



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 13, 2016

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item II.A.3., Approval of Waring Property – No Further Action with Conditions (Parcel ID: 21-35-28-00-00257.0-0000.00, Western Portion of Parcel ID: 21-35-28-00-00256.0-0000.0, and Southern Portion of Parcel ID: 21-35-29-00-00009-0000.00) (Deed Restriction)

The Board of Commissioners, in regular session on July 12, 2016, approved the placement of a deed restriction on the referenced Waring Property upon final review by the Florida Department of Environmental Protection (FDEP) Office of General Council, County Attorney's Office, and Risk Management; approved allowing legal advertisement of the proposal to establish the restrictions; and authorized the Chairman to execute the final agreement between FDEP and Brevard County.

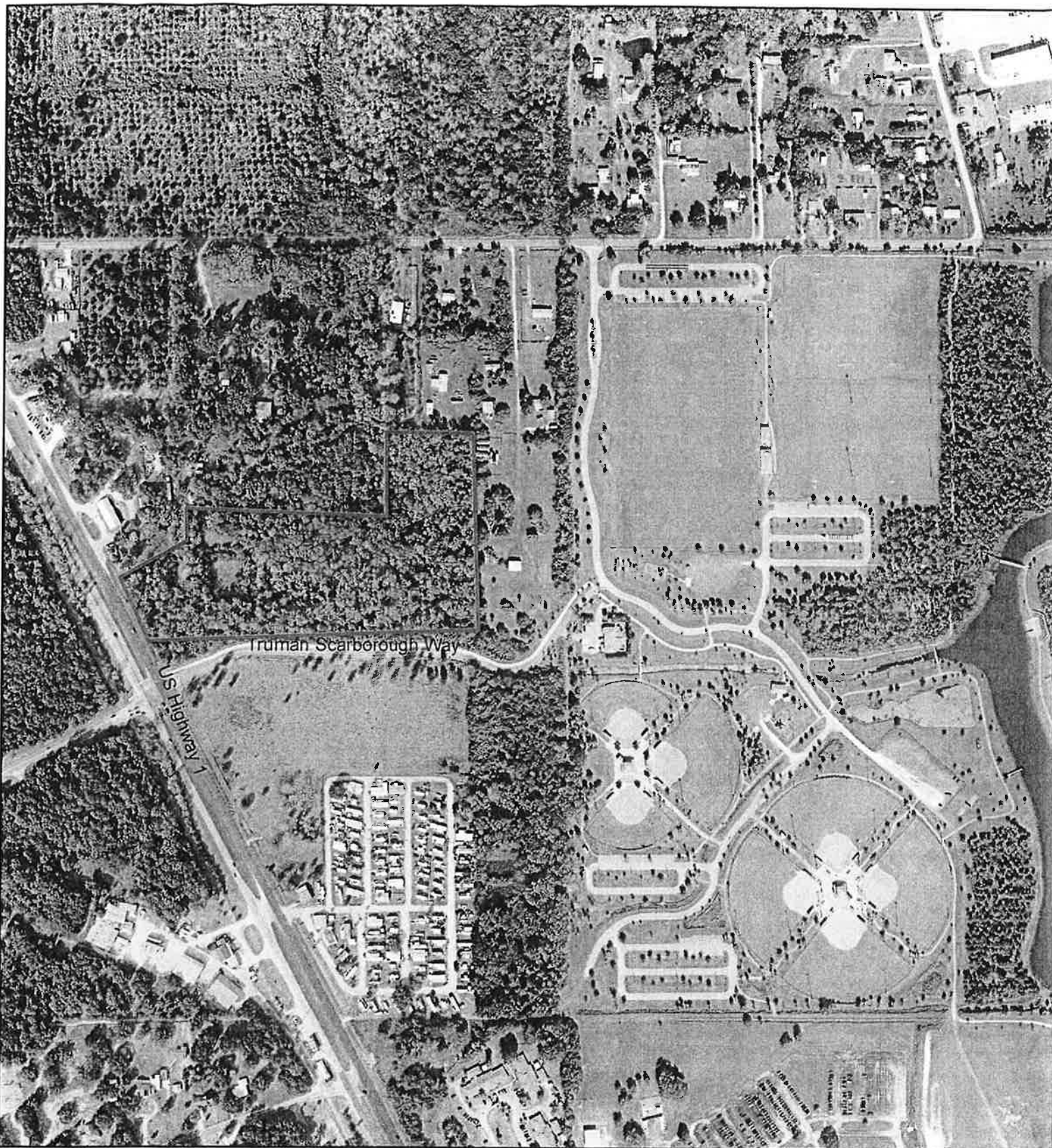
Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK


