

**Operations, Lands and Resource Monitoring Committee  
May 23, 2017**

***Discussion Agenda***

**Approve Sale of Surplus Lands – Green Swamp Wilderness Preserve, West Tract (GSW-3), SWF Parcel No. 10-411-117S**

*Purpose*

The District received an offer to purchase SWF Parcel No. 10-411-117S, known as surplus parcel GSW-3, from James F. Jenkins, for \$876,000, subject to a conservation easement allowing two dwelling units. This reflects an offer price of \$2,684.65 per acre for approximately 326.3 acres. The Contract for Sale and Purchase is attached as Exhibit 1 and the Conservation Easement is attached as Exhibit 2. A general location map and aerial map are attached as Exhibits 3 and 4.

*Background*

The District acquired GSW-3 in 1991 with Preservation 2000 funding as part of the Green Swamp Wilderness Preserve, West Tract at a prorated cost of \$1,262 per acre for approximately 326.3 acres. GSW-3 consists of approximately 326.3 acres, 77 percent of which are uplands. Access is by easement from US Highway 98. The property is zoned AC, Agriculture (one dwelling unit per ten acres), with a future land use designation of CON, Conservation. The average cost for the District to manage the Green Swamp Wilderness Preserve, West Tract over the last five years was \$6.19 per acre, or \$2,020 per year. This parcel was declared surplus by the Governing Board on May 19, 2015.

The property was listed with Saunders Real Estate on October 24, 2016 and was advertised through multiple media and personal contacts for at least 30 days before the offer was presented. Two offers were received on this parcel and as a result the broker and District staff requested a final and best offer from both parties. A final and best offer process resulted in an offer of \$876,000. Below is a summary of the total and per acre cost information for the GSW-3 parcel.

	<b>Total</b>	<b>Per Acre</b>
Offer Amount	\$876,000	\$2,684.65
Appraised Value	\$875,000	\$2,682
Listing Price	\$1,000,000	\$3,065
Property Appraiser Just Value	\$718,886	\$2,203
Purchase Basis (1991)	\$411,917	\$1,262

*Appraisal and Minimum Price*

The property was appraised March 21, 2017 for \$875,000 by Edwin A. Jones, Jr., ARA with Angus Investments, Inc. The sales summary and adjustment grid from the appraisal is attached as Exhibit 5. The appraiser analyzed the property both as unencumbered and as encumbered with a conservation easement. The appraiser determined that the highest and best use, if encumbered by a conservation easement, would be for agriculture/recreation. The District's title to the property includes the subsurface rights. Upon the request of a buyer and in accordance with Section 270.11(3), Florida Statutes the District may release its interest in all phosphate, minerals, metals and petroleum that may be in, on or under the property. The full appraisal is available upon request.

On December 13, 2016, the Governing Board approved a minimum price of \$1,000,000 that if received the Contract for Sale and Purchase could be signed by the Governing Board Chair on behalf of the Board. However, the highest offer received is below that amount.

#### *Sale Terms*

- The District will deliver title to the buyer by Quit Claim Deed.
- Deed will include an ingress/egress easement over existing roadway from US 98
- There will be no adjustment in price for actual acreage as determined by a survey, if obtained by the buyer.
- The Buyer will convey a conservation easement to the District at closing with the following salient terms included:
  - Construction of no more than two residences and associated improvements is allowed.
  - No division of title is allowed
  - Low intensity agricultural uses in accordance with best management practices is allowed.
- The buyer will bear all expenses of the transaction except for the appraisal and advertising costs.

#### *Benefits/Costs*

The sale of surplus lands will allow the District to acquire lands that are more environmentally significant. Funds derived from the sale of surplus land may only be used for the purchase of other lands meeting the criteria in Section 373.139, Florida Statutes, resulting in more effectively meeting the District's core mission.

#### Staff Recommendation:

See Exhibits

- Accept the offer;
- Approve the Contract for Sale and Purchase and authorize the Executive Director to sign on behalf of the District;
- Approve conveyance of an ingress/egress easement over an existing road from US 98
- Upon the request of the buyer authorize the conveyance of the District's interest in all phosphate, minerals, metals, and petroleum in or on or under the land;
- Accept the Conservation Easement; and
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

Presenter: Carmen Sanders, Operations and Land Management Assistant Bureau Chief

cc: Ken Frink  
Cheryl Hill

Jerry Mallams  
Myke Morris

Will VanGelder

**CONTRACT FOR SALE AND PURCHASE**

**THIS Contract for Sale and Purchase** ("Contract") is made this 19<sup>th</sup> day of May, 2017, by and between the Southwest Florida Water Management District, a public corporation of the State of Florida, having an address of 2379 Broad Street, Brooksville, Florida 34604 ("District"), and James F. Jenkins, having an address of 6440 Lunn Rd. Lakeland, FL 33811 ("Buyer"), as follows:

