

RESOLUTION NO. 2013- 258

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY CHAIR, OR DESIGNEE, TO EXECUTE A SPECIAL USE AUTHORIZATION WITH ST. JOHNS RIVER WATER MANAGEMENT DISTRICT TO ACCESS AND SPREAD EXCAVATED SOIL ONTO THE DISTRICTS PROPERTY.

RECITALS

WHEREAS, St. Johns River Water Management District, (District) has agreed to allow St. Johns County access to and from the Deep Creek West Regional Stormwater Treatment Facility (“RST Facility”) by a Special Use Authorization (“SUA”), attached hereto and made a part hereof in Exhibit “A,” incorporated by reference and made a part hereof; and

WHEREAS, in order to meet some of the required TMDL reduction the County will be expanding and improving the Deep Creek West RST Facility; and

WHEREAS, the District per the SUA gives permission to the County to access to and from the Deep Creek West RST and authorizes the County to spread excavated soil from the construction over and on District property adjacent to the Deep Creek West RST Facility to reduce cost associated with exporting the surplus of material created from expansion of the pond; and

WHEREAS, a Cooperative Agreement was approved in Resolution No. 2010-199 allowing the County to provide maintenance and other operations on the property; and

WHEREAS, it is in the best interest of the County to use the adjacent property in order to reduce the costs associated with exporting the surplus material off-site.

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.

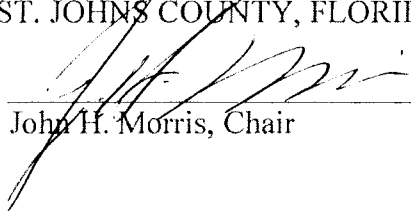
Section 2. The Board of County Commissioners hereby approves the terms and authorizes the County Chair, or designee, to execute two originals of the Special Use Authorization substantially in the form attached.

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


Section 4. The Clerk is instructed to file the original Special Use Authorization in the Clerk's Office.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 3rd day of December, 2013.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
John H. Morris, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 12/5/13

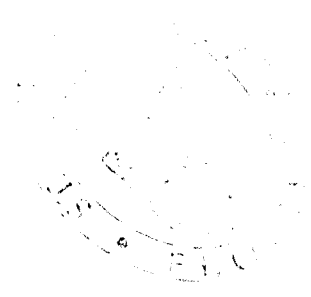


EXHIBIT "A" TO RESOLUTION

SPECIAL USE AUTHORIZATION

This Special Use Authorization ("SUA") is given by the St. Johns River Water Management District ("District"), whose address is 4049 Reid Street, Palatka, Florida 32177, to St. Johns County ("County"), a political subdivision of the State of Florida whose mailing address is 2740 Industry Center Road, St. Augustine, FL 32084. Wherever used herein, the term "County" includes County's employees, agents, or contractors, the heirs and legal representatives of individuals, and the successors and assigns of corporations, partnerships, public bodies, and quasi-public bodies.

By acceptance of this SUA and exercise of any of the privileges afforded hereby, County agrees to the following terms and conditions:

1. **Authorized Use.** This SUA hereby authorizes the following use of District lands ("Use"), as defined in Chapter 40C-9.021, Florida Administrative Code on the property delineated on the attached map (the "Property").

The County is authorized to use the District's property for access to and from the Deep Creek West Regional Stormwater Treatment Facility ("RST Facility") for the purposes of construction. In addition, the County is authorized to spread excavated soil from the construction over and on District property in the area shown on the attached map. The following steps should be taken:

- a Determine if ditches in the receiving area can be filled without creating off-site impacts.
 - b If the ditches can be filled, fill them before spreading spoil over the surface.
 - c If the ditches can't be filled, spread the fill over the surface to achieve a level grade and taper the boundaries of the fill at the ditches in a manner that minimizes erosion.
 - d Each interface where the fill meets the wetland soils (particularly along the eastern edge of the receiving area) should be gradually tapered to return to the grade of the wetland soil with minimal overlap.
2. The County must coordinate the above and all other aspects of its activities with the District's Land Manager for the Deep Creek Conservation Area - Yarborough, Matt Corby, 904-529-2380, mcorby@sjrwmd.com.
 3. **Term.** The initial term of this SUA is for a period of one year, commencing upon execution by both parties. And is renewable for up to one additional year as agreed to in writing by the parties. This SUA is a license that is revocable at will (without cause) at any time prior to the expiration of this SUA upon ten (10) calendar days prior written notice; provided, however, that in the event the County does not comply with the terms of this SUA, this SUA may be immediately revoked upon written or oral notice.

