

**Lee County Board Of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20070571

**1. ACTION REQUESTED/PURPOSE:** Adopt a resolution consenting to the East County Water Control District's Exercise of its Special Power under Laws of Florida Chapter 2000-423 to develop and operate the Jim Fleming Ecological Park (a/k/a Eco Park).

**2. FUNDING SOURCE:** No County Funds Needed

**3. WHAT ACTION ACCOMPLISHES:** It provides East County Water Control District with the local government consent required under Laws of Florida Chapter 2000-423, Section 3, Subsection 7(2) as a precursor to the Exercise of its Special Power to develop, operate, construct and maintain Eco Park which has been renamed to the Jim Fleming Ecological Park.

**4. MANAGEMENT RECOMMENDATION:** Approve

**5. Departmental Category:** 04

**CAB**

**6. Meeting Date:** April 24, 2007

**7. Agenda:**

- Consent
- Administrative
- Appeals
- Public
- Walk-On

**8. Requirement/Purpose:** (specify)

- Statute
- Ordinance
- Admin. Code
- Other

Fl. Law

**9. Request Initiated:**

Commissioner NA  
 Department Community Development  
 Division Planning

By: Paul O'Connor, Director of Planning

POC 4/5/07

**10. Background:** East County Water Control District is an independent special unit of local government created by the Florida Legislature in 1963. The controlling legislation pertaining to the District is set forth in Laws of Florida, Chapter 2000-423. This legislation provides the District with the power and authority to development, construct, operate, and maintain certain parks with the prior consent of the Lee County Board of County Commissioners.

Specifically the legislation states:

**Section 7. Public improvement in community facilities.** In addition to the powers provided in chapter 298, Florida Statutes, the District shall have, and the Board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

**11. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P. W. Director
					Analyst	Risk	Grants	Mgr.	
<i>Mary Gibbs</i>	NA	NA	NA	<i>David 4-4-07</i>	<i>4/6/07</i>	<i>4/6/07</i>	<i>4/6/07</i>	<i>4/6/07</i>	<i>4-6-07</i>

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: <i>TD</i>
<i>4-8-07</i>
COUNTY ADMIN FORWARDED TO: <i>JK</i>
<i>4-6-07</i>
<i>1007</i>

Rec. by CoAtty
Date: <i>4/5/07</i>
Time: <i>1:20pm</i>
Forwarded To: <i>County Admin</i>
<i>4/5/07 1:25 pm</i>

**(2) Recreational, cultural, and educational. After the Board has obtained the consent of the local general purpose government within the jurisdiction of which the specified power is to be exercised, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and**

**Prior to the District having the powers described in subsection (2), the additional power granted to the District must receive approval by a majority vote of the qualified electors of the District voting in a referendum election to be called by the District at the next general election, with the exception of the following three parks:**

- (a) Lake Camille Park**
- (b) Williams Park**
- (c) Eco Park.**

**A petition in support of the exercise of this special power regarding Eco Park was filed on March 12, 2007. County staff has reviewed the petition and prepared the attached report in support of the Board's consent to the exercise of the requested special power.**

**Also attached is a proposed resolution evidencing the Board's consent to the exercise of the power and authority by the East County Water Control District to develop, operate, construct, and maintain Jim Fleming Ecological Park.**

**Staff recommends adoption of the proposed resolution.**

**Attachments:**

- 1. East County Water Control District Petition**
- 2. Staff Report**
- 3. Draft proposed resolution**



## East County Water Control District

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March 5, 2007

Mr. Paul O'Connor, Director  
Division of Planning  
Lee County Department of Community Development  
1500 Monroe Street  
Fort Myers, Florida

**RECEIVED**  
MAR 12 2007

COMMUNITY DEVELOPMENT

Re: **Petition Requesting Lee County Consent to the Exercise by East County Water Control District of Its Special Power to Plan, Develop, Operate and Maintain the Jim Fleming Ecological Park, Pursuant to Chapter 2000-423, Section 3, Subsection 7(2), Laws Of Florida and Other Applicable Law**

Dear Mr. O'Connor:

The East County Water Control District (the "District") respectfully requests the consent of the Board of County Commissioners of Lee County, Florida, to exercise the Special Power conferred upon the District by Chapter 2000-423, Section 3, Subsection 7(2), Laws of Florida, a copy of which is attached hereto as **Exhibit "A"**.