Tammy Rowe, Deputy Clerk

cc: Parks and Recreation Director



Location
Waring Parcel
FDEP ID: COM-3301606
NFA with Conditions

Attachment A

 Feguer Parcel



0 200 400 800
Feet



Attachment B

Prepared by: Susan Gosselin
Brevard County
Natural Resources Management
2725 Judge Fran Jamieson Way – 219A
Viera, FL 32940
Tax ID: 21-35-28-00257-0000.0

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter —Declaration|) is made this _____ day of _____, 2016, by **Brevard County**, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, (hereinafter GRANTOR) and the **Florida Department of Environmental Protection** (hereinafter FDEP).

RECITALS

A. GRANTOR is the fee simple owner of that certain real property situated in the County of Brevard, State of Florida, more particularly described in Exhibit A, attached hereto and made a part hereof (hereinafter the Waring Property);

B. The FDEP Facility Identification Number for the Property is WCU Site # COM_301606. The facility name at the time of this Declaration is Chain of Lakes Regional Stormwater Park. This Declaration addresses the discharge that was reported to the FDEP on *April 2, 2007*;

C. The discharge of *arsenic* on the Property is documented in the following reports that are incorporated by reference:

No Further Action with Conditions Proposal or Site Rehabilitation Completion Report dated March 2010, submitted by Seavy and Associates, Inc.

D. The reports noted in Recital C set forth the nature and extent of the contamination described in Recital C that is located on the Property. These reports confirm that contaminated soil as defined by Chapter 62-780 Florida Administrative Code (F.A.C.), exists on the Property.

E. It is the intent that the restrictions in this Declaration reduce or eliminate the risk of exposure of users or occupants of the Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants.

F. The FDEP has agreed to issue a Site Rehabilitation Completion Order with Conditions (hereinafter —Order|) upon recordation of this Declaration. The FDEP can unilaterally revoke the Order if the conditions of this Declaration or of the Order are not met. Additionally, if concentrations of arsenic increase above the levels approved in the Order, or if a subsequent discharge occurs at the Property, the FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by the applicable FDEP rules. The Order

relating to FDEP Facility No. COM_301606 can be found by contacting the appropriate FDEP district office or bureau.;

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Property that an Order be obtained and that the Property be held subject to certain restrictions, all of which are more particularly hereinafter set forth.

NOW, THEREFORE, *to induce the FDEP to issue the* and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. GRANTOR hereby imposes the following restrictions and requirements:

The following uses of the Property are prohibited: agricultural use of the land including forestry, fishing and mining; hotels or lodging; recreational uses including residential uses, and educational uses such as elementary or secondary schools, or day care services including Senior care. These prohibited uses are specifically defined by using the North American Industry Classification System, United States, 2007 (NAICS), Executive Office of the President, Office of Management and Budget. The prohibited uses by code are: Sector 11 Agriculture, Forestry, Fishing and Hunting; Subsector 212 Mining (except Oil and Gas); Code 512132 Drive-In Motion Picture Theaters; Code 51912 Libraries and Archives; Code 53111 Lessors of Residential Buildings and Dwellings; Subsector 6111 Elementary and Secondary Schools; Subsector 623 Nursing and Residential Care Facilities; Subsector 624 Social Assistance; Subsector 711 Performing Arts, Spectator Sports and Related Industries; Subsector 712 Museums, Historical Sites, and Similar Institutions; Subsector 721 Accommodation (hotels, motels, RV parks, etc.); Subsector 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations; and Subsector 814 Private Households.

3. In the remaining paragraphs, all references to GRANTOR and FDEP shall also mean and refer to their respective successors and assigns.

4. For the purpose of monitoring the restrictions contained herein, FDEP is hereby granted a right of entry upon and access to the Property at reasonable times and with reasonable notice to the GRANTOR.

5. It is the intention of GRANTOR that this Declaration shall touch and concern the Property, run with the land and with the title to the Property, and shall apply to and be binding upon and inure to the benefit of GRANTOR and FDEP, and to any and all parties hereafter having any right, title or interest in the Property or any part thereof. The FDEP may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of the FDEP to exercise its right in the event of the failure of the GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of the FDEP's rights hereunder. This Declaration shall continue in perpetuity, unless otherwise modified in writing by GRANTOR and the FDEP as provided in paragraph 7 hereof. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If the GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, the GRANTOR shall notify FDEP in writing within three (3)

calendar days. Additionally, GRANTOR shall notify FDEP thirty (30) days prior to any conveyance or sale, granting or transferring the Property or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Property.

