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OF BOARD OF COUNTY COMMISSIONERS
OF SEPTEMBER 18, 2007

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September 18, 2007

REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Tuesday, September 18, 2007. Present were Chairman Gary C. Wheeler, Vice Chair Sandra L. Bowden, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Maureen Gelfo.

1. CALL TO ORDER

Chairman Wheeler called the meeting to order at 9:00 a.m.

2. INVOCATION

Public Works Director Jim Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Chairman Gary C. Wheeler led the Pledge of Allegiance to the Flag.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

The following changes were requested to today's Agenda:

Addition: Item 13.E.

Commissioner O'Bryan requested a discussion of the recent decision of St. Johns River Water Management District to surplus and exchange the Sand Lakes Tract conservation lands, and wanted Board direction for staff to evaluate options for appealing this decision to the Governor and Cabinet.

ON MOTION by Commissioner O'Bryan, SECONDED by Chairman Wheeler, the Board unanimously added Item 13.E. to the Agenda.

Proposed Deletion: Item 9.A.2. Petition for creation of Indian River Park of Commerce Community Development District

Chairman Wheeler said there had been a request to pull Item 9.A.2. from the Agenda. Vice Chair Bowden felt that this item should remain since it had been advertised as a Public Hearing.

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously decided to not pull Agenda Item 9.A.2. under Public Hearings.

3. Vice Chair Bowden requested that Utilities Services, Items 11.J.2., 11.J.3., and 11.J. 4., be discussed immediately following Public Hearing Item 9.A.2.

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously approved to hold the discussion for Items 11.J.2., 11.J.3., and 11.J.4., immediately following Public Hearing Item 9.A.2.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING SEPTEMBER 29, 2007 AS POW-MIA RECOGNITION DAY

Chairman Wheeler read and presented the Proclamation to Helen Glenn, Alma Lee Loy, and John Matthews, members of the Veterans Memorial Island Sanctuary Committee. Mrs. Glenn invited the public to attend the September 29, 2007 dedication ceremony for a new memorial on the Island. Mr. Matthews introduced Richard Moulton, a former POW and MIA, who spoke about his experiences during World War II.

5.B. PRESENTATION OF PROCLAMATION DESIGNATING SEPTEMBER 17-21, 2007 AS INDUSTRY APPRECIATION WEEK IN INDIAN RIVER COUNTY, FLORIDA

Commissioner O'Bryan read and presented the proclamation to Linda Schlitt Gonzalez, who thanked the Board on behalf of the Economic Development Committee and the Chamber of Commerce. She invited the Board to attend the Industry Appreciation luncheon on Thursday, September 20, 2007.

5.C. PRESENTATION BY RONNIE HEWETT, PRESIDENT & CEO, BOYS & GIRLS CLUB OF INDIAN RIVER COUNTY

President & CEO Ronnie Hewett, Boys and Girls Club of Indian River County, discussed the proposed relocation of the 27th Avenue South County Boys and Girls Club to the South County Park. He updated the Commissioners on the Club's current projects, and provided a brief synopsis of the need and proposed plans for the new building. Mr. Hewett asked for Board approval of the project in concept, so that Club officials could talk with the Recreation Commission and the Recreation Department to organize the plan, and return to the Board in October or November 2007 with more specific information.

Discussion ensued among the Board, Administrator Baird, and Mr. Hewitt regarding the feasibility of creating a special needs emergency shelter at the new facility, the importance of not duplicating recreational services, and the advantages of having the County and School Board partner with the Boys and Girls Club. The Board directed Administrator Baird to meet with Mr. Hewett and the School Board for further discussions.

Scott Chisholm, Chairman, Parks and Recreation Commission, expressed consternation that this item had not gone before his committee for a recommendation, and suggested that the Board let them review this and work out the details. He informed the Board that his organization has a master plan for the South County Park, and he wanted to begin fund raising so construction could begin in January 2008. Mr. Chisholm acknowledged the Boys and Girls Club as an excellent community resource, but declared that they had never approached Parks and Recreation regarding their desire to utilize the South County location.

Mr. Chisholm stated that the Boys and Girls Club has great partnerships with the School Board, and he advocated partnering with other agencies to avoid duplication of

services. He declared that the County needs to carefully assess what should be done with its park space. Mr. Chisholm felt the wave of the future would be to have indoor facilities at each of the three main component parks, Gifford, South County, and North County, with South County being the first location.

Vice Chair Bowden was not aware that Mr. Chisholm had not heard about the proposed relocation of the Boys and Girls Cub to South County Park and wanted to be sure to include the Parks and Recreation Commission in the process.

Administrator Baird apologized to Mr. Chisholm for not mentioning that the County was planning to discuss this item with the Parks and Recreation Commission. It was never his intention to leave out Parks and Recreation.

Commissioner Davis said the Board should rephrase their direction to Administrator Baird. Instead of the prior direction to meet with Mr. Hewett and the School Board for discussions, the item should be brought back to the Parks and Recreation Commission, and then returned to the Board via Administrator Baird.

Commissioner Flescher, liaison to the Parks and Recreation Commission, was familiar with the positive results attained by the Boys and Girls Club. He did not want to see a divide occur between Parks and Recreation and the Club, and invited Mr. Hewett to bring a presentation to the Parks and Recreation Commission.

Mr. Hewett made it clear that the Boys and Girls Club had not planned on circumventing the process of going through the Parks and Recreation Commission. They had intended all along to work with Parks and Recreation, and to come together with a consensus.

Bea Gardner, Vice Chair of the City of Vero Beach Recreation Commission, advised the Board and the speakers to be careful of duplicating their programs. Ms. Gardner voiced that Vero Beach has some facilities that might work, and wanted Mr. Hewett to meet with the City's Recreation Commission.

Vice Chair Wheeler announced the Board's CONSENSUS to move forward, hand in hand with the other agencies.

Mr. Hewett was optimistic that the Boys and Girls Club could get together with other appropriate groups, work things out, and return to the Board with a plan benefiting all concerned.

6. APPROVAL OF MINUTES-NONE

7. CONSENT AGENDA

Commissioner Wheeler asked that Item 7.P. be pulled for discussion.

7.A. APPROVAL OF WARRANTS – AUGUST 31, 2007 – SEPTEMBER 6, 2007

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the list of Warrants as issued by the Clerk to the Board for August 31, 2007 to September 6, 2007, as requested in the memorandum of September 6, 2007.

7.B. INVESTMENT COMMITTEE REPORT FOR THE QUARTER ENDING 6/30/07

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously accepted the Investment Advisory Committee Quarterly Report, as requested in the memorandum of September 10, 2007.

7.C. ELECTION OF TRANSPORTATION DISADVANTAGED LOCAL COORDINATING BOARD VICE CHAIRMAN

The Board noted the election of Mr. William Lundy Parden as Vice Chairman of the Transportation Disadvantaged Local Coordinating Board (TDLCB) to complete the term for the year 2007, vacated by Mr. Ron Tesnow, who retired.