4. **Conditions Generally Applicable to the Use of the Property:**

- a Except as otherwise provided herein, the County shall comply with the District's Water Management Lands Acquisition and Management Rule, Chapter 40C-9, Florida Administrative Code, which may be viewed at: www.floridaswater.com/rules/pdfs/40C-9.pdf.
- b This SUA does not convey any real Property interests or rights to the County of any kind. The use of the Property is in an "AS-IS" condition. The District does not guarantee that the Property can be used for the purpose intended by the County.
- c The County must either carry County identification or physically have a copy of this SUA at all times while on the Property. In the event this SUA authorizes use of the Property by any contractors associated with the County that have not executed this SUA, The County agrees to communicate the terms of this SUA to its Contractors and ensure that they abide by these terms. Use of the Property by a Contractor constitutes acceptance of the terms of this SUA. As used herein, "shall" is always mandatory.
- d The County is responsible for maintenance of the Property in safe and sanitary condition for the intended Use and any repairs or improvements necessary for the intended Use. The County will clean and restore the Property at the conclusion of the Use to not less than the condition that existed prior to the Use save for the authorized spreading.
- e The County will not damage the Property beyond that normally associated with the Use and shall, at County's expense, repair any damage to the Property resulting from the Use.
- f The District may authorize other persons or organizations to use the Property during the same time as this SUA. User may use the Property as necessary for the Use and shall not impede access by other authorized users or prevent them from carrying on approved activities.
- g If the County is provided access through locked gates, the County must close and lock gates upon each entry and exit from the Property.
- h No structures (i.e.; buildings, fencing, etc.) or other alterations except for the spreading described above and road improvements will be placed or constructed upon the Property without the District's prior written consent. All personal property placed upon the Property shall be at the County's sole risk of loss. Upon termination, the County's personal property and equipment not removed shall become the District's property and at the District's sole discretion may be removed, relocated or abandoned. Any authorized improvements that are affixed to the Property shall remain with the Property upon expiration of this SUA.
- i The County will abide by all applicable governmental rules, regulations, ordinances and laws with respect to County's use of the Property. The County is responsible for obtaining and paying for any and all permits necessary for the Use.
- j No hunting, illegal, offensive or immoral activities will take place on the Property.
- k Killing, molesting, or trapping of listed species may only be allowed with required state and federal permits. Unless expressly authorized herein, the harvest of any plant or plant material is prohibited.
- l The County shall exercise due care against accidentally starting fires while on the Property and shall be liable for all damages caused by such fires. The County must vacate the Property at first threat, warning or notice of a wildfire in the vicinity of the Property.

