone or e-mail.
12. User must notify Land Manager not less than 72 hours prior to non-emergency trimming or removal of trees within the tree trimming/removal area. Notification may be either by telephone or e-mail.
13. User shall notify Land Manager upon completion of activities for the purpose of scheduling an on site inspection of the condition of the Property at termination.
14. No firearms allowed.
15. Except as otherwise authorized herein, the harvest of any animal, plant or plant material other than authorized herein is strictly prohibited.
16. User shall abide by all applicable governmental rules, regulations, ordinances and laws with respect to User's use of the Property.
17. At the date of this Authorization, the project manager for the Property is:
Bill Bossout, North Region Land Manager
904-529-2380 (office)
904-529-2382 (fax)
386-937-0573 (cellular)
bbossout@sjrwmd.com
18. At the date of this Authorization, the project manager for User is:
Ivan Burrell, Road & Bridge Superintendent
904-209-0246 (office)
19. Changes to either parties' representative shall be communicated upon their taking effect.