1. **AGREEMENT TO SELL:** The District hereby agrees to sell and Buyer hereby agrees to buy, in accordance with this Contract, the real property that is more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference ("Property"). This Contract is contingent upon the conveyance by Buyer of a conservation easement, substantially in the form attached hereto as Exhibit "B".
2. **EFFECTIVE DATE:** Upon execution of this Contract by Buyer, Buyer's offer shall be binding for ten (10) days after such execution by Buyer. If this Contract is not executed by the District on or before May 29, 2017 (10) days after execution of this Contract by Buyer, Buyer's offer contained in this Contract is withdrawn and this Contract shall terminate. The effective date of this contract shall be the date of execution by the District.
3. **APPROVAL:** This Contract is subject to approval by the District's Governing Board. If the District's Governing Board does not approve this Contract and all the terms and conditions hereof, the District will notify the Buyer in writing and this Agreement shall terminate.
4. **PURCHASE PRICE:** The total purchase price for the Property shall be Eight hundred + seventy six thousand dollars (\$ 876,000.<sup>00</sup>), which shall be paid in the following manner:
  - a. **Deposit:** Concurrent with the execution by Buyer of this Contract, Buyer shall deposit five percent (5%) of the purchase price in the form of a certified or cashier's check from a financial institution as defined in Section 655.005, Florida Statutes ("F.S."), made payable to the closing agent designated by the District, as earnest money ("Deposit"). In the event this Contract is terminated under Paragraphs 2, 3, 9, 11, or 12 of this Contract, the District shall return the Deposit to Buyer.
  - b. **Balance:** The balance of the purchase price shall be paid at the time of closing by wire transfer from a financial institution as defined in Section 655.005, F.S., to the closing agent designated by the District.
5. **CLOSING, EXPENSE AND POSSESSION:** This Contract shall be closed no later than ninety (90) days from the effective date referenced in Paragraph 2, unless this Contract is terminated pursuant to Paragraphs 2, 3, 9, 11 or 12. The following are additional details of closing:
  - a. **Time and Place:** The date, time and place of closing shall be set by the District.
  - b. **Conveyance:** At closing, the District will deliver to Buyer a fully executed quit claim deed, conveying the Property and improvements in "AS IS, WHERE IS CONDITION," without warranties or representations.
  - c. At closing, Buyer will execute and deliver the conservation easement, attached hereto as Exhibit "B", and incorporated herein by this reference, to the District.

d. **Expenses:** Buyer shall be responsible for paying all closing costs associated with the Property including, but not limited to, Buyer's survey costs, documentary stamp tax on the deed, recording fees, abstract or title insurance fees, and Buyer's attorneys' fees. The District has designated Albert C. Kreischer Jr. at Fuentes and Kreischer Title Company, having an address of 1407 West Busch Boulevard Tampa, FL 33612, as the escrow agent for closing. The Buyer shall pay any costs charged by such company or agent for this closing service. If Buyer obtains a survey of the Property, nothing contained therein shall affect the purchase price or terms of this Contract.

e. Buyer shall also be responsible for paying Saunders Real Estate in the amount of forty four thousand + eight hundred dollars (\$44,800.<sup>00</sup>), by separate certified or cashier's check made payable to, or wire transfer to, the escrow agent designated by the District. The commission for the District's sale of surplus property is calculated based on the following schedule:

Commission Schedule:		
Maximum Compensation Rate		
Purchase Price for the Property		Maximum Rate
The first	\$ 0 - \$ 100,000	6.0%
The next	\$ 100,001 - \$ 1,000,000	5.0%
The next	\$ 1,000,001 - \$ 5,000,000	4.0%
The next	\$ 5,000,001 - \$10,000,000	3.0%
The next	\$10,000,001 and over	2.0%

6. **REAL ESTATE TAXES, EASEMENTS, RESTRICTIONS, AND ENCUMBRANCES:** Buyer agrees to take title to the Property subject to any outstanding taxes, special liens or assessments including real estate taxes, if any; comprehensive land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority; restrictions, qualifications and matters appearing on the plat or otherwise common to the subdivision, restrictive covenants, public utility easements and all outstanding easements, reservations and other interests.

7. **CONDITION OF THE PROPERTY:** Buyer agrees to accept the Property in "AS IS, WHERE IS CONDITION." The District makes no warranties or representations whatsoever as to the condition of the Property or the improvements located thereon, or the fitness of either for any particular use or purpose.

8. **BASELINE REPORT:** The District at its expense before closing, will obtain a Baseline Natural Resources Inventory Report ("BNRI") on the Property. The specific Conservation Values of the Property are to be documented in the BNRI report for the Conservation Easement consisting of reports, maps, photographs, and other documentation that the parties agree, and hereby acknowledge, provide, collectively, an accurate representation of the property at the time of this conveyance and which is intended to serve as an objective information baseline for monitoring compliance with the terms of the easement.

The District intends that the Conservation Easement will confine the use of the District Parcel to such activities as are consistent with the Conservation Purposes identified in the Conservation Easement and the Conservation Values as documented in the BNRI.

Contract for Sale and Purchase

Parcel Name: Green Swamp Wilderness Preserve, West Tract (GSW-3)

SWF Parcel No.: 10-411-117S

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9. **DUE DILIGENCE PERIOD:** Buyer will, at Buyer's expense, determine whether the Property is suitable for the Buyer's intended use and development of the Property within sixty (60) days from the effective date of this Contract ("Due Diligence Period"). During the Due Diligence Period, Buyer may conduct any tests, analyses, surveys, inspections, and investigations which Buyer deems necessary to determine to Buyer's satisfaction the suitability of the Property for Buyer's intended use and development. Buyer will deliver written notice to the District prior to the expiration of the Due Diligence Period of Buyer's determination of whether the Property is acceptable. If Buyer fails to comply with this notice requirement, Buyer will be deemed to have waived any objection to the suitability of the Property for the Buyer's intended use and development and to have accepted the Property in its present "as is" condition. If Buyer determines that the Property is not acceptable, Buyer must include the specific reasons therefore in its notice to the District. The District shall have thirty (30) days from receipt of Buyer's notice to cure the specified deficiencies. If the deficiencies are identified by a survey, the survey must meet the requirements outlined in Exhibit "C", attached hereto, and must be provided to the District for review. If the District fails to cure the deficiencies to the reasonable satisfaction of the Buyer, its attorney or the Buyer's title insurance company within the 30-day cure period, Buyer may either terminate this Contract or proceed to closing in the same manner as if no deficiencies had been found. Buyer may contact the District to arrange access to the Property for Buyer, its agents, contractors and assigns for the purpose of conducting such tests, analyses, surveys, inspections, and investigations. Buyer will indemnify and hold the District harmless from losses, damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any person, arising from the conduct of any and all inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a mechanic's lien being filed against the Property.

10. **OPERATION OF PROPERTY DURING CONTRACT PERIOD:** Prior to closing, the District will continue to operate the Property and any business conducted on the Property in the manner operated prior to the date of the Contract and will take no action that would adversely impact the Property.