7.D. TRANSPORTATION DISADVANTAGED LOCAL COORDINATING BOARD (TDLCB) VETERAN'S ASSOCIATION LIAISON

The Board noted the resignation of Mr. Ron Tesnow, Liaison to the Transportation Disadvantaged Local Coordinating Board Veteran's Association, and the selection of alternate Joel Herman to fill the position.

7.E. PROPERTY ACQUISITION – TAX ROLL REMOVAL & TAX CANCELLATION

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved

Resolution 2007-109, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 74th Avenue – Parcel 104 – Capital Trust as Trustee for Irvin Basil Keller).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-110**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 74th Avenue – Parcel 105 - Capital Trust as Trustee for Irvin Basil Keller).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-111**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (Environmental Land - Shadowbrook Estates, Inc.).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-112**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – CR510 & 66th Avenue - Ryall Acquisition Group).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-113**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes

(R/W – 74th Avenue – Parcel 102 - Curtis and Trevino-Aversa).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-114**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 66th Avenue - Edna & J.C. Franks & Lois Franks Rice).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-115**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 43rd Ave. at 16th St. - John Flaig).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-116**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – Barber Street – Maronda Homes of Florida).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-117**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 8th Street - McGregor Revocable Trust).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-118**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – Proposed 37th Avenue SW., Vero Enterprises).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-119**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 74th Avenue - J. Patrick Schirard Trust).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-120**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 8th Street - Jack & Julia Miller).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-121**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – Environmental Land - Lincoln Land Development).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-122**, canceling taxes upon publicly

owned lands, pursuant to Section 196.28, Florida Statutes (R/W – CR510 – Chester Wilcox Trust).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-123**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 90th Ave. & SR60 – HPT TA Properties TR).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-124**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 66th Avenue – Robert & Mary Slezak).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-125**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 66th Avenue – VGS Homes).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-126**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – CR510 – Bristol Island).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-127**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – CR510 – Bristol Island).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution 2007-128**, canceling taxes upon publicly owned lands, pursuant to Section 196.28, Florida Statutes (R/W – 69th Street – East Coast Holding).

**7.F. APPROVAL OF WORK ORDER NO. M1 WITH MALCOLM PIRNIE, INC.
FOR CONSTRUCTION SUPPORT SERVICES AND PREPARATION OF A
QUALITY ASSURANCE PROJECT PLAN FOR THE MAIN RELIEF CANAL
POLLUTION CONTROL SYSTEM**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. M1 with Malcolm Pirnie, Inc., and authorized the Chairman to execute same, as recommended in the memorandum of September 10, 2007

WORK ORDER IS ON FILE IN OFFICE OF THE CLERK TO THE BOARD

**7.G. SECTOR 7 BEACH RESTORATION PROJECT, FINAL PAYMENT AND
RELEASE OF RETAINAGE, GREAT LAKES DREDGE AND DOCK
COMPANY, LLC**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the final release of retainage, GLDD application for Payment No. 6B, in the amount of \$4,482.11, as recommended in the memorandum of September 10, 2007.

**7.H. WORK ORDER NO. AMET-1, A.M. ENGINEERING AND TESTING, INC.,
GEOTECHNICAL PROFESSIONAL CONSULTANTS, FOR: PROFESSIONAL
GEOTECHNICAL SERVICES FOR WABASSO BEACH PARK RESTORATION
PROJECT**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. AMET-1, in the total amount of \$3,715.00, authorizing the project, as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of September 12, 2007.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.I. OSLO ROAD WIDENING PHASE I FROM WEST OF OLD DIXIE HIGHWAY TO 27TH AVENUE, ENGINEERING SERVICES AMENDMENTS No. 3, 4, 5 – RECONCILIATION OF PERMIT APPLICATION FEES

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved increasing the contract amount by \$1,750.00 to reimburse Kimley-Horn and Associates, Inc., for the payments for permits made to permitting agencies on the County's behalf, as recommended in the memorandum of August 29, 2007.

7.J. UTILITY EASEMENT DEDICATION TO FLORIDA POWER AND LIGHT AT WEST REGIONAL WASTEWATER TREATMENT FACILITY – UCP-2621

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the Easement to FP&L and authorized the Chairman to execute the Easement Agreement as presented and recommended in the memorandum of August 30, 2007.

DOCUMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.K. RECOMMENDATION TO REJECT BIDS FOR BID NO. 2007084 AND REBID PROJECT FOR MEADOWLARK WOODS SUBDIVISION WATER ASSESSMENT PROJECT, UCP #2324

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved rejection of the bids received for Bid Number 2007084 and opened on August 31, 2007, and approved rebidding the project with a revised design, as recommended in the memorandum of September 10, 2007.

7.L. LATERAL “J” CANAL N/O OSLO ROAD 18” FORCE MAIN RELOCATION, WORK AUTHORIZATION DIRECTIVE No. 2007-002, UCP No. 2899, APPROVAL OF FINAL PAYMENT TO CONTRACTOR AND RELEASE OF RETAINAGE

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved: (1) the total labor cost of \$112,777.60, and (2) the Application for Payment No. 3 – Final as final payment to the Contractor, Underground Utilities, Inc., in the amount of \$8,123.70, as recommended in the memorandum of September 5, 2007.

7.M. CONSIDERATION OF COST-SHARE AGREEMENT WITH THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT FOR REPAIR/PLUGGING OF ABANDONED ARTESIAN WELLS

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the countywide abandoned flow well plugging Cost-Share Agreement with the SJRWMD, and authorized the County Administrator to execute same, as recommended in the memorandum of September 7, 2007.

7.N. PRIME HOMES AT PORTOFINO VILLAGE COMMERCIAL, LTD REQUEST FOR RELEASE OF EASEMENTS AT 9450 20TH STREET (VERO TROPICAL GARDENS SUBDIVISION)

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution No. 2007-129**, releasing easements on certain lots in Vero Tropical Gardens Subdivision Units 1 and 2, as recommended in the memorandum of September 7, 2007.

7.O. CHILDREN'S SERVICES ADVISORY COMMITTEE CONTRACT FOR AGENCY FUNDING

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved

the Children's Services Advisory Committee Funding Contract to be executed by agencies that were approved for funding for the 2007-2008 funding year at the Final Budget Hearing on September 12, 2007.

The Board also authorized the Chairman to execute each completed Children's Services Advisory Committee Contract for Agency Funding, using the approved form as prepared by staff in accordance with the report approved at the Final Budget Hearing on September 12, 2007, as requested in the memorandum of September 12, 2007.

7.P. PROFESSIONAL ENGINEERING SERVICES FOR DESIGN AND PERMITTING OF 17TH LANE S.W. FROM 27TH AVENUE EAST APPROXIMATELY 900 LF

Chairman Wheeler asked for a more detailed explanation as to why they needed to redesign the intersection at 17th Lane SW & 27th Avenue, for the Falcon Trace Subdivision.

