

RESOLUTION NO. 2017- 107

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A LICENSE AGREEMENT BETWEEN ST. JOHNS COUNTY AND S.W. COWBOY, INC.

RECITALS

WHEREAS, the County and Licensee entered into a Lease on April, 28, 1981, which provided for a lease term of ten (10) years commencing on May 1, 1981 and expiring on May 1, 1991 leasing County right-of-way on Dondanville Road; and

WHEREAS, the County and Licensee entered into an Extension of Lease Agreement on May 16, 1991 for the extended term of ten (10) years which terminated on May 1, 2001; and

WHEREAS, the County and Licensee entered into a 2nd Extension of Lease Agreement on May 8, 2001 for the extended term of five (5) years which terminated on April 30, 2006; and

WHEREAS, the County and Licensee entered into a 3rd Extension of Lease Agreement on March 21, 2007 for the extended term of ten (10) years which will terminate on March 31, 2017; and

WHEREAS, the Licensee has requested the County execute a License Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, extending the Agreement for an additional five (5) years, with an option to extend for up to five (5) additional terms of five (5) years each;

WHEREAS, the County has determined that executing the referenced License Agreement is in the overall best interests of the citizens of St. Johns County.

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 above described License Agreement, attached and incorporated hereto, is hereby accepted by the Board of County Commissioners.

Section 3. To the extent that there are typographical, scrivener or administrative 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 of the Circuit Court is instructed to record the original License Agreement in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 4th day of April, 2017.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA**

By: _____
James K. Johns, Chair

ATTEST: Hunter S. Conrad, Clerk

Pam Halterman
Deputy Clerk

RENDITION DATE 4/6/17



LICENSE AGREEMENT

THIS LICENSE AGREEMENT, made and executed this ____ day of April, 2017, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, hereinafter referred to as the "County", and **S.W. COWBOY, INC.**, a Florida corporation, whose address is 299 Dondanville Road, St. Augustine, Florida 32080, hereinafter referred to as the "Licensee".

WHEREAS, the Licensee has requested this License Agreement authorizing use of a certain public right-of-way on Dondanville Road, St. Augustine, Florida 32080, to be used as a public parking lot; and

WHEREAS, this 60' public right of way along Dondanville Road is located contiguous to Licensee's property and more particularly described on Exhibit "A", attached hereto and by reference incorporated and made a part hereof, hereinafter the "Premises"; and

WHEREAS, in consideration of the respective agreements of the parties herein contained, the County does hereby license, without warranty, to the Licensee, the temporary use of the right-of-way mentioned above pursuant to the following conditions, provisions, and terms:

1. To use above-described Premises for an initial term of five (5) years, commencing April 1, 2017 (Commencement Date) and expiring March 31, 2022. Upon expiration of the initial term of this License Agreement, or any extension provided for hereafter, and provided Licensee is not then in default of this License Agreement, Licensee shall have the option to renew this License Agreement for up to five (5) additional terms of five (5) years each, not to exceed thirty (30) years or until March 31, 2047. This License Agreement shall automatically renew for each successive five (5) year term, on the same terms and conditions as contained herein, providing that neither party notifies the other in writing of intent not to accept such extension at least sixty (60) days prior to the end of the then current term.

2. An annual licensing fee, payable in twelve (12) equal monthly payments, plus sales tax, shall be due and payable from Licensee no later than the first day of each month. The licensing fee shall increase annually on the anniversary of the Commencement Date by an amount equal to three percent (3%) of the fee paid during the previous year. A late fee in the amount of five percent (5%) shall be assessed against any monthly licensing payment not made on or before the 15th day of each month. Lessee agrees to pay the County according to the following schedule:

<u>Start Date</u>	<u>End Date</u>	<u>Annual Fee</u>	<u>Monthly Fee</u>
04/01/2017	03/31/2017	\$ 9,000.00	\$750.00
04/01/2018	03/31/2018	\$ 9,270.00	\$772.50
04/01/2019	03/31/2019	\$ 9,548.10	\$795.67
04/01/2020	03/31/2020	\$ 9,834.54	\$819.54
04/01/2021	03/31/2021	\$10,129.58	\$844.13

Upon any extension of the License Agreement as provided for herein, the licensing fee shall increase annually on the anniversary of the Commencement Date by an amount equal to three percent (3%) of the fee paid during the previous year. St. Johns County reserves the right to increase the annual Licensing fee.

