

RESOLUTION NO. 2010-61

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A FIRST AMENDMENT OF A MARCH 27, 2003 COUNTY ISSUED//GRANTED CONDITIONAL USE PERMIT TO ST. AUGUSTINE BMX ASSOCIATION, INCORPORATED, WHICH PERMITTED THE OPERATION OF A BICYCLE MOTORCROSS (BMX) TRACK AT THE TILLMAN RIDGE LANDFILL, SO AS TO ALLOW ASSIGNMENT OF THE CONDITIONAL USE PERMIT, AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE FIRST AMENDMENT ON BEHALF OF THE COUNTY**

**WHEREAS**, St. Johns County, Florida (County) granted/issued the St. Augustine BMX Association, Incorporated a Conditional Use Permit on March 27, 2003; and

**WHEREAS**, the purpose of the Conditional Use Permit is to allow the operation of a bicycle motorcross (BMX) track at the Tillman Ridge Landfill; and

**WHEREAS**, Section 1(O) of the original Conditional Use Permit does not allow amendment of the Conditional Use Permit without the approval in writing of both the County, and St. Augustine BMX Association, Incorporated; and

**WHEREAS**, Section 1(I) of the original Conditional Use Permit prohibits the assignment of the Conditional Use Permit to another party; and

**WHEREAS**, due to changed circumstances, the St. Augustine BMX Association, Incorporated, seeks to assign its rights, responsibilities, and duties under the original Conditional Use Permit to First Coast BMX, Incorporated; and

**WHEREAS**, the St. Augustine BMX Association, Incorporated now requests that the County approve an amendment to the original Conditional Use Permit, so that the St. Augustine BMX Association, Incorporated, can assign its interest and rights in the original Conditional Use Permit to First Coast BMX, Incorporated; and

**WHEREAS**, the County does not object to the request of the St. Augustine BMX Association, Incorporated; and

**WHEREAS**, a First Amendment to the original Conditional Use Permit will accomplish the desired objectives of both the County and BMX; and

**WHEREAS**, the County has drafted a First Amendment (attached and incorporated herein) to the Conditional Use Permit, in order to allow assignment of the Conditional Use Permit; and

**WHEREAS**, the County has reviewed the terms, conditions, provisions, and requirements of the First Amendment; and

**WHEREAS**, the County has determined that it is in the collective interests of both the County, and BMX to have this First Amendment executed by both the County, and BMX.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:**

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms of a First Amendment of a March 27, 2003 County issued/granted Conditional Use Permit to the St. Augustine BMX Association, Incorporated, which permitted the operation of a bicycle motorcross (BMX) track at the Tillman Ridge Landfill, so as to allow assignment of the Conditional Use Permit, and authorizing the County Administrator, or designee, to execute the First Amendment on behalf of St. Johns County.

Section 3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 16<sup>th</sup> day of March, 2010.

BOARD OF COUNTY COMMISSIONERS OF  
ST. JOHNS COUNTY, FLORIDA

Attest: Cheryl Strickland, Clerk

By: Pam Halterman  
Deputy Clerk

By:

Ron Sanchez  
Ron Sanchez, Chair

RENDITION DATE 3/18/10

**FIRST AMENDMENT  
ST. JOHNS COUNTY CONDITIONAL USE PERMIT  
FOR ST. AUGUSTINE BMX ASSOCIATION, INC.  
AT TILLMAN RIDGE LANDFILL**

**THIS FIRST AMENDMENT (First Amendment) to the March 27, 2003 Conditional Use Permit (CUPermit) granted by St. Johns County, Florida (County) to the St. Augustine BMX Association, Incorporated (BMX), and St. Johns County, Florida (County), is made and entered into on this \_\_\_\_\_ day of March, 2010, by the County, and BMX.**

**RECITALS**

**WHEREAS, the County, granted BMX, the original CUPermit (attached and incorporated herein), in March 27, 2003; and**

**WHEREAS, the purpose of the CUPermit was to allow the operation of a bicycle motorcross (BMX) track at the Tillman Ridge Landfill; and**

**WHEREAS, Section 1(O) of the original CUPermit does not allow amendment of the CUPermit without the approval in writing of both the County, and BMX; and**

**WHEREAS, Section 1(I) of the original CUPermit prohibits the assignment of the CUPermit to another party; and**

**WHEREAS, due to changed circumstances, BMX now wishes to assign its rights, responsibilities, and duties, under the original CUPermit to First Coast BMX, Incorporated; and**

**WHEREAS, BMX requested that the County approve an amendment to the original CUPermit, so that BMX could assign its interest and rights in the original CUPermit to First Coast BMX, Incorporated; and**

**WHEREAS, the County has no objections to either the proposed amendment of the original CUPermit, or the proposed assignment of the original CUPermit to First Coast BMX, Incorporated; and**

**WHEREAS, in order to accommodate the proposed assignment, both the County, and BMX will need to execute an amendment to the original CUPermit; and**

**WHEREAS, this First Amendment to the original CUPermit, will accomplish the desired objectives of both the County, and BMX; and**

**WHEREAS**, it is in the collective interests of both the **County**, and **BMX** to have this **First Amendment** executed by both the **County**, and **BMX**.