County Engineer Chris Kafer, through his memorandum of September 10, 2007, provided details on this project, which is a continuation of roadway improvements from 17th Lane SW from 27th Avenue to the entrance of the Falcon Trace Subdivision. Mr.

Kafer disclosed that since a portion of 17th Lane was designed for Sunrise Subdivision, which has abandoned their plat, the design is no longer in accordance with its original intent. He explained that since Masteller & Moler, Inc. had prepared the original drawings for the Sunrise Subdivision, it would be best for them to redesign that section to

continue the design which was done by another engineer to the east of it. Mr. Kafer divulged that the design services would also eliminate the need for 17th Street SW to be shut down twice.

The Board directed questions to Mr. Kafer regarding the funding of this project. Mr. Kafer discussed the cost apportionments and learned that the County's portion would be \$11,080.00.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved the Lump Sum fee of \$11,080.00 to Masteller and Moler, Inc., for design and survey services for 17th Lane S.W., from 27th Avenue to approximately 900LF east of 27th Avenue, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of September 10, 2007.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.Q. WORK ORDER NO. 13 (ENGINEERING/SURVEY), MASTELLER, MOLER, REED & TAYLOR, INC., INDIAN RIVER DRIVE PHASE TWO, RIGHT-OF-WAY MAPPING PROJECT, CONTINUING PROFESSIONAL SURVEY SERVICES, CONTRACT 0390 / 2006-2007 PROJECT 0634

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 13 (Engineering/Survey) authorizing the

project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of September 11, 2007.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.R. WORK ORDER NO. 14 (ENGINEERING/SURVEY), MASTELLER, MOLER, REED & TAYLOR, INC., INDIAN RIVER DRIVE PHASE ONE, RIGHT-OF-WAY MAPPING PROJECT, CONTINUING PROFESSIONAL SURVEY SERVICES, CONTRACT 0390 / 2006-2007 PROJECT 0634

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 14 (Engineering/Survey), authorizing the project as outlined in the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of September 11, 2007.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.S. WORK ORDER NO. 9 (ENGINEERING), PROFESSIONAL SURVEYING SERVICES AGREEMENT FOR ANNUAL SURVEYING AND MAPPING SERVICES WITH CARTER ASSOCIATES, INC.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Work Order No. 9, authorizing the services as outlined in

the Scope of Services, and authorized the Chairman to execute same, as recommended in the memorandum of September 10, 2007.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.T. CONTINUING CONTRACT AGREEMENTS – PROFESSIONAL SERVICES –
EXTENSION TERM**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the First Amendment to Continuing Contract Agreement for Professional Services with Donadio and Associates and Edlund Dritenbas of Vero Beach, and Starmer Rinaldi of Winter Springs, as recommended in the memorandum of August 29, 2007.

AGREEMENTS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.U. APPROVAL OF EXCESS FURNITURE AND DECLARING IT SURPLUS AND
AUTHORIZING THE PROPER DISPOSAL**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the list of excess fixed assets and declared them as surplus items, and authorized the proper disposal of such items along with non-fixed asset items, as provided within the

Florida Statutes and County regulations granting authority to the County Administrator to make the specific decision of the methods to be used for such disposal, as recommended in the memorandum of September 12, 2007.

7.V. APPROVAL OF BID AWARD AND SAMPLE AGREEMENT FOR IRC BID #2007083, 27TH DRIVE NORTH OF 4TH STREET WATER ASSESSMENT, UTILITIES DEPARTMENT

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the bid be awarded to **Timothy Rose Contracting, Inc.** as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid. The Board also approved the Sample Agreement and authorized the Chairman to execute same, when required performance and payment bonds have been submitted along with appropriate Certificate of Insurance, and the County Attorney has approved the agreement as to form and legal sufficiency, as recommended in the memorandum of September 7, 2007.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.W. IRC BID # 2008001 ANNUAL BID FOR SOD, PUBLIC WORKS DEPARTMENT / ROAD AND BRIDGE DIVISION

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the bid be awarded to *M.W. Cook, Inc.*, as the lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid.

The Board also authorized: (1) the Purchasing Division to issue blanket purchase orders or individual job purchase orders, as needed, for the period of October 1, 2007 through September 30, 2008 with the recommended bidder; and (2) the Purchasing Manager to renew this bid for two (2) additional one (1) year periods subject to satisfactory performance, zero cost increase, vendor acceptance and the determination that renewal of this annual bid is in the best interest of Indian River County, as recommended in the memorandum of September 12, 2007.

7.X. INDIAN RIVER COUNTY BID # 2007054 WABASSO CAUSEWAY

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously rejected all bids, as recommended in the memorandum of September 6, 2007. All bids came in over the engineers' estimate. Public Works will re-bid the project at a later date if funds should become available.

**7.Y. RECOMMENDATION FOR RE-AWARD OF BID #2007044 FOR
CONSTRUCTION AND TESTING OF PUBLIC SUPPLY WELLS IN THE
NORTH COUNTY WELLFIELD, UTILITIES DEPARTMENT**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved the bid be re-awarded to Wells & Water Systems, Inc., as the second lowest most responsive and responsible bidder meeting the specifications as set forth in the Invitation to Bid. The Board also approved the sample agreement and authorized the Chairman to execute said agreement when required performance and payment bonds have been submitted along with appropriate Certificate of Insurance and the County Attorney has approved the Agreement as to form and legal sufficiency, all as recommended in the memorandum of September 10, 2007.

7.Z. 2007/2008 STATE OF FLORIDA DEPARTMENT OF HEALTH CONTRACT

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved

the 2007/2008 contracts with the State of Florida Department of Health for operation of the Indian River County Health Department, as recommended in the memorandum of September 10, 2007.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

7.AA. MISCELLANEOUS BUDGET AMENDMENT 025

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved **Resolution No. 2007-130**, amending the fiscal year 2006-2007 budget.

7.BB. RIGHT-OF-WAY ACQUISITION, ELEANOR K. SCOPINICH, 1955 98TH AVENUE, VERO BEACH

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the \$67,950.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of September 7, 2007.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.CC. RIGHT-OF-WAY ACQUISITION, ROBERT C. FORD AND JANE A. FORD,
1805 82ND AVENUE, VERO BEACH**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, the \$36,000.00 purchase, and authorized the Chairman to execute the Agreement, as recommended in the memorandum of September 5, 2007.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**7.DD. SHELBY HOMES INC. REQUEST FOR FINAL PLAT APPROVAL FOR A
SUBDIVISION TO BE KNOWN AS MILLSTONE LANDING P.D. – PHASE 2**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously granted final plat approval for Millstone Landing P.D. – Phase 2, as recommended in the memorandum of September 12, 2007.