3. Although the Licensees may enter and use the subject Premises as a public parking lot, the Licensee shall not be in possession of the Premises. The County shall possess and otherwise control all aspects of use of the Premises. This license shall be non-exclusive and Licensee will allow the continuance of any use or access by the general public and the County, which have become customary on the Premises. Moreover, Licensee agrees to allow the County to grant any easement it deems appropriate during the period of this license that burden the same Premises, so long as such easement does not substantially prevent Licensee's intended use of the Premises for more than thirty (30) continuous days.

4. This License Agreement provides for forty-five (45) parking spaces along either side of Dondanville Road, each space being 18' x 24' and also providing for a sixty foot (60') right-of-way, the planting of shrubs, the laying of coquina shell along said right-of-way, and erection of planting areas and lighting fixtures. Lessee shall not charge patrons a parking fee, and Licensee will insure that no vehicle remains parked in the right-of-way more than three and a half (3.5) hours during a 24-hour period.

5. Licensee shall have the right to assign this License Agreement, with written consent of the County (which consent shall not be unreasonably denied), provided any assignment shall fully bind Assignee as a successor Licensee.

6. Licensee acknowledges that they have inspected the Premises and accept the License Agreement as-is with full knowledge of the condition of the Premises. The County makes no representations to Licensee with respect to the Premises other than those set forth in this License Agreement.

7. All improvements placed on the premises shall become the property of the County upon termination of this License Agreement or any renewal thereof. However, the County may at its option, require the Lessee, at Lessee's sole cost and expense, to remove any or all of said improvements, and to restore the premises to its original condition upon termination or expiration of this License Agreement, or any renewal thereof.

8. Licensee agrees that they shall be responsible for the maintenance, repair, and replacement of the parking area, any related improvements, and all landscaping on the premises. Licensee shall keep the premises in good condition and repair and in compliance with all applicable laws, rules, regulations and ordinances, in their use and operation of the right-of-way.

9. Licensee shall not use said premises in any manner that will obstruct or interfere with or encroach on the walks or approaches to said premises.

10. The Licensee shall make no improvements to the subject Premises, except routine maintenance, without the written permission of the County. The Licensee shall make no

improvements, or rely on the use of the Premises in any way, which would make this License irrevocable. The Licensee specifically hereby waives making any argument or claim that this License is irrevocable.

11. The Licensee shall not be permitted to make or suffer any waste or unlawful, improper or offensive use of Premises.

12. The County and its agents, servants, and employees shall have and hereby reserve their right and privilege, at all reasonable times during the term of this license, to enter said Premises to examine and inspect the same. The Licensee shall not cause or permit any use of the Premises for other than those uses specifically provided for in this license.

13. The Licensee, in consideration for the use of the Premises, does hereby release and discharge and further will indemnify and save harmless the County from any and all claims for personal injuries or property damages during the existence of this license, arising in any manner by virtue of the use or occupancy of such premises by the Licensee, that the Licensee does hereby further agree to indemnify and save harmless the County from liability for damage, injury or death to any person or persons arising out of the use of said property, or from the lack of keeping same in good repair and order, or from the negligent operation of same, or for any other cause for any nature whatsoever, provided such damage, injury or death is not due to County's own negligence.

14. Licensee shall be responsible for insuring this site and will maintain, at Licensee's sole expense, comprehensive or commercial general liability insurance for this site for the duration of this License Agreement. The County shall be named as an additional insured on the Licensee's liability policy.

15. The Licensee shall conform to and comply with all laws, orders and regulations of the federal, state, county and municipal governments and all of their departments and bureaus.