11. **RISK OF LOSS:** In the event of any substantial damage to the Property (in excess of \$5,000) between the date of this Contract and the date of closing, the District shall have the option of restoring the damaged Property to its condition immediately prior to the occurrence causing the damage, in which event, Buyer shall complete the transaction as originally planned. If these repairs are not completed prior to the closing date, closing will be extended until such time as the repairs are completed. If the District elects not to restore the damaged Property, Buyer's sole remedy shall be the right to terminate this Contract by giving written notice to the District or, alternatively, to proceed to closing on the Property, as damaged, without adjustment in the purchase price. In the event of any lesser damage (\$5,000 or less), the parties shall proceed to closing as though no damage had occurred.

12. **DEFAULT:** If Buyer fails to close within ninety (90) days from the effective date referenced in Paragraph 2, the District shall retain the Deposit, this Contract shall terminate, and the District and Buyer shall be relieved of all rights and obligations under this Contract. If the District fails to deliver the quit claim deed to Buyer within ninety (90) days from the effective date referenced in Paragraph 2, the District shall return the Deposit to Buyer, this Contract shall terminate, and Buyer and the District shall be relieved of all rights and obligations under this Contract. Notwithstanding the above, neither party shall be liable under this provision if the closing date is extended pursuant to Paragraph 11, Risk of Loss.

13. **ATTORNEYS' FEES AND COSTS:** Except as provided in Paragraph 9, Due Diligence Period, in any claim or controversy arising out of or relating to this Contract, each party agrees to bear its own attorney fees and costs.
14. **NOTICES:** All notices will be in writing and may be delivered by mail, overnight courier, or personal delivery. The parties agree to send all notices to the addresses specified in the introductory clause; and as to the District, such notice will be sent to the attention of its Office of General Counsel. Notice is effective upon receipt.
15. **SUCCESSORS:** Upon execution of this Contract by Buyer, this Contract shall be binding upon and inure to the benefit of Buyer, Buyer's heirs, successors, or assigns.
16. **RECORDING:** Neither this Contract nor any notice of it may be recorded in any county by any person.
17. **ASSIGNMENT:** This Contract shall not be assigned by Buyer without the prior written consent of the District.
18. **TIME OF ESSENCE:** Time is of the essence in the performance of this Contract.
19. **AMENDMENTS:** This Contract contains the entire agreement and all representations of the parties. No amendment will be effective except when reduced to writing signed by all parties. Notwithstanding the foregoing, the parties acknowledge that the description of the Property is without the benefit of a current survey. The parties agree that if, in the opinion of the District, it becomes necessary to amend the description to correct errors, to more properly describe the Property, or to otherwise revise the description of the Property, the description to be used in the survey (if any) and in the closing instruments required by this Contract for the Property shall be revised by or at the direction of the District, and shall be subject to the final approval of the District. Anything to the contrary hereinabove notwithstanding, such a revision of the description of the Property shall not require a written amendment to this Contract. In such event, the District's execution and delivery of the closing instruments containing the revised description and the Buyer's acceptance of said instruments and of the final survey (if any) containing the revised description shall constitute a full and complete ratification and acceptance of the revised description of the Property by the parties.
20. **SURVIVAL:** Paragraphs 6, and 12 of this Contract will survive delivery and recording of deed and possession of the Property.
21. **ELECTRONIC SIGNATURE:** The District agrees that this Agreement may be executed by the Buyer by electronic signature in a manner that complies with Chapter 668, F.S.
22. **DOCUMENTS:** The following documents are attached and made a part of this Agreement. In the event of a conflict of contract terminology, priority will first be given to the language in the body of this Agreement.

Exhibit "A" Legal Description for District Parcel

Exhibit "B" Conservation Easement

Exhibit "C" Survey Requirements

Contract for Sale and Purchase

Parcel Name: Green Swamp Wilderness Preserve, West Tract (GSW-3)

SWF Parcel No.: 10-411-117S

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IN WITNESS WHEREOF, the parties have caused the Contract to be executed on the day and year set forth below.

**DISTRICT:**  
Southwest Florida Water Management District,  
a public corporation of the State of Florida

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

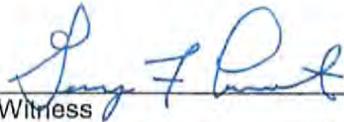
By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BUYER:**

  
\_\_\_\_\_  
Witness

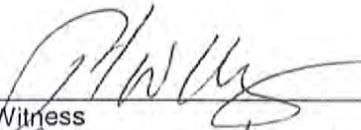
George Lemster  
\_\_\_\_\_  
Printed Name

By:  \_\_\_\_\_

Name: James F. Jenkins \_\_\_\_\_

Title: \_\_\_\_\_

Date: 5-18-17 \_\_\_\_\_

  
\_\_\_\_\_  
Witness

Robert W. Kennedy  
\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT 2

Prepared by return to:  
Southwest Florida Water Management District  
2379 Broad Street  
Brooksville, FL 34604-6899  
Attn. Operations and Land Management Bureau

### Perpetual Conservation Easement

This Easement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, having an address of \_\_\_\_\_, hereinafter referred to as "Grantor", and the Southwest Florida Water Management District, a public corporation, having an address of 2379 Broad Street, Brooksville, Florida 34604-6899, hereinafter referred to as "Grantee", collectively referred to as the "Parties."

### WITNESSETH:

**Whereas**, Grantor is the owner in fee simple of certain real property lying and being situated in Pasco County, Florida, more specifically described in Exhibit "A", attached hereto and hereinafter referred to as the "Property"; and

**Whereas**, Grantor and Grantee mutually recognize the conservation value of the natural, scenic, and special character of the Property and have the common purpose of conserving that certain natural, scenic, and special character of the Property by conveyance to Grantee of a perpetual conservation easement on, under, over, and across the Property, which shall act to conserve and protect the natural, scenic and special character of the Property; it further being the intent of the parties to conserve and protect the ecological and hydrological integrity, the present and future uses described herein, and habitat for indigenous plant and animal life on the Property, and to prohibit certain further development activity on the Property; and

**Whereas**, Grantor and Grantee recognize that the past and present stewardship of the Property have contributed to the conservation of certain natural resources and by the conveyance of this conservation easement will serve as a compatible and complimentary land use to the management and sustainability of core conservation lands within the Withlacoochee River watershed.