6. In order to ensure the perpetual nature of these restrictions, GRANTOR shall reference these restrictions in any subsequent lease or deed of conveyance, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Property, the GRANTOR agrees to notify in writing all proposed tenants of the Property of the existence and contents of this Declaration of Restrictive Covenant.

7. This Declaration is binding until a release of covenant is executed by the FDEP Secretary (or designee) and is recorded in the public records of the county in which the land is located. To receive prior approval from the FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must have been achieved. This Declaration may be modified in writing only. Any subsequent amendment must be executed by both GRANTOR and the FDEP and be recorded by the real property owner as an amendment hereto.

8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Property in fee simple and has good right to create, establish, and impose this restrictive covenant on the use of the Property. GRANTOR also covenants and warrants that the Property is free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR'S rights to impose the restrictive covenant described in this Declaration or that is superior to the restrictive covenant described in this Declaration, unless a joinder and consent, and subordination of such interests, as applicable, is attached hereto.

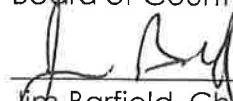
IN WITNESS WHEREOF, **Brevard County**, a political subdivision of the State of Florida has executed this instrument, this 12 day of JULY, 2016.

Attest:



Scott Ellis, Clerk

GRANTOR: Brevard County,
Board of County Commissioners



Jim Barfield, Chairman
Brevard County Commission
2725 Judge Fran Jamieson Way
Viera, Florida 32940

As Approved by the Board on: July 12, 2016
Agenda Item # II-A.3

Reviewed for form and legal content:

Christine Lepore, Assistant County Attorney

Approved as to form by the Florida Department of Environmental Protection Office of
General Counsel.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Jeff Prather, Director
Central District Office
3319 Maguire Boulevard, Suite 232
Orlando, FL 32803-3767

Signed, sealed and delivered in the presence of:

Witness: _____ Date: _____

Print Name: _____

Witness: _____ Date: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by
_____ as representative for the Florida Department of
Environmental Protection. Personally Known _____ OR Produced Identification
_____. Type of Identification Produced _____.

Signature of Notary Public

Print Name of Notary Public

Commission No.

Commission Expires:

DRAFT

EXHIBIT "A"

DRAFT

Acquisition, Fee Interest
ALL - TAX PARCEL NUMBER 21 35 28 00 00257.0-0000.00,
PART - 21 35 28 00 00256.0-0000.00 & 21 35 29 00 00009.0-0000.00,
Champion and Nellie S. Waring, Owners

Chain of Lakes Park
Brevard County Parks and Recreation Dept.
Titusville, Florida

LEGAL DESCRIPTION: PREPARED BY SUSAN JACKSON, COUNTY SURVEYOR, FL CERT. NO. 4637,
SURVEY DATED MARCH, 2007

A PORTION OF LAND LYING IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE
NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, AND THE
SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29,
TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST
1/4 OF SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, ALSO BEING THE
SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION
29; THENCE S89°58'50"W ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE
NORTHEAST 1/4 OF SAID SECTION 29, ALSO BEING THE SOUTH LINE OF THE LAND
DESCRIBED IN OFFICIAL RECORDS BOOK 4585, PAGE 1721 (PUBLIC RECORDS OF
BREVARD COUNTY, FLORIDA), FOR A DISTANCE OF 118.11 FEET TO THE EAST LINE OF
U.S. HIGHWAY 1 (PER FDOT RIGHT OF WAY SECTION MAP NO. 7003-(175)277 FOR STATE
ROAD 5); THENCE N27°11'55"W ALONG SAID EAST RIGHT OF WAY LINE FOR A
DISTANCE OF 200.00 FEET; THENCE DEPARTING THE EAST RIGHT OF WAY LINE RUN
N65°56'01"E FOR A DISTANCE OF 228.44 FEET TO THE WEST LINE OF THE AFORESAID
SECTION 28, ALSO BEING THE EAST LINE OF THE LAND DESCRIBED IN OFFICIAL
RECORDS BOOK 4585, PAGE 1721; THENCE N00°11'55"W ALONG SAID WEST LINE OF
SECTION 28 AND EAST LINE OF OFFICIAL RECORDS BOOK 4585, PAGE 1721 FOR A
DISTANCE OF 85.00 FEET; THENCE DEPARTING THE WEST LINE OF SECTION 28 RUN
N89°45'54"E FOR A DISTANCE OF 665.62 FEET TO THE WEST LINE OF THE WEST 1/2 OF
THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION
28; THENCE N00°07'52"W ALONG SAID WEST LINE FOR A DISTANCE OF 310.43 FEET TO
THE NORTH LINE OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4
OF THE NORTHWEST 1/4 OF SECTION 28; THENCE S89°45'33"E ALONG SAID NORTH
LINE FOR A DISTANCE OF 332.99 FEET TO THE WEST LINE OF THE EAST 1/2 OF THE
SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 28;
THENCE S00°05'50"E ALONG SAID WEST LINE FOR A DISTANCE OF 666.39 FEET TO A
POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF
SECTION 28, ALSO BEING THE SOUTH LINE OF DEED BOOK 224, PAGE 494 AND DEED
BOOK YY, PAGE 200; THENCE N89°45'54"W ALONG SAID SOUTH LINE FOR A DISTANCE
OF 997.79 FEET TO THE POINT OF BEGINNING.