16. If Licensee fails to comply with or abide by any term, provision or stipulation in this license, and such default continues for sixty (60) days after receipt of written notice of default, the County may terminate this license and terminate Licensee's use of said Premises due to Licensee's failure to comply with the terms of this license.

17. The waiver of County of any such breach hereof on the part of the Licensees, or any time or from time to time, shall not be deemed, held, or construed as a waiver of any subsequent breach, or imply any further indulgence.

18. Notwithstanding any other provision of this license, the Licensee hereby releases any rights they have in regards to the coupling of this license with an interest, other than the rights granted in this License Agreement. If sometime in the future, the County determines that the licensed portion of the property is needed for another public purpose, the County agrees to give sixty (60) days written notice to the Licensee, without further liability between the parties except as expressly and specifically provided for in this license. The foregoing notice requirement shall not apply in the event the Premises are needed for disaster relief purposes as a

result of a declared state of emergency by any unit of federal, state, or local government. In such event, the County shall provide the Licensees with as much notice as is reasonably practicable under the circumstances, and this license shall be suspended only for the duration of the emergency.

19. Licensee reserves the right to terminate this license by giving the County a sixty (60) day written notice advising of such unsuitability and electing to terminate this License Agreement at the end of the 60-day period.

20. This License Agreement shall be construed in accordance with the laws of the State of Florida. Venue for any legal, equitable, or administrative dispute arising in connection with this License Agreement shall lie exclusively in St. Johns County. Should any such dispute arise, the prevailing party shall be entitled to receive reasonable costs and attorney's fees incurred in connection with the dispute.

21. If any part of this License Agreement, or any application thereof, is declared invalid for any reason, then such part, or the proscribed application, shall be severable, and the remaining portions of this License Agreement, and all applications thereof, not having been declared invalid shall remain in effect.

22. The execution of this license Agreement shall not constitute a waiver by either party hereto of any right or claim of right to the subject lands or to use the subject lands.

THE REMAINDER OF THIS PAGE PURPOSELY LEFT BLANK.

IN WITNESS WHEREOF, the undersigned parties have executed this License Agreement on the day and year first above written.

ST. JOHNS COUNTY, FLORIDA

By: _____
Michael D. Wanchick
County Administrator

ATTEST: Hunter S. Conrad, Clerk

By: _____
Deputy Clerk

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Michael D. Wanchick as County Administrator for St. Johns County, Florida, who is personally known to me.

Notary Public
My Commission Expires:

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF WITNESSES:


Witness: *Sheri Lewis*
Print Name: Sheri Lewis

Witness: *Kelly McTaggart*
Print Name: Kelly McTaggart

S.W. COWBOY, INC.
Scott Singleton
Print Name: Scott Singleton
Its: President

STATE OF FLORIDA
COUNTY OF ST. JOHNS

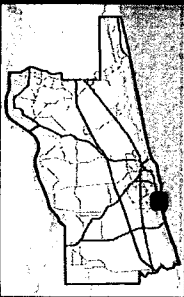
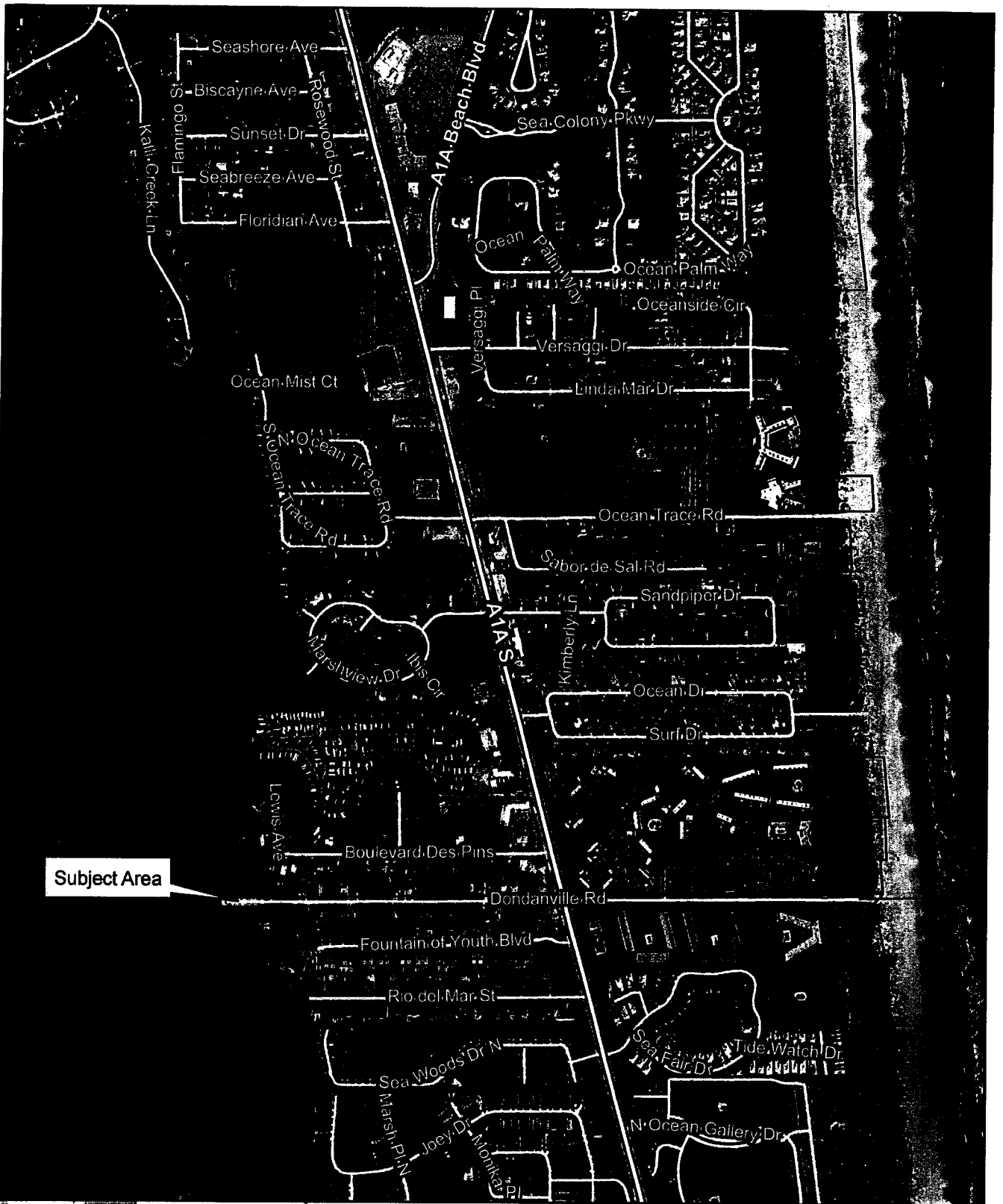
The foregoing instrument was acknowledged before me this 15th day of March, 2017, by Scott Singleton, who are personally known to me or produced _____ as identification.

 SHERI LEWIS
MY COMMISSION # FF 827581
EXPIRES: October 14, 2019
Bonded Thru Budget Notary Service

Sheri Lewis
Notary Public
My Commission Expires:

EXHIBIT "A" TO LICENSE AGREEMENT

ALL THAT PART OF DONDANVILLE ROAD, A SIXTY (60) FOOT COUNTY ROAD RIGHT-OF-WAY BEING WEST OF THE EXTENDED WEST LINE OF LOT 25, BLOCK 2, WILLIAMSON MANOR, AS IN MAP BOOK 8, PAGE 64 AND EAST OF THE WATERS OF SAN JULIAN CREEK.




 2013 Aerial Imagery
 0 150300
 Feet
 March 13, 2017

**Dondanville Road
 County ROW**
Salt Water Cowboys

**Land Management
 Systems
 Real Estate
 Division**
 (904) 209-0764
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.