- m Dumping or placing of any garbage or refuse on the Property, except in authorized receptacles, is prohibited.
 - n The County shall notify the Land Manager prior to commencement of authorized activities and schedule an on-site inspection of the condition of the Property. Upon completion of authorized activities, The County shall schedule an onsite inspection of the condition of the Property.
 - o All power and telephone lines, ditches, fences, cattle gaps, culverts, bridges and gates located within or immediately outside the Property shall be protected from damage by the County's activities, and if damaged, shall be repaired immediately by the County at its expense.
 - p Roads, trails, and fire lines will be kept free debris resulting from the County's activities. Any road, trail or firebreak used by the County in connection with this Authorization that is damaged or injured beyond ordinary wear and tear shall be repaired promptly to its original condition at the County's expense. The District retains the right to close the Property in inclement weather if damage is deemed by the Land Manager to be too severe, or any other occasions where the use of the Property is deemed unsafe.
5. **Duty of Care; Assumption of Risk of Injury.** By issuance of this SUA, the District assumes no duty of care with regard to the County's safety while on the Property. The County is under a duty to be vigilant for the County's own safety as well as the safety of others. The County understands and agrees that the County is solely responsible for the County's personal safety and the personal safety of all persons accompanying the County on the Property or accessing the Property under County's direction. The County is fully knowledgeable of the risks that are generally associated with traversing Property that is in a substantially natural condition and assume all such risks. The County voluntarily assumes any other risks, of every kind whatsoever, whether natural or artificial, while conducting activities on the property pursuant to this SUA.
6. **Hold District Harmless From Liability.** The District shall bear no financial expense or obligation whatsoever to the County or any third party as a result of this SUA. Nothing under the terms of this SUA or any use contemplated hereby shall render the District liable for property damage, personal injury or death resulting from the Use. The County is solely responsible for bodily injury, death, property damage or loss, and all other claims or causes of action in law or equity whatsoever attributable to the activities of County, its licensees, or invitees, and to indemnify and hold the District harmless therefrom, including the District's costs and reasonable attorney's fees.
7. **Contractors.** The County shall notify the District of any third party contractor(s) that will be accessing the Property under this SUA. Any such contractor(s) shall, during the term of this SUA, maintain a policy of general liability insurance covering personal injury and property damage in an amount not less than \$500,000. A certificate of insurance naming the District as an additional insured shall be presented prior to access by said contractor(s).
8. **Pollution.** The discharge of any fuel, oils, petroleum products, litter or other harmful materials that may result from County's use of the Property or other District land is prohibited. Should any harmful materials be discharged by the County, the District shall be immedi-

ately notified. The County is solely responsible for all costs associated with any resulting clean up and remediation.

9. **Non-waiver of District's Regulatory Authority.** No provision in this SUA shall be construed as a waiver of or contract with respect to the District's regulatory and permitting authority as it now or hereafter exists under applicable laws, rules and regulations.
10. **Non-Assignment.** The County may not assign or transfer this SUA, in whole or in part, without the District's prior written consent.
11. **Notices.** Notices, including notice of change of address, email address or telephone numbers, shall be addressed or transmitted to the addresses and parties set forth below or such other address that a party may designate:

St. Johns River Water Management District
PO Box 1429
Palatka, FL 32178-1429
Attention: Ray Bunton, Bureau Chief
Real Estate Services Division
386-329-4335
rbunton@sjrwind.com

St. Johns County
Press Tompkins, County Engineer
2740 Industry Center Road
St. Augustine, FL 32084
ptompkins@sjcfl.us
904-209-0125

(Signatures on following page)

This SUA is executed on behalf of the District and the County by their respective authorized representatives. Upon execution, this SUA along with the Cooperative Agreement for the RST Facility constitute the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This SUA cannot be changed by any means other than written amendment referencing this SUA and signed by all parties.

**ST JOHNS RIVER WATER
MANAGEMENT DISTRICT**

ST. JOHNS COUNTY

SUA based on conditions above is approved.

I agree to the conditions above and warrant that I am authorized to sign on behalf of the User.

By: _____
Robert A. Christianson, Director
Operations and Land Resources (or
Designee)