**Now Therefore**, Grantor, in consideration of ten dollars and no cents (\$10.00), and other good and valuable consideration in hand paid by Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, do hereby grant, bargain, sell and convey to Grantee and its successors and assigns a perpetual conservation easement on, under, over and across the Property for the purposes as set forth herein, and pursuant to Section 704.06, Florida Statutes (F.S.), but without intending the validity of this Easement to be dependent on the continuing existence of such laws.

### ARTICLE I. DURATION OF EASEMENT

This Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor and its personal representatives, heirs, successors and assigns, lessees, agents and licensees.

## ARTICLE II. PURPOSE OF EASEMENT

In addition to the recitations stated above, the purpose of this Easement is to prohibit development on the Property and thereby protect and preserve, in perpetuity, the natural, scenic and special character, ecological and hydrological integrity, and habitat for indigenous plant and animal life on the Property. Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purposes of this Easement.

The specific conservation values of the Property are documented in **[Insert Title of Baseline Inventory/Report]**, dated \_\_\_\_\_, hereinafter referred to as "Baseline Documentation," which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement. The Baseline Documentation is maintained in the offices of the Grantee and, by this reference, incorporated into and made a part of this Easement.

## ARTICLE III. RIGHTS GRANTED TO GRANTEE

To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

- A. The right to preserve and protect the conservation values of the Property.
- B. All future residential, commercial, industrial and incidental development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property except as may be specifically reserved to Grantor in this Easement. The parties agree that such rights are hereby terminated and extinguished and may not be used on or transferred to other property. Neither the Property nor any portion thereof may be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage, or open space requirements under applicable laws, rules, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise. Nor shall any development rights or density credits be transferred onto the Property from other property.
- C. The right to enter upon, over and across the Property to inspect it for the purpose of ensuring compliance with the terms and conditions of this Easement, so long as such entry does not interfere with the rights and uses of the Property retained by the Grantor, and provided that Grantee notifies Grantor at least seventy-two (72) hours before said inspection. Grantee shall provide Grantor with a written list of employees assigned to monitor and enforce the terms and conditions of this easement in accordance with this paragraph. Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.
- D. The right to prevent any activity on or use of the Property that is inconsistent with the purpose or provisions of this Easement and to require the restoration of or to restore such areas or features of the Property that may be damaged by any inconsistent activity or use by the Grantor, at Grantor's sole expense.
- E. The right to have the Property maintained in its natural, scenic, rural and open condition and any development or use that would impair or interfere with the conservation purposes

PERPETUAL CONSERVATION EASEMENT

SWF PARCEL 10-411-117S

of this Easement, subject to Grantor's reserved rights will be restricted. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted:

1. **Subdivision of the Property.** The Property shall not be subdivided. Any interest granted subsequent to this document shall be subject to this Easement.
2. **Construction.** Construction of more than two (2) single-family residential improvements, and associated driveways and other appurtenances is specifically prohibited.
3. **Dumping.** Except as otherwise specifically authorized herein, there shall be no dumping or placing of soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials or toxic substances, pollutants or contaminants, including, but not limited to, those as defined by the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901-6991, or the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601-9674, as amended by the Superfund Amendments and Reauthorization Act of 1986, or any Florida Statute defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, hereinafter collectively referred to as "Contaminants", on the Property. However, this provision shall not be construed to prevent the deposit of household, agricultural, or animal wastes generated on the Property.
4. **Mining.** There shall be no exploration for or extraction or removal of oil or gas, minerals, peat, muck, limestone, sand, loam, gravel, rock, soil or other material, except as reasonably necessary for the construction activities permitted in Article IV., subparagraph E.3, below.
5. **Agricultural Areas and Activities.** Grantor shall not use the Property for dairy, swine, poultry or feedlot operations, citrus production activity, commercial nursery operations including, without limitation, ornamentals or tree farms, or the planting of truck or row crops. Grass or forage crop production may be conducted in any altered area of the Property as established in the Baseline Documentation. Grantor shall not introduce or release non-indigenous species, including wild game animals, on the Property.
6. **Wetland/Cypress Harvesting.** There shall be no harvesting in wetlands and no live cypress shall be harvested at any time.
7. **Commercial and Industrial Use.** Commercial or industrial activity and ingress, egress or other passage across or upon the Property in connection with any commercial or industrial activity is prohibited on the Property, except those activities that are incidental to the exercise of Rights Reserved to Grantor described herein.
8. **Waters and Hydrology.** Activities that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation unless otherwise provided in this Easement. There shall be no dredging of new canals, construction of new dikes, manipulation of natural water courses, or disruption, alteration, pollution, depletion, or extraction on the Property of existing surface or subsurface water flow or natural water sources, fresh water lakes, ponds and pond shores, marshes, creeks or any other water bodies, nor any activities or uses conducted on the Property that would be detrimental to water quality or which could alter natural water level or flow in or over the Property, unless otherwise specifically provided for in

this Easement.

9. **Exotics.** There shall be no planting, cultivation or introduction of non-indigenous aquatic and terrestrial species, except for landscaping within each two (2) acre residential lot referenced in Article IV, subparagraph E.3. Grantor shall make all reasonable efforts to reduce or eliminate the occurrence of non-indigenous aquatic and terrestrial species to the extent practicable and economically feasible. Notwithstanding the foregoing, Grantor shall, at a minimum, conduct sufficient management and control to maintain non-indigenous aquatic and terrestrial species at the same or a lower percentage of cover as currently exists on the Property. For purposes of this Easement, commonly planted pasture and lawn grasses shall not be considered non-indigenous species.