**7.EE. 77TH STREET/58TH AVENUE INTERSECTION IMPROVEMENTS – COST FOR
ADDITIONAL ELECTRIC UTILITY WORK**

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Alternative No. 1, whereby the County and Developer will share 50% of the \$110,840.00 cost equally, as recommended in the memorandum of September 4, 2007.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL AGENCIES- NONE

9. PUBLIC ITEMS

9.A. PUBLIC HEARINGS

9.A.1. CONSIDERATION OF PURCHASE OF CONSERVATION EASEMENTS ON THE PADGETT BRANCH ENVIRONMENTAL LANDS PROGRAM SITE

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

Chief of Environmental Planning Roland DeBlois explained that there were two option agreements and proposed conservation easements for ownerships in the Padgett Branch Land Acquisition Site: (1) Padgett Creek, LLC, ±857 acres, and (2) Triple S Land Company, ±728 acres. He used a PowerPoint presentation to discuss the key points of the issue, and displayed maps and photos of the southwest county site. Mr. DeBlois revealed that the Padgett Branch Land Acquisition Program site is part of a bigger regional project at the State level, called the Kissimmee Saint Johns River Connector Project, which may

receive 50% cost share funding through the Florida Forever project, if future allocations become available.

Mr. DeBlois reviewed the purposes for, and the costs of purchasing the easements, and spoke about the protection of natural resources, wildlife habitat, and surface water. He presented the pros and cons of purchasing the easements versus purchasing the land on a fee-simple basis (had it been so available).

Mr. DeBlois related that staff had rechecked and found that the purchase of development rights and conservation easements was within the realm of the bond resolutions. He reported that the Land Acquisition Advisory Committee (LAAC) had voted 11-3 for Board approval of the purchase. Mr. DeBlois then presented staff's recommendation for Board approval of the option agreements.

Assistant County Attorney Marian Fell and Mr. DeBlois responded to questions from Chairman Wheeler and Commissioners O'Bryan and Flescher regarding baseline evaluations and the monitoring of the property on an annual basis.

The Chairman opened the public hearing.

Joseph Paladin, President of Black Swan Consulting, and the Chairman of the Growth Awareness Committee, believed the Board should explore coming up with some type of TDR (Transfer of Development Rights) so that the development rights could be utilized as a commodity. He noted that hundreds of thousands of acres would have to be purchased eventually, and he would like to see that done with developer, rather than taxpayer money. He did not understand why the development rights could not be transferred into the ownership of the Land Acquisition Committee and sold; the money could be used to purchase more land. Although Mr. Paladin supported the purchase, he

wanted the Board to table this item until more information was obtained regarding the TDR's.

Assistant County Attorney Marian Fell stated that Bond Counsel had informed her that it was problematic to use bond proceeds to establish a program of TDR's.

Mr. Paladin had some additional suggestions regarding the conservation easement lands: (1) to set a portion aside to teach children about ranching and farming, and (2) to certify the lands as a receiving area for tortoises as an income generator for the County or land owner.

Chairman Wheeler commented that going through the bond process, he was never under the impression that the objective or intent was to transfer development rights, but actually to take those rights off the table and reduce the amount of potential development.

Mr. Paladin felt that the public now realizes how much land must be purchased and advocated having a workshop to further investigate the use of the TDR's.

Renee Renzi, on behalf of the Civic Association of Indian River County, read a statement supporting the Land Acquisition Advisory Committee's recommendation of purchasing the subject conservation easements.

Ralph Monticello, Land Protection Manager for the Indian River Land Trust, spoke in support of the acquisition of the conservation easements, and affirmed that the purchase falls well within the parameters of the bond referendum.

Chuck Gibbons, Indian River County, presented his arguments in opposition to the purchase. He acknowledged the necessity to protect conservation lands, but wanted the

Board to table this item and look at alternative ways to pay for it and future land acquisitions.

Larry Close, Indian River County, spoke in opposition to the purchase, and voiced his consternation that the land would not be available for public use.

Earle Kirkbride, Indian River County, was concerned about the bond money being used up and unavailable for fee-simple property acquisition. He believed there were some national organizations that provide money for securing development rights.

Dr. Richard Baker, Chairman of the Land Acquisition Advisory Committee, (LAAC), supported the purchase of conservation easements, and discussed the importance of protecting Blue Cypress Lake. Dr. Baker refuted the notion that development is not currently happening at the subject site.

Commissioner Davis and Dr. Baker discussed voter support for future bonds if the County goes ahead with this conservation easement purchase.

Dr. David Cox, Pelican Island Audubon Society, informed the Board that the County controls approximately 8,000 acres of conservation land, while St. Johns Water Management District presides over approximately 80,000 acres. He stated that this project is a key element in an overall, much larger statewide program for acquiring conservation lands. Dr. Cox urged the board to act on this opportunity today.

(Clerk's Note: The Chairman called a recess at 10:32 a.m. and reconvened the meeting at 10:51 a.m., with all members present).

Dr. R. Grant Gilmore, 5920 1st St. SW, believed that people needed to have more respect for agriculture. Relative to concerns about funds and land purchases, he discussed the differences between the potential impermanence of beach renourishment projects, versus the preservation of conservation lands that would remain in perpetuity.

Ken Grudens, Executive Director of the Indian River Land Trust, spoke about the savings that would result from the County not having to pay the maintenance costs for the conservation easement land. Mr. Grudens clarified that the easement property was not for sale, but buying it now would provide the County with the first right to make the purchase at such time it is for sale.

Louis Schacht, Agricultural Representative on the Land Acquisition Committee, was in favor of this project, and did not feel that limited public access was a problem. He pointed out that the County would pay zero for the upkeep of the property and would collect property taxes on it.

Bill Eubanks, a long-time Vero Beach resident, related some personal historical anecdotes regarding the subject site and surrounding areas. He was not against the County purchasing the land, but voiced concerns about whether hunting rights would be available, and what would happen to Padgett Branch (a tributary of Blue Cypress Lake), and the old Military Trail. He was concerned about historical preservation and wondered if the County would be building trails and providing access for people to view the area before it changes.

Larry Close spoke about the importance of the County owning the land outright, so that there could be public enjoyment of the property. He remarked that the County could purchase 58% of the subject property with the same amount of money that would be used to buy the conservation easements.

Mr. Sexton supported the purchase of the conservation easement, and noted that the bond funds cannot be used otherwise. He read a statement from Jens Tripson, attesting to the high environmental value of Padgett Branch, and the benefits of purchasing the conservation easement.

There were no additional speakers and the Chairman closed the public hearing.

Vice Chair Bowden was in favor of the easement purchase and supported her position by reading some of the material provided on page 330 of the backup.

MOTION WAS MADE by Vice Chair Bowden,
SECONDED by Commissioner O'Bryan, to purchase the
Conservation Easements for this property.

Under discussion, Vice Chair Bowden wanted, for the record, to have the County Attorney look into the Transfer of Development Rights for other projects and return to the Board with an opinion. It was clarified that this was not to be part of the Motion.

Commissioner O'Bryan supported the purchase of the conservation easements. He reiterated that the taxpayers would not have to pay the \$73,000.00 in annual maintenance costs for the property. Regarding the lack of public access, he reflected that the County could not afford to effect improvements on every single conservation property that is purchased. Commissioner O'Bryan noted that the conservation purchase would do exactly what was dictated in the Referendum - to protect the water resources in environmentally significant lands. He added that it also provides an opportunity for landowners to give more consideration to conservation, rather than development.