By: _____

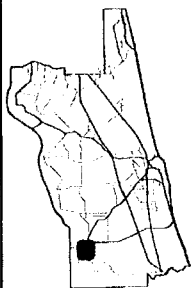
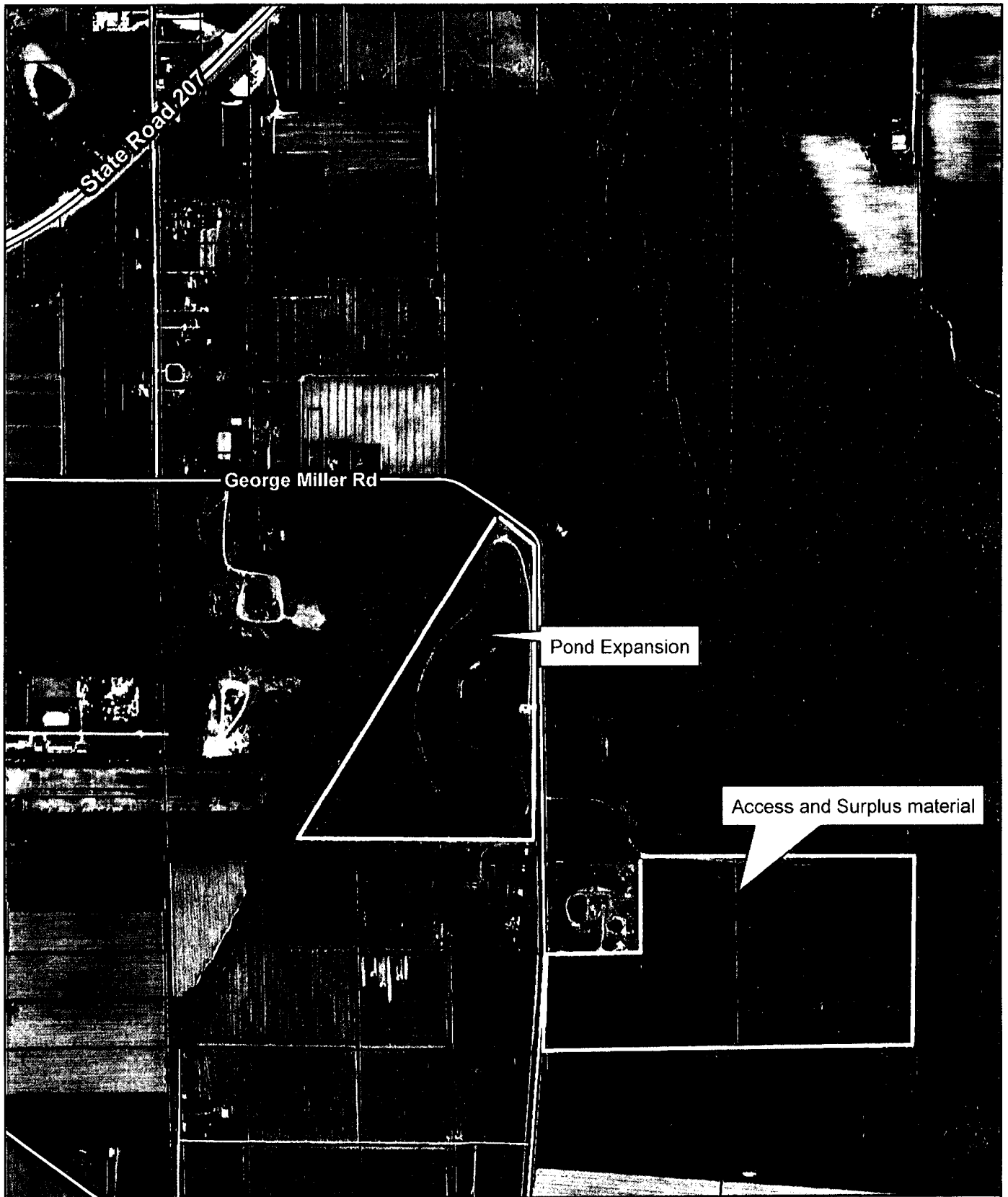
Title: _____

Date: _____

Date: _____

Approved as to form and legality

By: *Ashty Smith*
Office of General Counsel, SJRWMD



2013 Aerial Imagery
010200
Feet
November 5, 2013

Deep Creek West

*Regional Stormwater
Treatment Facility*

Land Management
Systems
Real Estate
Division
(904) 209-0796

Disclaimer:
This map is for reference use only.
Data provided are derived from multiple
sources with varying levels of accuracy.
The St. Johns County Real Estate
Division disclaims all responsibility
for the accuracy or completeness
of the data shown hereon.