10. **Pesticides/Herbicides/Fertilizers.** Chemicals used by Grantor, including fertilizers, pesticides and herbicides, shall only be applied in such amounts and with such frequency of application that constitute the minimum necessary to perform noxious weed control, habitat enhancement and restoration, timber management and agricultural and residential activities permitted under this Easement, and provided that such chemicals shall be applied by non-aerial means on the Property. The use of such chemicals shall be in compliance with the manufacturer's label instructions and all applicable local, state and federal laws, rules regulations, and guidelines and conducted in such a manner as to minimize adverse environmental effects on the Property. Grantor is prohibited from using biological weed and insect control agents without obtaining prior written approval from Grantee.

11. **Endangered Species.** Grantor shall take no action that will harm, as defined in the Endangered Species Act, 16 U.S.C. 1531 et. seq. and implementing regulations of the U.S. Fish and Wildlife Service, a threatened or endangered species identified on the then current list for threatened and endangered species adopted by the U.S. Fish and Wildlife Service at 50 C.F.R. 17.11, and 17.12; Rules 68A-27.003, 68A-27.004, adopted by the Florida Fish and Wildlife Conservation Commission; and Rule 5B-40.0055, adopted by the Florida Department of Agriculture and Consumer Services. Existing agricultural operations shall not be construed to result in a take of, or harm to threatened and endangered species as defined above.

12. **Archaeological, Cultural or Historic Sites.** Grantor shall take no action that will materially and negatively impact or damage any sites of archaeological, cultural, or historical significance, when any such sites have been specifically identified as such by any United States or State of Florida governmental entity, unless authorized or approved by the appropriate officials of the State of Florida having jurisdiction.

#### **ARTICLE IV. RIGHTS RESERVED TO GRANTOR**

Grantor reserves to itself, its personal representatives, heirs, successors and assigns, lessees, agents and licensees the following rights in perpetuity with regard to the Property:

A. **Right of Exclusive Use.** To perform any act not prohibited or restricted by this Easement, including without limitation, the right of exclusive use, possession and enjoyment of the Property, including all rights as fee owner of the Property to use the Property for all purposes not inconsistent with this Easement.

B. **Transfer of Rights.** To give, sell, assign, lease, mortgage or otherwise transfer the Property by operation of law, by deed, or by indenture, subject and subordinate to this Easement.

PERPETUAL CONSERVATION EASEMENT

SWF PARCEL 10-411-117S

C. **Silviculture.** Grantor shall have the right to conduct forestry operations, that include logging and associated activities, on the Property in accordance with the Florida Department of Agriculture and Consumer Services (FDACS) BMPs and subject to the conditions and restrictions set forth below.

1. **Harvesting in Natural Pine Uplands.** Selective pine harvesting by Grantor is restricted to the extent that after such pine harvesting, the remaining stand shall retain at a minimum approximately twenty-five (25) square feet of basal area per acre and the leave trees shall be chosen from the population of the dominant and the co-dominant. Grantee acknowledges that the activity of harvesting trees may coincidentally damage otherwise healthy, hardwood trees.

2. **Pine Plantation Harvesting.** Notwithstanding the prohibition against planting non-indigenous species set forth in subparagraph E.9, of Article III, any species of pine commonly planted in Florida for pine plantations and not otherwise prohibited by law may be harvested and replanted in upland areas in accordance with all applicable BMPs for pine plantations. Upon harvesting or clearing an area identified as a pine plantation in the Baseline Documentation Grantor may convert the area to improved pasture and, upon conversion, may subsequently convert pasture to pine plantation with prior notice to the Grantee, but such conversion shall not require the consent or approval of the Grantee.

3. **Limits on restrictions.** Nothing contained in this paragraph shall be construed as prohibiting Grantor from pruning and thinning trees in accordance with good forest management practice and forestry management plans prepared by a professional forester; removing trees that are damaged, diseased or dangerous; and removing exotic plants and noxious weeds.

D. **Agricultural Areas and Activities.** Notwithstanding the prohibitions in Article III subparagraph E.5, the Grantor may conduct Agricultural Activities including cattle and equine activities on the Property, provided such operations are conducted in accordance with all applicable BMPs. The number of animal units on the Property shall not exceed the acceptable number of animal units established by applicable BMPs for the native range of the Property. Existing ponds may be maintained for fishing and aquaculture activities in accordance with all applicable local, state and federal laws, rules, regulations, and guidelines and all applicable BMPs. Grass and forage crop production may be conducted in areas of improved pasture as established by the Baseline Documentation. Harvesting of sod may only take place in connection with pasture renovation and may not be more frequently than once every seven years. Lands that are natural lands shall remain natural lands. Grantor and Grantee intend for the Property to remain in its natural state except as otherwise provided herein.

E. **Construction.** Except as otherwise specifically provided herein, there shall be no construction of or the placing of temporary or permanent buildings, mobile homes, roads, signs, billboards or other advertising, or other structures on or above the ground. Grantor shall have the right to:

1. Maintain any and all existing roads, fences, ponds and drainage ditches in a usable condition without the consent of Grantee in accordance with all applicable local, state and federal laws, rules, regulations and guidelines and all applicable BMPs, without the consent of the Grantee.

2. Construct, maintain and repair barns, signs, roads, fences or other structures or buildings (and all utilities required to support such) necessary for agriculture activities not prohibited by this Easement in accordance with all applicable local, state and federal laws, rules, regulations and guidelines and all applicable BMPs.

3. Construct, maintain and repair two (2) future single-family residential improvements and associated appurtenances such as driveways in upland areas. A single driveway for access to each residence, not to exceed 20 feet in width may be constructed on the Property. Each residential site, including the area necessary for each residence, infrastructure and utilities, shall not exceed two (2) acres. Linear utilities and access roads to the residential improvements may extend beyond the one (1) acre limitation as necessary. The exact location of future single-family residential improvement sites and driveways shall be surveyed by Grantors and delivered to Grantee with a written notice of intended development prior to undertaking any construction activities.