BEING SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND RESTRICTIONS OF
RECORD.

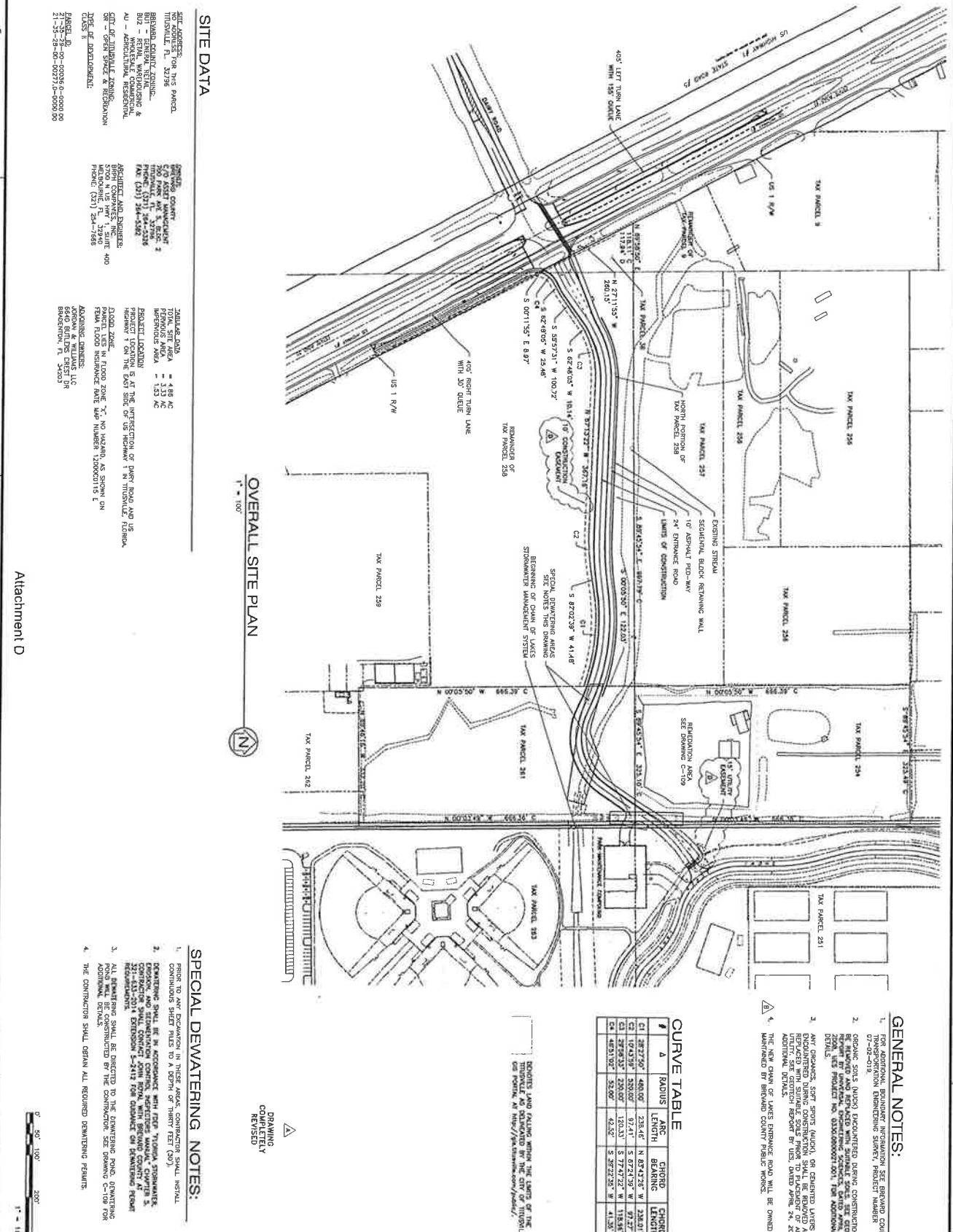
Attachment C

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION NOTICE OF PROPOSED AGENCY ACTION