Commissioner Davis believed that although the sellers were not willing to enter into a fee-simple transaction now, the County would, in the future, have the opportunity to purchase the land. He felt that this was a legal purchase, as he believed that the public understood what they were approving when the Referendum passed. Commissioner Davis was in favor of the County utilizing this opportunity to purchase some development rights and provide a buffer around Blue Cypress Lake.

Commissioner Flescher believed that the funds that had been allocated for land conservation were specifically set aside for purchasing the lands. He did not agree with buying development rights for a property that showed no threat of development and was not for sale. On behalf of many of his constituents, Commissioner Flescher opposed the purchase.

Chairman Wheeler supported the Motion and felt that the purchase of the conservation easement was the proper thing to do for the County's future. He pointed out that since property purchased without development rights has less value, the County might ultimately be able to purchase the land at much less cost.

The Chairman **CALLED THE QUESTION** and by a 4-1 vote (Commissioner Flescher opposed), the Motion **CARRIED**. The Board approved the Triple S Land Company and the Padgett Creek LLC option agreements for purchase of the Conservation Easements.

(Clerk's Note: The following discussion and decision relative to the above item occurred following Item 9.C.3. and is placed here for continuity).

The Commissioners agreed that they wanted a legal opinion on whether or not bond dollars could be utilized in the process of TDR's. Chairman Wheeler preferred to have the item brought back at a future meeting. However, Vice Chair Bowden and Commissioner Davis wanted a legal opinion before the upcoming October 2, 2007 Agricultural Advisory Committee (AAC) meeting, at which TDR's would be discussed.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved obtaining a legal opinion from Bond Counsel regarding whether or not bond dollars could be utilized in a Transfer of Development Rights (TDR) process.

**9.A.2. PETITION FOR CREATION OF INDIAN RIVER PARK OF COMMERCE
COMMUNITY DEVELOPMENT DISTRICT**

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

Deputy County Attorney Bill DeBaal explained that Adrian Development Group, the petitioners for the Community Development District, had formally withdrawn their petition. He stated that there would be no need for a public hearing.

Attorneys Collins and DeBaal addressed the Commissioners' questions on the re-application process.

NO BOARD ACTION TAKEN OR REQUIRED

9.B. PUBLIC DISCUSSION ITEMS-NONE

9.C. PUBLIC NOTICE ITEMS

(Clerk's Note: This item followed Item 11.I.1. and is placed here for continuity).

**9.C.1. NOTICE OF SCHEDULED PUBLIC HEARING FOR MEETING
OF OCTOBER 2, 2007:**

**ROBERT PICKETT JR.'S REQUEST TO ABANDON A SEGMENT OF 6TH
AVENUE S.W. SOUTH OF 7TH LANE S.W. (LEGISLATIVE)**

**9.C.2. NOTICE OF SCHEDULED PUBLIC HEARING FOR MEETING
OF OCTOBER 2, 2007:**

**AMENDMENT TO INDIAN RIVER COUNTY CODE SECTION 972.08
ADDITIONAL REQUIREMENTS FOR TEMPORARY VEHICLE AND BOAT
SALES (LEGISLATIVE)**

**9.C.3. NOTICE OF SCHEDULED PUBLIC HEARING FOR MEETING
OF OCTOBER 9, 2007:**

**BOARD CONSIDERATION OF THE APPROVAL OF A PLAN OF FINANCE TO
PROVIDE CAPITAL, INCLUDING THE ISSUANCE FROM TIME TO TIME BY
THE ESCAMBIA COUNTY HOUSING FINANCE AUTHORITY, ON BEHALF
OF INDIAN RIVER COUNTY AND OTHER PARTICIPATING COUNTIES, OF**

NOT EXCEEDING \$150,000,000 SINGLE FAMILY MORTGAGE REVENUE
BONDS (ADMINISTRATIVE)

The Chairman read the notices into the record.

(Clerk's Note: The Board briefly discussed TDR's and by a unanimous Motion approved obtaining a legal opinion from Bond Counsel. See Item 9.A.1. for complete details).

10. COUNTY ADMINISTRATOR'S MATTERS

10.A. COMMITTEE MINUTES

Assistant County Administrator Michael Zito explained that support-staff minute-taking responsibilities were being reviewed as a result of Board direction to the County Administrator at the September 5, 2007 meeting. Recapping his memorandum of September 12, 2007, Mr. Zito explained that this item had resulted from a restructuring of the County Commission office staff. He reminded the Board that on May 8, 2007, the Board had voted to move to cursory minutes, or that which is minimally required by law. He noted that the next step would be to determine how to distribute the workload among staff.

County Webmaster Scott Johnson demonstrated to the Board a new software technology that would streamline the minute-taking process. He explained how a time stamp could be entered into the agenda to facilitate pinpointing a specific part of a Board or

Committee meeting. Mr. Johnson then discussed a program he is developing that would allow an individual to access the minutes in an interactive format.

Commissioner O'Bryan's inquired whether this would be time intensive for the staff. Mr. Johnson felt that the staff assistants would realize tremendous savings in time.

Mr. Zito observed that staff normally prepares the agendas in electronic format. The person responsible for taking the minutes would attend the meeting with a laptop, and would input electronic time stamps into the document. The agenda would become the outline for the minute taking.

The Board CONSENSUS was to move ahead with the technology, thus enabling: (1) the Commissioner Assistants to complete the minutes without the need for lengthy transcription, and (2) the minutes to be posted in a very timely manner, potentially at the end of the meetings.

The Board, Mr. Zito, and County Administrator Baird discussed the necessity for training staff, as well as individuals who were used to receiving the minutes in written format, in the new methodology.

To Commissioner Davis' query whether the Board would be meeting the legal requirements for record keeping, County Attorney Collins replied that the Sunshine Law states that the minutes should be promptly recorded and open to public inspection.

MOTION WAS MADE by Commissioner Davis,
SECONDED by Commissioner O'Bryan for discussion, to
divide up, for purposes of recording the minutes, the total

numbers of committees as equally as possible among the Commissioners' Assistants.

In-depth discussions ensued among Board members and staff regarding the equal distribution of labor among assistants; whether to continue the use of outside employment; and on the issue of overtime.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved to divide up as equally as possible, for purposes of recording the minutes, the total number of committees assigned to each Commissioners' Assistant.

11. DEPARTMENTAL MATTERS

11.A. COMMUNITY DEVELOPMENT

11.A.1. REQUEST FOR BOARD OF COUNTY COMMISSIONERS AUTHORIZATION

FOR THE COMMUNITY DEVELOPMENT DIRECTOR TO MAKE APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) DISASTER RECOVERY FUNDS, REQUEST FOR BOARD ADOPTION OF THE 2007 HURRICANE WILMA CDBG DISASTER RECOVERY INITIATIVE HOUSING ASSISTANCE PLAN, AND REQUEST FOR AUTHORIZATION TO PROCEED WITH THE CONSULTANT SELECTION PROCESS

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved

Resolution 2007-131, authorizing the Community Development Director to make application to the Florida Department of Community Affairs for a Disaster Recovery Initiative Community Development Block Grant for Federal Fiscal Year 2007.