4. Place signs, the number and design of which do not significantly diminish the scenic character of the Property, to state the name and address of the persons living on the Property, to advertise the Property for sale or to post the Property to control unauthorized entry or use.

5. Place an unlimited number of portable tree stands and hunting platforms on the Property.

**F. Hunting and Fishing.** Grantor reserves, and shall continue to own, the hunting and fishing rights on, or related to, the Property and Grantor may lease such rights with prior notice to the Grantee, but such lease shall not require the consent or approval of the Grantee. Grantor shall not use nor allow others to use any portion of the Property as a shooting range or target area other than what is reasonable for personal use by the Grantor.

Grantor may establish up to 5 food plots, each not to exceed 3 acres in size, for the purpose of attracting game. Food plots may only occur on areas of the Property identified as "altered" in the Baseline Documentation and may not be installed within natural communities. Food plots must be at least 25 yards from wetlands. Food plots may not contain species considered to be invasive as determined by the most recent version of the Florida Exotic Pest Plant Council's Invasive Plant List.

**G. Water.** To take action necessary to preserve water levels, to preserve the natural purity of the water, or to prevent the erosion of any slope or shoreline on the Property, in accordance with all applicable local, state and federal laws, rules, regulations, and guidelines and all applicable BMPs. Other restrictions notwithstanding, Grantor may install groundwater wells sufficient to conduct the rights reserved under Article IV of this easement in accordance with all applicable local, state, and federal laws, rules, regulations, and guidelines and all applicable Best Management Practices (BMPs).

**H. Emergency Action.** Grantor may take emergency action to preserve and protect Grantor's rights herein in response to natural disaster, environmental hazards or threats to human safety.

**I. Firelines and Burning.** Grantor may install firelines to protect the Property and to conduct controlled burning in accordance with all applicable local, state and federal laws, rules, regulations, and guidelines and all applicable BMPs.

## ARTICLE V. MISCELLANEOUS TERMS

A. **Ad Valorem Taxes.** Grantor agrees to make timely payment of all ad valorem taxes on the Property. Grantor shall provide Grantee written proof of payment of taxes on the Property upon request.

B. **Indemnification.** Grantor shall indemnify, defend and hold Grantee and all Grantee's agents, employees and officers harmless from and against any and all liabilities, loss, damages, expenses, judgments or claims, either at law or in equity including claims for attorneys' fees and costs and attorneys' fees and costs on appeal, caused or incurred, in whole or in part as a result of any action or activity of the Grantor, its agents, employees, subcontractors, assigns, heirs and invitees as a result of the use and ownership of, or activities on the Property. The Grantee shall be responsible for any negligent or willful action or activity by the Grantee while on the Property. This provision does not constitute a waiver of Grantee's sovereign immunity under Section 768.28, F.S., or extend Grantee's liability beyond the limits established in Section 768.28, F.S.

C. **Public Access.** Grantee shall not have any right to allow the general public on the Property at any time without the prior written consent of Grantor in Grantor's sole discretion.

D. **Notice of Violation.** In the event of violation of any of the terms and conditions hereof, Grantor or Grantee shall give written notice to the other party, which shall have the right to cease or to cure the violation without penalty. If the party in violation does not cease or cure the violation within thirty (30) days after receipt of written notice from the other party, the terms and conditions hereof may be enforced by Grantor or by Grantee by suit for injunctive relief or for other appropriate remedy in equity or at law. Venue for such suit shall be in the Circuit Court in and for Hernando County, Florida. In the event of such suit, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs of suit, including on appeal. As a condition precedent for filing of any lawsuit, the parties shall perform the mediation process immediately stated below.

E. **Notices.** Any notice, demand or request which may be or is required or to be given under this Easement shall be delivered in person or sent by United States Certified Mail, postage prepaid, return receipt requested, and shall be addressed to Grantor or to Grantee's Land Resources Department at the addresses first set forth above.

F. **No Waiver.** No waiver of any provision of this Easement shall be effective unless it is in writing signed by the party against whom it is asserted, and any such waiver shall only be applicable to the specific incident to which it relates and shall not be deemed to be a continuing or future waiver.

G. **Severability.** A determination that any provision of this Easement is invalid or unenforceable shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Easement to any person or circumstances is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other person or circumstances.

H. **Entire Agreement.** This Easement, together with the all documents attached or otherwise incorporated herein, constitutes the entire understanding and agreement between the parties and shall not be changed, altered, or modified, except by an instrument in writing, signed by the Grantor and Grantee. If any terms or provisions of this Easement are determined by

competent judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or shall be construed or deleted as such authority determines, and the remainder of this Easement shall be construed as being in full force and effect. The terms and conditions hereof may be modified only by mutual agreement in writing by the Grantor and Grantee.

I. **Condemnation.** If all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full fair market value of the interests in the Property subject to the taking and all incidental or direct damages resulting from the taking, without regard to any diminution in value attributable to the Easement. Prior to the payment of any expenses reasonably incurred by the Parties to this Easement in connection with such taking, Grantee shall be entitled to its proportionate share from the recovered proceeds. The respective rights of Grantor and Grantee set forth in this Paragraph shall be in addition to, and not in limitation of, any rights they may have at common law. All such proceeds used by Grantee shall be used by Grantee in a manner consistent with the Conservation Purposes of this Easement as of the effective date of this grant.

J. **Definitions.** For the purpose of this Easement, the following definitions shall apply:

1. "Improved Pasture" shall be considered grazing lands of introduced species or domesticated native forage species that receive periodic renovation and cultural treatments such as tillage, fertilization, mowing or weed control and for the purposes of this Easement, identified in the Baseline Documentation as improved pasture.

2. "Native Range" shall be considered land on which the existing vegetation, whether growing naturally or through management, is suitable for grazing and browsing of domestic livestock at least part of the year. Native range includes any natural grasslands, savannas, shrub-lands, woodlands and wetlands which support a vegetative cover of native grasses, grass-like plants, forbs, shrubs or other natural species and for the purposes of this Easement, as identified in the Baseline Documentation as native range.