The Florida Department of Environmental Protection (FDEP) gives notice that it proposes to approve a No Further Action Proposal with Institutional Controls or with Engineering and Institutional Controls and issue a Site Rehabilitation Completion Order with controls for a contaminated site. Brevard County Board of County Commissioners is seeking this order in reference to FDEP FAC ID# COM_3010606, Waring Parcel, Truman Scarborough Way, Titusville, 32796 and intends to restrict exposure to contamination in the following manner: land use restrictions.

Complete copies of the No Further Action Proposal, the draft restrictive covenant, and the FDEP's preliminary evaluation are available for public inspection during normal business hours 8:00 a.m. to 5:00 p.m. Monday through Friday, except legal holidays at FDEP Central District Office, 3319 Maguire Blvd, Suite 232, Orlando, FL 32803-3767.

Local governments with jurisdiction over the property subject to the Institutional Control, real property owner(s) of any property subject to the Institutional Control, and residents of any property subject to the Institutional Control have 30 days from publication of this notice to provide comments to the FDEP. Such comments must be sent to FDEP Dale Melton, Cleanup Project Manager, Central District Office, Waste Cleanup Section, 3319 Maguire Blvd, Suite 232, Orlando, Florida 32803-3767 or at dale.melton@dep.state.fl.us.



SITE DATA

GENERAL NOTES:

1. PRIOR TO ANY EXCAVATION IN THESE AREAS, CONTRACTOR SHALL NOTIFY BREVARD COUNTY PUBLIC WORKS DEPARTMENT AT 352-246-1111.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM BREVARD COUNTY PUBLIC WORKS DEPARTMENT.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM BREVARD COUNTY PUBLIC WORKS DEPARTMENT.
4. THE CONTRACTOR SHALL OBTAIN ALL REQUIRED DEWATERING PERMITS.

OVERALL SITE PLAN

1" = 100'

GENERAL NOTES:

1. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM BREVARD COUNTY PUBLIC WORKS DEPARTMENT.
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SPECIAL DEWATERING NOTES:

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CURVE TABLE

NO.	Δ	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	CHORD END POINT
1	90°	400.00'	251.33'	251.33'	N 89°43'36" W 138.33'	113.33' E 113.33' N
2	90°	400.00'	251.33'	251.33'	S 89°43'36" W 138.33'	113.33' W 113.33' S
3	90°	400.00'	251.33'	251.33'	S 89°43'36" E 138.33'	113.33' S 113.33' W
4	90°	400.00'	251.33'	251.33'	N 89°43'36" E 138.33'	113.33' N 113.33' E

GENERAL NOTES:

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CHAIN OF LAKES ENTRANCE ROAD
TITUSVILLE, FLORIDA
BREVARD COUNTY PARKS & RECREATION

OVERALL SITE PLAN

Architects, Engineers, Constructors
 Offices in Melbourne, West Palm Beach, Orlando, Fort Myers, Atlanta, Greenville

Board of Architecture License No. 00101-0
 Board of Professional Engineers License No. 1419

1" = 100'

DATE: 07-18-10
 DRAWN BY: MARSHELL
 CHECKED BY: MARSHELL
 PROJECT NO: 07-18-10
 SHEET NO: 01 OF 101



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 13, 2016

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director

RE: Item II.A.3., Approval of Waring Property – No Further Action with Conditions (Parcel ID: 21-35-28-00-00257.0-0000.00, Western Portion of Parcel ID: 21-35-28-00-00256.0-0000.0, and Southern Portion of Parcel ID: 21-35-29-00-00009-0000.00) (Deed Restriction)

The Board of Commissioners, in regular session on July 12, 2016, approved the placement of a deed restriction on the referenced Waring Property upon final review by the Florida Department of Environmental Protection (FDEP) Office of General Council, County Attorney's Office, and Risk Management; approved allowing legal advertisement of the proposal to establish the restrictions; and authorized the Chairman to execute the final agreement between FDEP and Brevard County.