**NOW THEREFORE**, in consideration of the premises and mutual covenants contained herein, the parties hereby agree as follows:

**Section 1.** The above Recitals are hereby incorporated into the body of this **First Amendment**, and are adopted as Findings of Fact.

**Section 2.** If any word, phrase, sentence, part, article, section, subsection, attachment, or other portion of this **First Amendment**, or an application thereof, to any person or circumstance is declared void, unconstitutional, or otherwise invalid for any reason, then such word, phrase, sentence, part, article, section, subsection, attachment, or other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this **First Amendment** and applications thereof not having be declared void, unconstitutional, or otherwise invalid, shall remain in full force and effect.

**Section 3.** Excepting the amendments and revisions noted in this **First Amendment**, in all other respects, the **CUPermit** remains in full force and effect. As for such amendments and revisions noted in this **First Amendment**, such amendments and revisions have been incorporated into the **CUPermit**, and shall have full force, and effect.

**Section 4.** Section 1(I) of the original **CUPermit**, amended, so as to read as follows: “**BMX’s Permit with the County is solely for the benefit of BMX, or a County-approved successor or assignee of BMX. As such, BMX’s Permit with the County does not confer any separate or additional privilege or benefit to any individual member of BMX. To the extent that BMX wishes to assign, transfer, or sell any of the rights noted in BMX’s Permit, BMX must first receive the approval of the County for such assignment, transfer, or sale.**”

**Section 5.** This **First Amendment** shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action shall be in St. Johns County, Florida.

Section 6. The effective date for this **First Amendment** is March \_\_\_\_\_, 2010.

**IN WITNESS WHEREOF**, the parties hereto have executed this **First Amendment**.

**ST. AUGUSTINE BMX  
ASSOCIATION  
BOARD OF TRUSTEES**

**ST. JOHNS COUNTY, FLORIDA**

By: \_\_\_\_\_

By: \_\_\_\_\_  
**Michael Wanchick  
County Administrator**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**WITNESS FOR BMX**

**Legally Sufficient:**

By: \_\_\_\_\_

By: \_\_\_\_\_  
*M. Michael D. Hunt*  
**Deputy County Attorney**

Date: \_\_\_\_\_

Date: \_\_\_\_\_  
*3/17/10*

**ATTEST: Cheryl Strickland, Clerk**

By: \_\_\_\_\_  
**Deputy Clerk**

ST. JOHNS COUNTY CONDITIONAL USE PERMIT  
FOR ST. AUGUSTINE BMX ASSOCIATION, INC.  
AT TILLMAN RIDGE LANDFILL

The Board of County Commissioners of St. Johns County, Florida ("County") at the request of the St. Augustine BMX Association, Incorporated ("BMX") hereby grants a "Conditional Use Permit at Phase I of the Tillman Ridge Landfill Site ("Landfill") as a bicycle track for any events sponsored by BMX, or any other nationally-recognized bicycle-racing organization.

**Section 1. Conditions of Permit:**

A. The County permits BMX to use the area known as Phase I of the Landfill (which is more graphically noted on Exhibit "A", and which is attached hereto, and incorporated herein) for the following purposes only:

- 1) Hold weekly bicycle moto-cross (bmx) practices and races;
- 2) Hold State, Regional, and National bmx sponsored events and practice the day before such sponsored events with the approval of the County;
- 3) Hold bicycle clinics for area youth; and
- 4) Hold fund-raising events associated with the BMX facility.

B. The County agrees to allow BMX to construct, operate, maintain, and repair a bicycle track at the Landfill for BMX-sponsored activities and/or events. However, prior to any construction at the Landfill, BMX shall submit to the County scaled drawings of the proposed bicycle track and any other facilities that will be located on/at the Landfill. This requirement exists and must be followed regardless of whether there are applicable County rules, regulations, Resolutions, or Ordinances. Prior to any construction at the Landfill, BMX must secure the approval of the County, and, if applicable, any other governmental unit (including any required agency and/or department of the United States, or the State of Florida). BMX shall not install lights without the express written approval of the County, and if applicable, any other governmental unit (including any required agency and/or department of the United States, or the State of Florida). The County assumes no liability or responsibility for the construction, operation, maintenance, and repair of the above-noted and described bicycle track.

C. It is expressly understood that the interests of BMX are secondary to the interests of the County, with respect to use and prioritization of any activities on/at Phase I of the Landfill. The prioritization of any activities by any group (including BMX) on/at Phase I of the Landfill, shall be determined by the County, taking into account the relative unique

nature of any activity/event, the length and/or duration of the activity/event, and issues related to the health, safety, and welfare, of the participants, and spectators. Nevertheless, at the beginning of each calendar year, BMX shall meet with appropriated County staff to schedule routine programs and events that are to take place on/at the Landfill. For any special events in which a larger number of people are expected to attend, such as regional or national competitions, BMX shall give the County written notification of said event at least 30 (thirty) days prior to the date that the event is scheduled to take place. BMX agrees to implement any arrangements deemed necessary by the County to accommodate such special events, including, but not limited to, entrance and exit routes for the event, parking areas for participants and spectators, any security personnel, and the necessity for additional bathroom facilities.]