3. "Best Management Practices" (BMPs) as referenced throughout this document are considered to include those generally accepted practices currently approved (subject to future change) by FDACS in conjunction with any or all of the following:

4. "Commercial" as referenced in this document shall mean an activity conducted for market with the sole or chief emphasis on salability, profit, or success of the venture as a business solely with the intent of producing a product for sale other than an activity incidental to the production of livestock or other activity specifically allowed in Article IV.

United States Department of Agriculture, Natural Resources Conservation Service (NRCS)

United States Fish and Wildlife Service

Florida Department of Agriculture and Consumer Services (FDACS) Florida Fish and Wildlife Conservation Commission

Florida Forest Stewardship Program

University of Florida Institute of Food and Agricultural Sciences (IFAS) Florida

Cattleman's Association

**In Witness Whereof**, the parties or their lawful representatives of the parties hereto have caused this Easement to be executed the day and year first above written.

**GRANTOR:**

By: \_\_\_\_\_

\_\_\_\_\_  
Signature of Witness #1

\_\_\_\_\_  
(Name),

\_\_\_\_\_  
(Typed/Printed Name of Witness #1)

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
(Name),

\_\_\_\_\_  
(Typed/Printed Name of Witness #2)

**Exhibit 3  
Green Swamp Wilderness Preserve West Tract  
SWF Parcel No. 10-411-117S (Surplus ID GSW-3)**

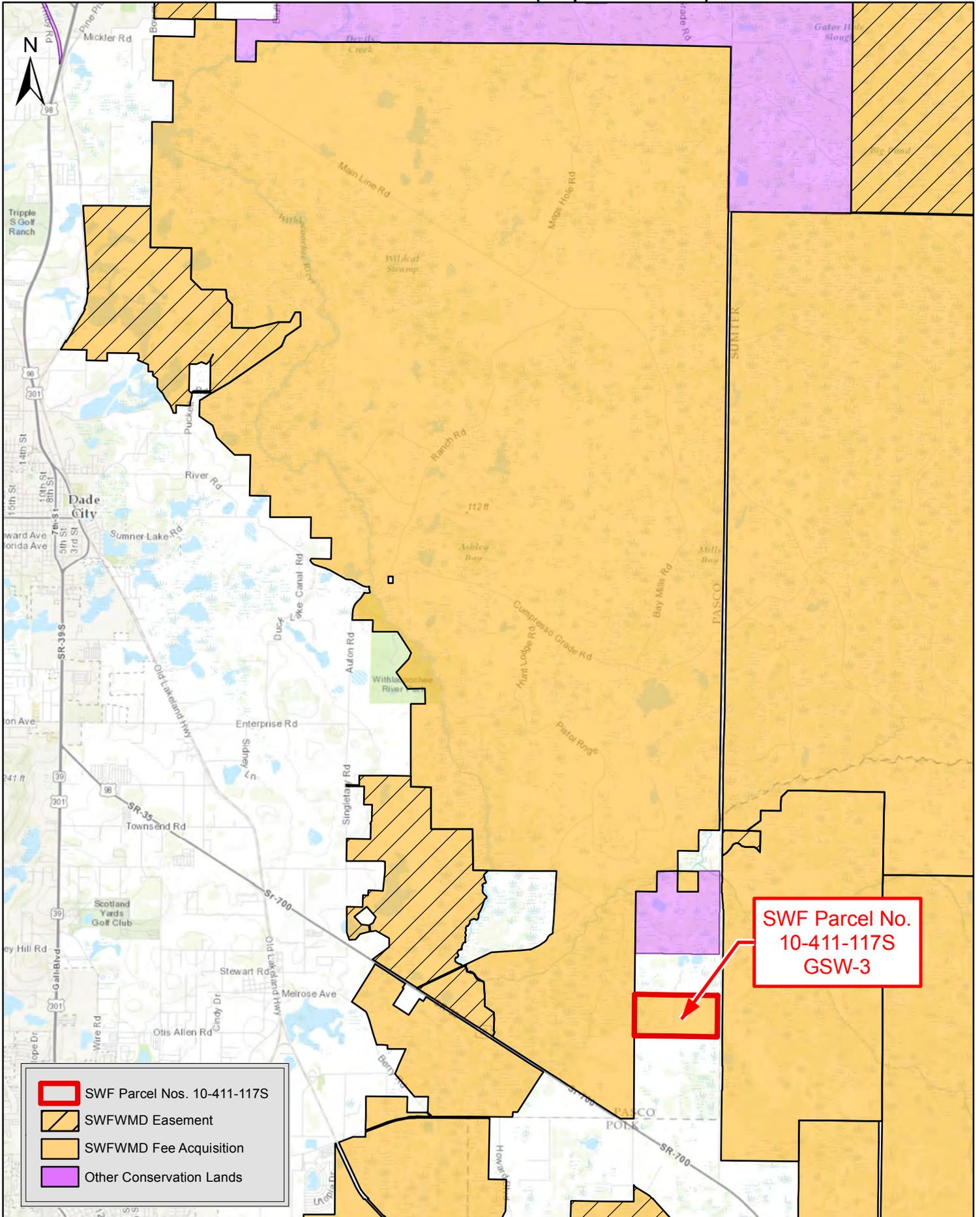
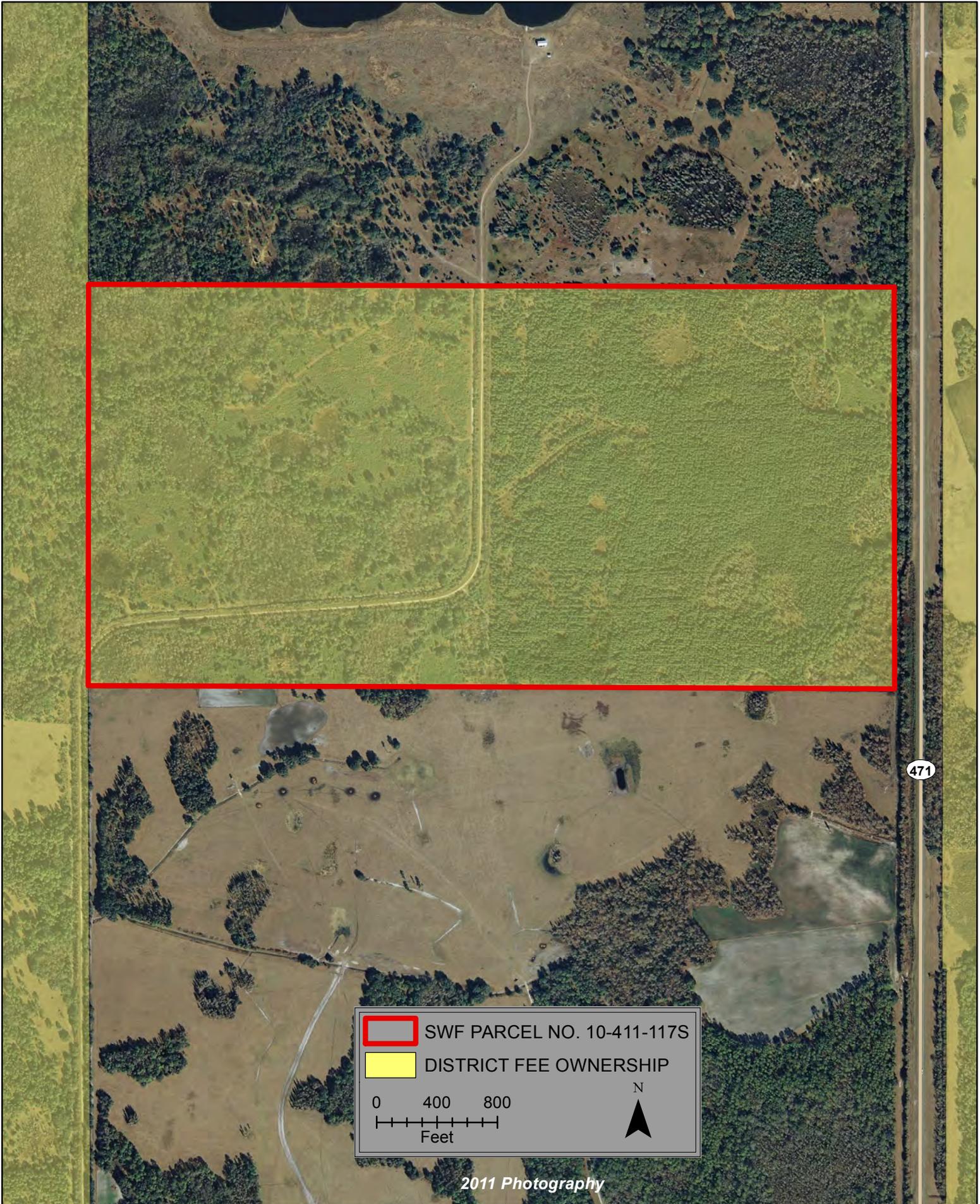