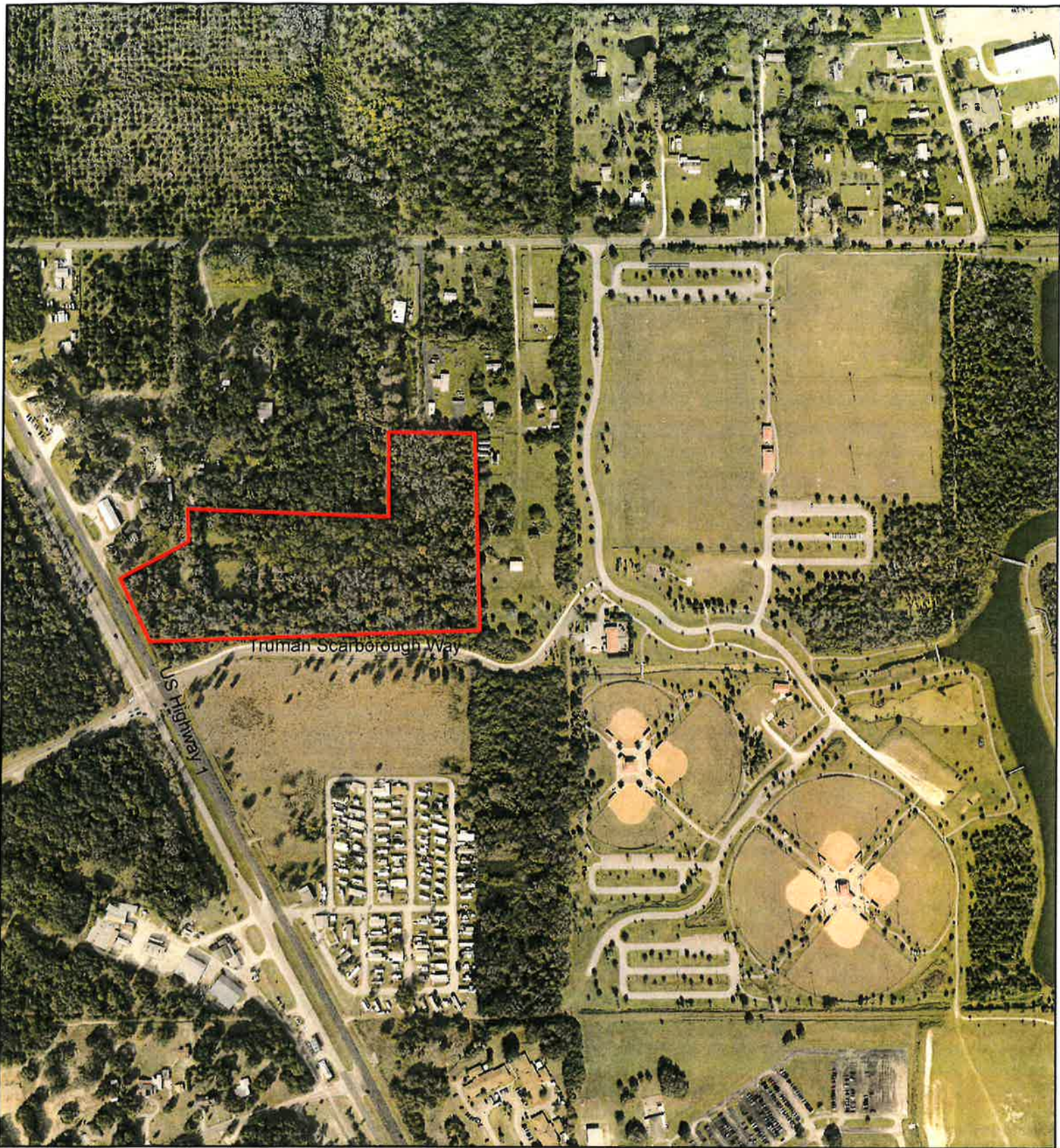
Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Rowe, Deputy Clerk

cc: Parks and Recreation Director



Location
Waring Parcel
FDEP ID: COM-3301606
NFA with Conditions

Attachment A

 Feguer Parcel



0 200 400 800
Feet



Attachment B

Prepared by: Susan Gosselin
Brevard County
Natural Resources Management
2725 Judge Fran Jamieson Way – 219A
Viera, FL 32940
Tax ID: 21-35-28-00257-0000.0

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter —Declaration|) is made this _____ day of _____, 2016, by **Brevard County**, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, (hereinafter GRANTOR) and the **Florida Department of Environmental Protection** (hereinafter FDEP).

RECITALS

A. GRANTOR is the fee simple owner of that certain real property situated in the County of Brevard, State of Florida, more particularly described in Exhibit A, attached hereto and made a part hereof (hereinafter the Waring Property);

B. The FDEP Facility Identification Number for the Property is WCU Site # COM_301606. The facility name at the time of this Declaration is Chain of Lakes Regional Stormwater Park. This Declaration addresses the discharge that was reported to the FDEP on *April 2, 2007*;

C. The discharge of *arsenic* on the Property is documented in the following reports that are incorporated by reference:

No Further Action with Conditions Proposal or Site Rehabilitation Completion Report dated March 2010, submitted by Seavy and Associates, Inc.