The Board also authorized the Community Development director to submit any additional information and sign subsequent forms as needed, and to issue an RFP (Request for Proposal) to hire a consultant to administer the grant if the grant is awarded, as recommended in the memorandum of September 10, 2007.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

11.B. EMERGENCY SERVICES-NONE

11.C. GENERAL SERVICES

11.C.1. REQUEST FOR BOARD DIRECTION ON LOCATION OF THE FREEDOM SHRINE AS PROVIDED BY THE EXCHANGE CLUB

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously directed staff to place the Freedom Shrine at Building B on the second floor atrium located at the head of the stairs.

11.D. HUMAN RESOURCES-NONE

11.E. HUMAN SERVICES-NONE

11.F. LEISURE SERVICES-NONE

11.G. OFFICE OF MANAGEMENT AND BUDGET-NONE

11.H. RECREATION-NONE

11.I. PUBLIC WORKS

**11.I.1. APPROVAL OF WORK ORDER NO. 4-RR FOR THE ROCKRIDGE
SUBDIVISION SURGE PROTECTION PROJECT**

(Clerk's Note: This item was heard after Item 11.J.4. and is placed here for continuity).

Public Works Director Jim Davis presented this item by recapping his September 10, 2007 memorandum. The Work Order would authorize the consultants, Malcolm Pirnie, Inc., to redesign the pump station and complete the final engineering drawings, which must be done if the project will be constructed in the future. Director Davis divulged that the cost for the Work Order is \$98,652.80, and the cost for the Rockridge Surge Protection Project is ±\$5,000,000.00. Even with the possibility of securing the \$1.2 million FEMA grant, funding would still have to be solidified for the remaining \$3.8 million.

(Clerk's Note: Subsequent to staff's recommendation of September 10, 2007 to not approve the request because of the unavailability of funds, staff learned that funding had become available for this project).

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously approved Work Order No. 4-RR in the amount of \$98,652.80.

Mr. Phil Carpenter, President of the Rockridge Homeowners Association, wanted to know when construction of the pump station might begin. He felt that the project needed to be done, to prevent the potential re-flooding of the community's homes.

Director Davis explained that, because of the grant funding, the project must be completed by the end of March 2008. He discussed the steps he was taking to accomplish this, and divulged that he is trying to obtain a time extension, additional funding, and some relaxed technical requirements from FEMA.

Commissioner O'Bryan wanted confirmation from Administrator Baird that the \$3.8 million shortfall has not yet been allocated. He wanted to know if the money would need to be secured before the project could begin. Administrator Baird noted that most of the County's stormwater projects are funded through Federal or State grants, and the County did not have any means, at present, for funding the Rockridge Project.

Vice Chair Bowden affirmed the need for this project. She had talked to the County's lobbyist and understood that they would also be talking with Administrator Baird. She felt that pressure needed to be put on the lobbyists.

Mr. Carpenter assured the Board that if there was anything that he or the Rockridge citizens could do to help, they would gladly assist the Commissioners and staff.

Director Davis informed everyone that FEMA needed additional information to justify the benefits of the project. He invited any property owner who has sustained damage from Hurricane Frances to let him know. He announced that he would be meeting with the Rockridge community over the next several weeks.

11.J. UTILITIES SERVICES

11.J.1. AMENDMENT NO. 1 TO WORK ORDER NO. 2 TO PBS&J – NORTH AND SOUTH RO PLANTS, WELL HYDROLOGY MODELING AND WELL FIELD EXPANSIONS

(Clerk's Note: This item was heard after Item 11.C.1., and is placed here for continuity).

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Flescher, the Board unanimously approved Amendment No. 1 to Work Order No. 2 with PBS&J (Post, Buckley, Schuh, & Jernigan), for an amount not to exceed \$102,157.00, and authorized the Chairman to execute the same, as recommended in the memorandum of August 23, 2007.

DOCUMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

11.J.2. ROCKRIDGE SUBDIVISION DRAINAGE IMPROVEMENTS – UCP#2521
CHANGE ORDER NO. 1 TO GIANNETTI CONTRACTORS, INC.

(Clerk's Note: The next three items were heard immediately following Item 9.A.2. and are placed here for continuity).

Utilities Director Erik Olson discussed the details of this item as provided in his September 6, 2007 memorandum. He stated that there were two parts to the Change Order: (1) to finalize the clean up of the embankments, and (2) to change the design characteristics of some air relief valves within the sewer project.

ON MOTION by Vice Chair Bowden, SECONDED by Chairman Wheeler, the Board unanimously approved Change Order No. 1 to Giannetti Contractors for \$49,861.37 for the work detailed in Attachment 1, Item 1, 4, and 5; and authorized the Chairman to execute same, as recommended in the memorandum of September 6, 2007.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

11.J.3. GRAND HARBOR SPOONBILL MARSH SITE, WORK ORDER NO. 21 WITH
MASTELLER, MOLER, REED & TAYLOR, INC. FOR SPECIFIC PURPOSE,
SURVEY OF THE SPOONBILL MARSH TEMPORARY CONSTRUCTION
EASEMENT

Utilities Director Erik Olson provided a detailed and historical analysis of what has brought the County into the Spoonbill Marsh project, a 62-acre mosquito impoundment

area within the Grand Harbor project site. He talked about the difficulty of getting and maintaining permitting for the South and North County Reverse Osmosis (RO) plants and discussed the need for the expansion of the North Plant within the parameters of the regulatory agencies.

Vice Chair Bowden asked, for the record, if the Department of Environmental Protection (DEP) was requiring mitigation, and if Director Olson had suggested using Lost Tree Islands. To the first question, Director Olson replied, "Yes." To the latter, he explained that Lost Tree islands had been discussed as an option only, and it was not a distinct requirement. Vice Chair Bowden strongly suggested that the mitigation process not be done on the Lost Tree Islands.

Further discussion ensued among Vice Chair Bowden, Commissioners Davis and O'Bryan, and Director Olson regarding mitigation and the Lost Tree Islands. Administrator Baird remarked that any mitigation project would have to come before the Board for approval, and he pointed out that no money has been authorized for the mitigation of Lost Tree Islands.

The Board posed questions regarding other options for brine disposal, the volume of salt obtained from the brine, whether an effluent or detergent was used in the reverse osmosis process, and where the brine is currently going. Director Olson responded to their questions and detailed the reverse osmosis water purification process. He noted that the County currently discharges into the Indian River Lagoon in Wabasso, which is no longer permissible, and also at the South Relief Canal, which would be re-permitted for now.