Exhibit 4  
GREEN SWAMP WILDERNESS PRESERVE WEST TRACT  
SWF PARCEL NO. 10-411-117S (SURPLUS ID GSW-3)



 SWF PARCEL NO. 10-411-117S

 DISTRICT FEE OWNERSHIP

0 400 800  
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Feet

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2011 Photography

EXHIBIT 5

ENCUMBERED SALES TABULATION GRID - GSW 3					
DESCRIPTION	Subject	Sale 6	Sale 7	Sale 8	Sale 9
Type of Sale	Encumbered	Encumbered	Encumbered	Encumbered	Encumbered
Easement Holder	SWFWMD	SWFWMD	SWFWMD	SJRWMD	SWFWMD
County	Pasco	Polk	Polk	Volusia	Polk
Date of Sale	N/A	3/18/2016	6/9/2015	4/14/2015	9/5/2014
Record Book	N/A	9773/1865	9549/0848	2063/0472	9335/0786
Buyer	N/A	DC Farms LLC	Grimes Cattle Co.	E.B. Conoley	M. T. Cattle Co
Sale Price Paid		\$ 1,340,000	\$ 5,222,000	\$ 1,200,000	\$ 3,200,000
Gross Acreage	326.34	390	2088.80	584.54	1,152.20
Price/Acre		\$ 3,436	\$ 2,500	\$ 2,053	\$ 2,777
Percent Uplands	77%	80%	74%	69%	60%
Subdivision of Tract	No	No Restrictions	No	One time	No Restrictions
Entitlements	2	0	0	2	4
Agriculture	Cattle/Timber	Cattle/Siliculture	Most Uses	Cattle	Most Uses
Siliviculture	Permitted but no cypress	No Restrictions			
Hunting	Permitted	Permitted	Permitted	Permitted	Permitted
Encumbered Only					

ENCUMBERED SALES ANALYSIS CHART				
Description	Sale 6	Sale 7	Sale 8	Sale 9
Date of Sale	3/18/2016	6/9/2015	4/14/2015	9/5/2014
County	Polk	Polk	Volusia	Polk
Price Paid	\$ 1,340,000	\$ 5,222,000	\$ 1,200,000	\$ -
Acres Purchased	390.00	2,088.80	584.54	1,152.20
Price/Acre Paid	\$ 3,436	\$ 2,500	\$ 2,053	\$ 2,777
<b>Factors Considered</b>				
Date of Sale	=	=	=	=
Financing	=	=	=	=
Motivation	+	+	=	=
<b>Location</b>				
Location	=	=	-	-
Access	+	=	=	=
Lake Influence	=	=	+	=
Carry Capacity	+	+	=	+
Entitlements	=	-	=	+
Improvements	+	=	=	+
Hunting	=	=	=	=
Size	=	-	-	-
Timber	-	-	=	=
<b>Comparability</b>				
Comparability	Superior	Superior Encumbered	Inferior	Superior