D. The reports noted in Recital C set forth the nature and extent of the contamination described in Recital C that is located on the Property. These reports confirm that contaminated soil as defined by Chapter 62-780 Florida Administrative Code (F.A.C.), exists on the Property.

E. It is the intent that the restrictions in this Declaration reduce or eliminate the risk of exposure of users or occupants of the Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants.

F. The FDEP has agreed to issue a Site Rehabilitation Completion Order with Conditions (hereinafter —Order|) upon recordation of this Declaration. The FDEP can unilaterally revoke the Order if the conditions of this Declaration or of the Order are not met. Additionally, if concentrations of arsenic increase above the levels approved in the Order, or if a subsequent discharge occurs at the Property, the FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by the applicable FDEP rules. The Order

relating to FDEP Facility No. *COM_301606* can be found by contacting the appropriate FDEP district office or bureau.;

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Property that an Order be obtained and that the Property be held subject to certain restrictions, all of which are more particularly hereinafter set forth.

NOW, THEREFORE, *to induce the FDEP to issue the* and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
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The following uses of the Property are prohibited: agricultural use of the land including forestry, fishing and mining; hotels or lodging; recreational uses including residential uses, and educational uses such as elementary or secondary schools, or day care services including Senior care. These prohibited uses are specifically defined by using the North American Industry Classification System, United States, 2007 (NAICS), Executive Office of the President, Office of Management and Budget. The prohibited uses by code are: Sector 11 Agriculture, Forestry, Fishing and Hunting; Subsector 212 Mining (except Oil and Gas); Code 512132 Drive-In Motion Picture Theaters; Code 51912 Libraries and Archives; Code 53111 Lessors of Residential Buildings and Dwellings; Subsector 611 Elementary and Secondary Schools; Subsector 623 Nursing and Residential Care Facilities; Subsector 624 Social Assistance; Subsector 711 Performing Arts, Spectator Sports and Related Industries; Subsector 712 Museums, Historical Sites, and Similar Institutions; Subsector 721 Accommodation (hotels, motels, RV parks, etc.); Subsector 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations; and Subsector 814 Private Households.

3. In the remaining paragraphs, all references to GRANTOR and FDEP shall also mean and refer to their respective successors and assigns.

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calendar days. Additionally, GRANTOR shall notify FDEP thirty (30) days prior to any conveyance or sale, granting or transferring the Property or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Property.

6. In order to ensure the perpetual nature of these restrictions, GRANTOR shall reference these restrictions in any subsequent lease or deed of conveyance, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Property, the GRANTOR agrees to notify in writing all proposed tenants of the Property of the existence and contents of this Declaration of Restrictive Covenant.

7. This Declaration is binding until a release of covenant is executed by the FDEP Secretary (or designee) and is recorded in the public records of the county in which the land is located. To receive prior approval from the FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must have been achieved. This Declaration may be modified in writing only. Any subsequent amendment must be executed by both GRANTOR and the FDEP and be recorded by the real property owner as an amendment hereto.

8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

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IN WITNESS WHEREOF, **Brevard County**, a political subdivision of the State of Florida has executed this instrument, this 12 day of JULY, 2016.

Attest:

Scott Ellis, Clerk

GRANTOR: Brevard County,
Board of County Commissioners

Jim Barfield, Chairman
Brevard County Commission
2725 Judge Fran Jamieson Way
Viera, Florida 32940

As Approved by the Board on: July 12, 2016
Agenda Item # II.A.3

Reviewed for form and legal content:

Christine Lepore, Assistant County Attorney

Approved as to form by the Florida Department of Environmental Protection Office of General Counsel.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Jeff Prather, Director
Central District Office
3319 Maguire Boulevard, Suite 232
Orlando, FL 32803-3767

Signed, sealed and delivered in the presence of:

Witness: _____ Date: _____

Print Name: _____

Witness: _____ Date: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by _____ as representative for the Florida Department of Environmental Protection. Personally Known _____ OR Produced Identification _____ . Type of Identification Produced _____ .