Dr. Grant Gilmore, Senior Scientist with Estuarine, Coastal and Ocean Science, Inc. (ECOS), spoke about ocean outfalls as being a viable option for brine disposal for

Indian River County. He outlined some valuable information which had not been included in the Environmental Impact Statement (EIS) made for the County on Spoonbill Marsh, and voiced concerns about the potential environmental impact of the proposed project. Dr. Gilmore talked about the importance of the wetlands and informed the Board that the Indian River Lagoon was a virtually closed system, with a low exchange rate of water, similar to a lake. He urged the Board to consider future fresh water requirements, to examine other options, and to have a very detailed and accurate study done of the Spoonbill Marsh.

Dr. Gilmore responded to questions from Commissioner Davis regarding possible effects to the Indian River Lagoon, whether the wetlands would be affected by the tides, and whether the project would be an overall improvement to current conditions at the Spoonbill Marsh site.

Commissioner Davis asked Director Olson what the County would be faced with if the Spoonbill March project was unsuccessful, and it became necessary to go to ocean outfall. Director Olson mentioned that ocean outfall was an expensive process and suggested the Commissioners become familiar with some of the recent current events surrounding the process. He added that he is looking forward to receiving input from Drs. Gilmore and Cox.

Dr. Gilmore was concerned about the loss of fishery and wetland values. He suggested that the County look at cost sharing as a way to go to ocean disposal and to eliminate worries about wetland impacts.

Joseph Paladin, Chairman Growth Awareness Committee, and Black Swan Consulting, felt that eventually the brine would have some negative effects on plant and

fish life. He wanted to know what the time span would be before the County would have to consider another alternative.

Director Olson felt it was an assumption that there would be a negative effect at Spoonbill Marsh, and reminded everyone that the project had gone through a tremendous amount of review and assessment by the Orlando and Tallahassee Departments of Environmental Protection, and by the Army Corps of Engineers.

Chairman Wheeler was uncertain whether any overall damage would be due to the brine coming in, or to the difference in peak and flow affecting the life cycles of the animals, as mentioned by Dr. Gilmore. He inquired whether the brine would create an eco-change or damage to the lagoon, and if that would be addressed.

Administrator Baird pointed out that it was still undetermined whether damage would or would not occur, but the project would be monitored. He reported that the St. John's Water Management District endorsed the project and had given a \$50,000.00 grant to the County. Administrator Baird declared that there are risks associated with each of the brine removal systems.

Vice Chair Bowden asked Director Olson how long the project would last and if it had ever been done before. Director Olson stated the project time line was not definite; it would perhaps be ten or twenty years, and he informed the Board that the project had not been undertaken before. Vice Chair Bowden judged that to reduce the risk factor, it would be necessary to have an independent monitor to keep the Board informed on every detail at every stage.

Mr. Paladin presented for Board consideration the following points: (1) what would be the time frame and cost for the Spoonbill Marsh project; 2) what would be the

time frame and cost for deep water injection; and (3) what would be the cost for putting the brine out into the ocean.

Administrator Baird commented that there was no popular way to get rid of brine, as all the methods have shortcomings. However, the County was investigating a new method, which the DEP feels could work.

Commissioner Davis agreed with Administrator Baird, and supported Vice Chair Bowden's concept of having independent monitoring.

Vice Chair Bowden reiterated her stance that there should be no mitigation on the Lost Tree Islands.

Commissioner Wheeler praised Director Olson for his excellent work, but also felt that strong consideration should be given to Dr. Gilmore's concerns. Commissioner Wheeler conveyed that if the County instituted the project, it should be done right, improve the ecology, and not damage the fisheries.

Commissioner O'Bryan supported proceeding, in close cooperation with the environmental groups, with the Spoonbill Marsh Project. For the record, Commissioner O'Bryan stated that he would be in favor of looking at the Lost Tree Islands if the County needs to go to mitigation, as he feels that the land could be improved.

(Clerk's Note: Attorney Collins exited the meeting at 12:44 p.m.)

Former Commissioner **Caroline Ginn**, 1134 Olde Galleon Lane, spoke in favor of the Spoonbill Marsh Project. She was opposed to using Lost Tree Islands for mitigation, but felt that was a separate issue.

(Clerk's Note: The Chairman called a recess at 12:48 p.m. and reconvened the meeting at 1:04 p.m., with all members present).

Dr. Cox wondered about the capacity of the marsh to filter large amounts of brine. He urged the Board to consider future alternatives for the brine disposal, and felt that ultimately, County residents would be drinking purified seawater and returning the brine to the ocean.

Dr. Baker voiced several objections to the project. He felt that the Board needed additional workshop meetings, more time, more research, and further discussion. He reiterated Dr. Cox's viewpoint of having the County research alternative methods for brine disposal.

Dr. Gilmore expressed concerns about the adequacy of the studies that had been done. He found many things left out of the Environmental Impact Statement, and cautioned the Commissioners to obtain more information.

Commissioner Davis posed questions to Director Olson about obtaining an environmental footprint, and if the project would affect the shoreline elevation.

Vice Chair Bowden thanked Director Olson for the intense education she got, and wanted the scientific community to remain involved in the project. She reiterated that Carolyn Ginn and she were opposed to mitigation on the Lost Tree Islands.

Director Olson declared that staff wants the scientific community to be part of the ongoing process. He agreed with Dr. Gilmore that more information must be obtained, but stated that as of this point, staff has done their best.

Chairman Wheeler was interested in obtaining more facts about using ocean outfall for brine disposal. Director Olson stated that staff had considered this and concluded that desalination was not the path to take at this point, but this may change in the future. Responding to Chairman Wheeler's request, Director Olson stated he would do an in-house data analysis, in conjunction with St. Johns River Water Management District, of utilities that are currently utilizing ocean outfall for their brine disposal.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Commissioner Davis for discussion, to
approve staff's recommendation for the construction
easement.

Vice Chair Bowden wanted to know if mandating an independent baseline study could be incorporated into the Motion. Commissioner Davis agreed with the importance of having the study. County Attorney Collins pointed out that since the Motion was strictly for approval of a construction easement, Vice Chair Bowden's point could be better addressed on the next agenda item (11.J.4.).

Chairman Wheeler supported the construction easement, but would like a better comparison between the Spoonbill Marsh Project and offshore brine disposal.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved: (1) Work Order No. 21 with Masteller, Moler, Reed & Taylor, Inc. (MMRT) in the amount not to exceed \$750.00 to provide survey services for the Spoonbill Marsh Temporary Construction Easements of Grand Harbor site for

connection to the Spoonbill Marsh Site; and (2) authorized the Chairman to execute Work Order No. 21, as recommended in the memorandum of September 6, 2007.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**11.J.4. AMENDMENT NO. 5 TO WORK ORDER NO. 1 WITH ECOTECH
CONSULTANTS, INC.**

Erik Olson explained that this particular request was strictly to incorporate structural components into the design for Spoonbill Marsh.