D. All parties, members, and guests of BMX shall enter the Landfill through the main gate located at Allen Nease Road, or at a point that is determined at a later date. Only authorized Landfill security personnel shall allow parties, members, and guests of BMX to enter the Landfill for the activities and events noted above.

E. Parking will be provided within a designated area specified for BMX use. No other parking area or driving on the Landfill will be authorized by the County. Failure by BMX to comply with, and adhere to, this provision, may subject BMX to revocation of this Permit.

F. BMX shall furnish the County with a written list of the names and addresses of members of BMX. On at least a quarterly basis, BMX shall be responsible for furnishing the County an updated list.

G. BMX will be responsible for maintaining the bicycle track, and area surrounding the bicycle track, in as clean and safe a condition as possible. All solid waste shall be removed and disposed of, in receptacles that are approved by the Director of the Landfill. Unless stored in approved storage facility, all bicycles, bicycle-related equipment (including tools, spare parts, or replacement equipment), or protective gear for individuals shall be removed from the bicycle track within twenty-four (24) hours after completion after an authorized event. No person (whether member or guest of BMX) shall be allowed to store or keep bicycles, bicycle-related equipment (including tools, spare parts, or replacement equipment), or protective gear for individuals at the Landfill unless such bicycles, equipment or gear are stored in a secure storage shed that is approved in advance by either authorized Landfill personnel, or the County Administrator. In the event that bicycles, equipment, or gear are stored on the Landfill, the County assumes no responsibility or liability for any damage (personal or property) associated with such bicycles, equipment, or gear, or the storage shed, or the lock that secures the storage shed.

H. BMX, as a condition of using public land, shall admit to its membership any St. Johns County resident who expresses a desire to join. BMX shall accord all the rights and privileges of BMX at the same fees or under the same rules required of other members.

I. BMX's Permit with the County is solely for the benefit of BMX. As such, BMX's Permit with the County does not confer any separate or additional privilege or benefit to any individual member of BMX. Further, BMX's Permit with the County does not confer any right, benefit, or privilege to a third-party. Also, BMX's Permit with the County may not be assign, transferred, or sold to another party. Any attempt by BMX to assign, transfer, or sell this Permit shall result in the termination/cancellation/revocation of this Permit.

J. BMX agrees to hold harmless St. Johns County, its Board of County Commissioners, employees, or agents from any liability for injuries or property damage caused by, or to, BMX members, guests, or participants arising from BMX's use or activities on the Landfill premises, and BMX shall secure the signatures from all its participants, prior to use of the premises and facilities, acknowledging the County's release from said liability, or BMX will provide to the County a Master Release on behalf of all participants, prior to use of the premises and facilities.

K. BMX agrees to furnish to the County a copy of BMX's bylaws, and other documentation pertinent to BMX's existence. Further, BMX shall furnish a certificate of general liability insurance coverage naming the County as an additional insured, with coverage amounts not less than one million dollars (\$1,000,000.00) with a ninety (90) day written notification of cancellation.

L. BMX shall abide by all rules, regulations, standards, and/or directives issued by authorized Landfill personnel, or by the County Administrator, or the Board of County Commissioners of St. Johns County. Additionally, whether mentioned or not, all BMX members shall stay clear of any, and all, methane pipes/vents that may protrude from any part of the Landfill. Moreover, all parties, members, and guests of BMX shall notify the County within twenty-four (24) hours of detecting or observing any surface subsidence, pooling of stormwater on the surface, or damage to any structures located on or around the bicycle track.

M. This Conditional Permit shall be effective from and after February 1, 2003. It may be renewed on an annual basis by the County Administrator.

N. This Conditional Permit does not create any express or implied third party benefits to any individual or group of individuals.

O. This Conditional Permit may not be amended unless approved in writing by both the County and BMX.

## **Section 2. Notices.**

All notices to parties (other than membership list or membership list updates) shall be delivered by certified mail. Notices related to membership or membership list updates may be delivered by hand or US mail, or by any other mutually accepted means. All



notices (whether mailed, or delivered, or delivered by some other means) shall be directed and/or addressed to the following:

County:  
County Administrator  
4020 Lewis Speedway  
St. Augustine, Florida 32084

BMX:  
Frank Kenton  
President, St. Augustine BMX Association, Inc.  
2 Lindberg Lane  
Palm Coast, FL 32137

**Section 3. Approval; Re-statement of Effective Date.**

The County approves this Conditional Permit this 27<sup>th</sup> day, of March, 2003. As noted in Section 1(M), this Conditional Permit shall be effective from and after February 1, 2003.

ST. JOHNS COUNTY

James E. Bryant

BMX accepts this Conditional Permit on this 25<sup>th</sup> day of March, 2003.

ST. AUGUSTINE BMX  
ASSOCIATION

Frank Kenton, President