Signature of Notary Public

Print Name of Notary Public
Commission No. _____
Commission Expires: _____

DRAFT

EXHIBIT "A"

DRAFT

Acquisition, Fee Interest

**ALL - TAX PARCEL NUMBER 21 35 28 00 00257.0-0000.00,
PART - 21 35 28 00 00256.0-0000.00 & 21 35 29 00 00009.0-0000.00,**

Champlon and Nellie S. Waring, Owners

**Chain of Lakes Park
Brevard County Parks and Recreation Dept.
Titusville, Florida**

**LEGAL DESCRIPTION: PREPARED BY SUSAN JACKSON, COUNTY SURVEYOR, FL CERT. NO. 4637,
SURVEY DATED MARCH, 2007**

**A PORTION OF LAND LYING IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE
NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, AND THE
SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29,
TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST
1/4 OF SECTION 28, TOWNSHIP 21 SOUTH, RANGE 35 EAST, ALSO BEING THE
SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION
29; THENCE S89°58'50"W ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE
NORTHEAST 1/4 OF SAID SECTION 29, ALSO BEING THE SOUTH LINE OF THE LAND
DESCRIBED IN OFFICIAL RECORDS BOOK 4585, PAGE 1721 (PUBLIC RECORDS OF
BREVARD COUNTY, FLORIDA), FOR A DISTANCE OF 118.11 FEET TO THE EAST LINE OF
U.S. HIGHWAY 1 (PER FDOT RIGHT OF WAY SECTION MAP NO. 7003-(175)277 FOR STATE
ROAD 5); THENCE N27°11'55"W ALONG SAID EAST RIGHT OF WAY LINE FOR A
DISTANCE OF 200.00 FEET; THENCE DEPARTING THE EAST RIGHT OF WAY LINE RUN
N65°56'01"E FOR A DISTANCE OF 228.44 FEET TO THE WEST LINE OF THE AFORESAID
SECTION 28, ALSO BEING THE EAST LINE OF THE LAND DESCRIBED IN OFFICIAL
RECORDS BOOK 4585, PAGE 1721; THENCE N00°11'55"W ALONG SAID WEST LINE OF
SECTION 28 AND EAST LINE OF OFFICIAL RECORDS BOOK 4585, PAGE 1721 FOR A
DISTANCE OF 85.00 FEET; THENCE DEPARTING THE WEST LINE OF SECTION 28 RUN
N89°45'54"E FOR A DISTANCE OF 665.62 FEET TO THE WEST LINE OF THE WEST 1/2 OF
THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION
28; THENCE N00°07'52"W ALONG SAID WEST LINE FOR A DISTANCE OF 310.43 FEET TO
THE NORTH LINE OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4
OF THE NORTHWEST 1/4 OF SECTION 28; THENCE S89°45'33"E ALONG SAID NORTH
LINE FOR A DISTANCE OF 332.99 FEET TO THE WEST LINE OF THE EAST 1/2 OF THE
SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 28;
THENCE S00°05'50"E ALONG SAID WEST LINE FOR A DISTANCE OF 666.39 FEET TO A
POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF
SECTION 28, ALSO BEING THE SOUTH LINE OF DEED BOOK 224, PAGE 494 AND DEED
BOOK YY, PAGE 200; THENCE N89°45'54"W ALONG SAID SOUTH LINE FOR A DISTANCE
OF 997.79 FEET TO THE POINT OF BEGINNING.**

**BEING SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND RESTRICTIONS OF
RECORD.**

Attachment C

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION NOTICE OF PROPOSED AGENCY ACTION

The Florida Department of Environmental Protection (FDEP) gives notice that it proposes to approve a No Further Action Proposal with Institutional Controls or with Engineering and Institutional Controls and issue a Site Rehabilitation Completion Order with controls for a contaminated site. Brevard County Board of County Commissioners is seeking this order in reference to FDEP FAC ID# COM_3010606, Waring Parcel, Truman Scarborough Way, Titusville, 32796 and intends to restrict exposure to contamination in the following manner: land use restrictions.

Complete copies of the No Further Action Proposal, the draft restrictive covenant, and the FDEP's preliminary evaluation are available for public inspection during normal business hours 8:00 a.m. to 5:00 p.m. Monday through Friday, except legal holidays at FDEP Central District Office, 3319 Maguire Blvd, Suite 232, Orlando, FL 32803-3767.

Local governments with jurisdiction over the property subject to the Institutional Control, real property owner(s) of any property subject to the Institutional Control, and residents of any property subject to the Institutional Control have 30 days from publication of this notice to provide comments to the FDEP. Such comments must be sent to FDEP Dale Melton, Cleanup Project Manager, Central District Office, Waste Cleanup Section, 3319 Maguire Blvd, Suite 232, Orlando, Florida 32803-3767 or at dale.melton@dep.state.fl.us.

