

MEMORANDUM

TO: Governing Board

FROM: Tommy Reeves, Legal Counsel

DATE: April 9, 2018

RE: Approval of Declarations of Restrictive Covenants for the Rock Bluff Springs Property

RECOMMENDATION

**Legal Counsel recommends Governing Board approve Declarations of Restrictive Covenants for Rock Bluff Springs Property.**

BACKGROUND

In December 2017, the District purchased a certain parcel of real property (the “Rock Bluff Springs Property”) in Gilchrist County, on which is located Rock Bluff Springs. This purchase was funded by the Florida Department of Environmental Protection pursuant to a Grant Award Agreement (DEP Agreement No. LP6103L). As part of the Grant Award Agreement, the District was required to have certain Restrictive Covenants placed on the deed of conveyance to the District. These restrictive covenants were inadvertently left out of the deed. To correct this, we have prepared a “Declaration of Restrictive Covenants”, a copy of which is included, for consideration by the Governing Board.

Legal counsel requests that the Governing Board approve the Declarations of Restrictive Covenants.

TR/rl  
Attachments

Prepared by and return to:  
**Davis, Schnitker, Reeves  
& Browning, P.A.**  
519 West Base Street  
Madison, FL 32340  
850-973-4186

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**DECLARATION OF RESTRICTIVE COVENANTS**

THIS DECLARATION OF RESTRICTIVE COVENANTS (“Declaration”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the SUWANNEE RIVER WATER MANAGEMENT DISTRICT, a Florida water management district created pursuant to Section 373.069, Florida Statutes, whose mailing address is 9225 CR 49, Live Oak, Florida 32060 (the “Declarant”). As used herein, the term "Declarant" shall include any and all heirs, successors or assigns of the Declarant, and all subsequent owners of the "Property" (as hereinafter defined).

**RECITALS AND PURPOSES**

**WHEREAS**, the Declarant is the sole owner in fee simple of certain real property ("Property") located in Gilchrist County, Florida, which is more fully described as follows:

WEST HALF OF SOUTHEAST QUARTER (W ½ OF SE 1/4) AND GOVERNMENT LOT 1, BEING THAT PART OF THE SW 1/4 OF SECTION 9, TOWNSHIP 8 SOUTH, RANGE 14 EAST, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR GILCHRIST COUNTY, FLORIDA, LYING NORTH AND EAST OF AND FRONTING ON THE SUWANNEE RIVER, SUBJECT TO RIGHT OF WAY FOR COUNTY ROAD NO. 340.

Parcel ID No. 09-08-14-0000-0005-0000

; and,

**WHEREAS**, the Declarant received title to the Property by virtue of that certain deed of conveyance (the “Deed”) which is recorded in the public records of Gilchrist County, Florida on December 22, 2017 as Instrument No. 201721005798; and,

**WHEREAS**, the Declarant received the funds to purchase the Property from the Florida Department of Environmental Protection (“DEP”) pursuant to that certain Grant Award Agreement (DEP Agreement No. LP6103L) (the “Grant Award Agreement”); and,

**WHEREAS**, the Grant Award Agreement required that the Declarant ensure that Deed

contain certain restrictive covenants; and,

**WHEREAS**, the Deed does not contain the required restrictive covenants; and,

**WHEREAS**, the Declarant makes this Declaration so that the Property shall be hereafter encumbered by such restrictive covenants and the Declarant may comply with the terms of the Grant Award Agreement.

**NOW THEREFORE**, Declarant hereby unconditionally and irrevocably declares and covenants with DEP that the Property shall be held and subject to the restrictions and conditions as set forth herein, that shall constitute a perpetual servitude on the Property, run with the Property, and be binding on all parties that have or shall have any right, title or interest in the Property.

### RESTRICTIVE COVENANTS

By acceptance of the Deed, the Declarant hereby agrees that the use of the property described herein (the "Property") shall be subject to the terms and conditions of the Grant Award Agreement (DEP Agreement No. LP6103L) summarized in the Memorandum of Grant, which is attached hereto as Exhibit "A" and by reference made a part hereof (hereinafter referred to as the "Restrictive Covenants"). These Restrictive Covenants shall run with the title to the Property in perpetuity and be binding upon Declarant and all successive owners (and all parties claiming by, through and under the owners) of the Property. The DEP shall be deemed a third-party beneficiary of these Restrictive Covenants in a court of competent jurisdiction. DEP shall have the authority to enforce these Restrictive Covenants in any judicial proceeding seeking any remedy recognizable at law or in equity, including an action or lawsuit seeking damages, injunction, specific performance, or any other form of relief, against any person, firm or entity violating or attempting to violate any of these Restrictive Covenants. The failure by DEP to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of such covenant or restriction or of the right of DEP to thereafter enforce such covenant or restriction. The invalidation of any one of the provisions of these Restrictive Covenants by a court of competent jurisdiction shall in no way affect any of the other provisions of these Restrictive Covenants, which shall remain in full force and effect. Venue for enforcement actions regarding these Restrictive Covenants shall be in the Circuit Court of Gilchrist County, Florida. Declarant agrees to incorporate these Restrictive Covenants in any subsequent deed or other written legal instrument by which Declarant transfers or conveys fee simple title or any other lesser estate in the Property or any part thereof to a third party either verbatim or by making an express reference to these Restrictive Covenants and specifically identifying the official records book and page at which this deed is recorded in the public records of Gilchrist County, Florida. Declarant further agrees to give written notice to DEP of the conveyance or transfer of any interest in the Property at least 20 calendar days prior to the date of such conveyance or transfer.

Requests for release of the Restrictive Covenants from the Property shall be directed to the Florida Department of Environmental Protection, Office of General Counsel, Attention: Contracts Attorney, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. The

request should include the DEP Agreement No. LP6103L, the total funding amount paid by the State of Florida, the date of acquisition, and the Department's Grant Manager's name.

IN WITNESS WHEREOF the DISTRICT has caused these presents to be executed in its name by its Governing Board acting by the Chair or Vice Chair of said board, the day and year aforesaid.

GOVERNING BOARD OF THE SUWANNEE  
RIVER WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Virginia H. Johns  
Chair

(OFFICIAL SEAL)

ATTEST: \_\_\_\_\_  
Richard Schwab  
Secretary Treasurer

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**EXHIBIT "A"**

MEMORANDUM OF GRANT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION GRANT NO. LP6103L

This Grant Agreement was executed on the 8<sup>th</sup> day of December, 2017 by and between the Florida Department of Environmental Protection and Suwannee River Water Management District (Grantee), for in pertinent part, land acquisition in Gilchrist County, Florida, for the purpose of protecting springs, by funding such projects under Section 403.061, Florida Statutes. A copy of the Grant Agreement can be viewed at: <https://facts.fldfs.com/> under “Agency Assigned Contract ID” search tab, or a copy may be obtained by contacting the Clerk of the Department in the Office of General Counsel at 3900 Commonwealth Blvd., Mail Station 35, Tallahassee Florida 32399. The Grant Agreement and the required Conservation Easement/Restrictive Covenant implement a program under Chapter 403 of the Florida Statutes and constitute an exception to marketability under Section 712.03 of the Florida Statutes.

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