A brief discussion ensued among the Commissioners and Director Olson regarding the independent study that the Board had requested under item 11.J.3 at today's meeting. Director Olson recommended that the Board set that item aside, as it was not pertinent to the subject under consideration (under Item 11.J.4.). He clarified that his task was: (1) to provide in one week, a staff driven, in-house analysis of ocean outfall; and (2) to return to the Board with a mechanism that ensures an independence with respect to the analysis of data as the Spoonbill Marsh project is monitored.

Director Olson responded to Vice Chair Bowden's inquiry regarding the increased cost for the project.

It was noted, for the record, that the contract amount now includes design services for structural and electrical components.

ON MOTION by Vice Chair Bowden, SECONDED by Commissioner Davis, the Board unanimously approved: (1) Amendment No. 5 to Work Order Number 1, in the amount of \$48,000.00; and (2) authorized the Chairman to execute Amendment No. 5 to Work Order No. 1, as recommended in the memorandum of September 5, 2007.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

12. COUNTY ATTORNEY MATTERS-NONE

13. COMMISSIONER ITEMS

13.A. COMMISSIONER GARY C. WHEELER, CHAIRMAN-NONE

13.B. COMMISSIONER SANDRA L. BOWDEN. VICE CHAIR-NONE

13.C. COMMISSIONER WESLEY S. DAVIS-NONE

13.D. COMMISSIONER JOSEPH E. FLESCHER-NONE

13.E. COMMISSIONER PETER D. O'BRYAN

**DISCUSSION OF RECENT DECISION BY ST. JOHN'S RIVER WATER
MANAGEMENT DISTRICT (SJRWMD) TO SURPLUS AND EXCHANGE
THE SAND LAKES TRACT CONSERVATION LANDS & EVALUATION OF
OPTIONS FOR APPEALING THIS DECISION TO THE GOVERNOR AND
CABINET**

(Clerk's Note: Commissioner O'Bryan requested this addition to the agenda, which was discussed following Item 11.C.1).

Commissioner O'Bryan provided background information on this item. At the June 19, 2007 Board meeting, he had requested a letter of objection to the land swap, based on the following: (1) the land should be held in conservation, (2) it might set a bad precedent to use conservation lands to settle potential lawsuits, and (3) it could start a precedent of taking land, other than the highest priority wetlands, and using it for other purposes. Commissioner O'Bryan recounted that his initial Motion had not passed; however, the Board subsequently approved, 5-0, a Motion requesting the subject land be held in conservation.

Commissioner O'Bryan reported that last week, the Saint Johns River Water Management District Governing Board had voted 7-2 to proceed with the land swap. He believed that a big determining factor was that SJRWMD had a letter from Fellsmere saying that it was their intention to hold the land in conservation, if it were ever annexed. Commissioner O'Bryan was not sure that would be legally binding.

Dr. Richard Baker expressed concerns that this was not a good swap, and asked the Board to direct staff to evaluate the available options to appeal this decision to the Governor and Cabinet. He disclosed that several years ago, the SJRWMD had approved an agreement between SJRWMD and the Corrigan family for an "acre per acre" swap of land, with no cash to the Corrigan family to settle the perceived litigation. It was his understanding that the Corrigans backed out of that agreement.

MOTION WAS MADE by Commissioner O'Bryan,
SECONDED by Chairman Wheeler for discussion, for the
Board to direct staff to appeal the decision made by the St.

Johns River Water Management District (SJRWMD) to the Governor and Cabinet.

In answer to Vice Chair Bowden's inquiry about the time frame for the appeal, Commissioner O'Bryan responded that it would depend upon whether the official date was the date of the public hearing, or the date when SJRWMD issues the order.

Dr. Cox stated that it would be either September 11, 2007, the date of the hearing, or the date that is in the final order, and from that time, the clock runs for 20 days. He noted that Audubon of Florida and the Pelican Island Audubon Societies are working together with legal counsel, for which they are paying. Dr. Cox believed that the Audubon Societies have grounds for claiming that SJRWMD's determination was defective. He added that the Land and Water Adjudicatory Commission (the Governor and the Cabinet) would be evaluating their appeal based on that determination.

Commissioner Davis discussed briefly an independent study dated September 11, 2007, which had been done by the Orlando firm, Foley and Lardner LLP, to address the issue of the Sand Lakes Tract conservation lands.

Dr. Baker wanted the Board to direct the in-house legal staff to develop, in a timely manner, a petition to appeal the SJRWMD decision. He noted that appealing the decision would be consistent with the Board's earlier Resolution that these lands should not be taken out of conservation. He believed that the County has really good standing, as this land had been on the County's land acquisition list for a long time. The County had intended to co-own the property with SJRWMD, but as he recollected, the SJRWMD had said that the price was so low, that County involvement was unnecessary.

Commissioner Flescher asked if the Audubon's Society's intention was to challenge SJRWMD's ability to trade this property which had been in land conservation and previously purchased with taxpayer dollars. Dr. Cox confirmed this, and added that SJRWMD's final order should be issued on today's date, September 18, 2007.

County Attorney Collins provided some parameters about filing the petition, and believed that if SJRWMD's order came out today, there would be twenty days to file a petition. He believed the Board has the standing to file, stating that the County would allege that the order would substantially affect significant natural resources, statewide or regionally. They could also challenge issues of policy and statutory interpretation, and the premise that the lands are no longer needed for conservation.

Commissioner Flescher inquired whether there might be additional costs or outside legal fees to address this issue.

Attorney Collins believed that in-house legal Counsel would be used. He also mentioned that the president of the Audobon Society, Charles Lee, is an attorney. Dr. Cox added that Mr. Lee, who has offered to help the County's Counsel, in any way, would be the lead Counsel for the Audubon Society.

Commissioner Davis supported giving staff direction to forward this to the Cabinet and Governor, and felt that bringing the matter before these bodies would be consistent with the County's position.

The Chairman CALLED THE QUESTION and the Motion carried unanimously, directing staff to draft a petition to the Governor and Cabinet, appealing the decision made by the St. Johns River Water Management District (SJRWMD) to

surplus and exchange the Sand Lakes Tract conservation lands.

14. SPECIAL DISTRICTS AND BOARDS

14.A. EMERGENCY SERVICES DISTRICT-NONE

14.B. SOLID WASTE DISPOSAL DISTRICT

The Chairman announced that immediately upon adjournment of the BCC Meeting, the Board would reconvene as the Board of Commissioners of the Solid Waste Disposal District. Those Minutes are being prepared separately and appended to this document.

14.B.1. INDIAN RIVER CORRECTIONAL INSTITUTION'S REQUEST FOR SOLID WASTE ASSESSMENT ADJUSTMENT

14.B.2. AMENDMENT NO. 1 TO WORK ORDER NO. 1 TO BROWN AND CALDWELL FOR ENGINEERING SERVICES RELATED TO THE EXPANSION OF THE FELLSMERE CUSTOMER CONVENIENCE CENTER

14.B.3. CONTRACT FOR YARD/WOOD WASTE PROCESSING

14.C. ENVIRONMENTAL CONTROL BOARD-NONE

15. ADJOURNMENT

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 2:56 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/MG/2007Minutes