The District is an independent special district of the State of Florida established in accordance with Chapter 2000-423, Laws of Florida (the "District Charter") and the applicable provisions of Chapters 189, 197 and 298, Florida Statutes (the "Statutes") (collectively, the District Charter and the Statutes comprise the District's "Authorizing Legislation"). Section 3, Subsection 7(2) of the District Charter provides that the District may exercise the Special Power to "plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreation, cultural and educational uses", subject to the consent of the local general purpose government within the jurisdiction of which the Special Power is to be exercised.

The District intends to develop and subsequently operate the Jim Fleming Ecological Park (formerly referred to as "Eco Park"), a location map and conceptual site plan for which are attached hereto as **Exhibits "B" and "C"**, respectively, for your reference. The Jim Fleming Ecological Park was one of three future park facilities the development and operation of which by the District was expressly contemplated by the Florida Legislature when it adopted the District Charter. Because the Jim Fleming Ecological Park is located with the unincorporated, Lee County constitutes the appropriate local general purpose government, the consent of which was required by the Legislature before the District can exercise its Special Power.

The requested Special Power is not inconsistent with and its exercise will be subject to the Lee County Comprehensive Plan, Lee County land development regulations and other local laws. The Jim Fleming Ecological Park will be a public facility established and operated for the benefit of the District's residents and taxpayers without cost or recourse to Lee County. Development of the Jim Fleming Ecological Park by the District has been reviewed and endorsed by the Lehigh Acres Community Planning Corporation, Inc.

For your convenience, I enclose a proposed Resolution of the Board of County Commissioners of Lee County (**Exhibit "D"**) that satisfies the consent requirements of the District's Authorizing Legislation. The County's consent will apply only to the District's development of the Jim Fleming Ecological Park. The proposed Resolution has been reviewed and approved as to form by the Lee County Attorney's Office. We are advised that this matter may, at the County Commission's discretion, be handled as a "consent" item.

District staff will be available to answer any questions you may have regarding this worthwhile project. We respectfully request that the County's approval be scheduled for the earliest possible available agenda. The District has applied for land development and other County permits, approval of which are pending. Further development activities cannot take place until County Commission's consent is received.

Thank you for your assistance in this matter.

Sincerely yours,

  
David Lindsay  
District Manager

Enclosures

cc. Board of Supervisors, ECWCD  
Mary M. Viator, District Legal Counsel  
Dawn E. Perry-Lehnert, Esq., Assistant County Attorney

EXTRACT OF DISTRICT CHARTER

ENROLLED  
2000 FLORIDA LEGISLATURE  
CHAPTER 2000-423, LAWS OF FLORIDA  
HB 1509, FIRST ENGROSSED

AN ACT RELATING TO THE EAST COUNTY WATER  
CONTROL DISTRICT IN HENDRY AND LEE COUNTIES;  
PROVIDING FOR CODIFICATION OF SPECIAL LAWS  
RELATING TO THE EAST COUNTY WATER CONTROL  
DISTRICT, [ETC.]

Be It Enacted by the Legislature of the State of Florida:

**Section 3.** The East County Water Control District is re-created and the charter for said district is re-created and reenacted to read:

.....  
**"Section 7. Public improvements and community facilities.**—In addition to the powers provided in chapter 298, Florida Statutes, the District shall have, and the Board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) **Conservation, mitigation, and wildlife habitat.**—The power to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructure for conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property;

(2) **Recreational, cultural, and educational.**—After the Board has obtained the consent of the local general purpose government within the jurisdiction of which the specified power is to be exercised, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and

(3) **Navigational and boating facilities.**—The power to construct and maintain navigational and boating facilities in its canals, including, but not limited to, locks and dams, to widen and deepen its canals, to make them usable for navigation and boating, and to regulate in all respects the use of its canals for navigation and boating, including, but not limited to, the size of boats, their speed and hours of use.

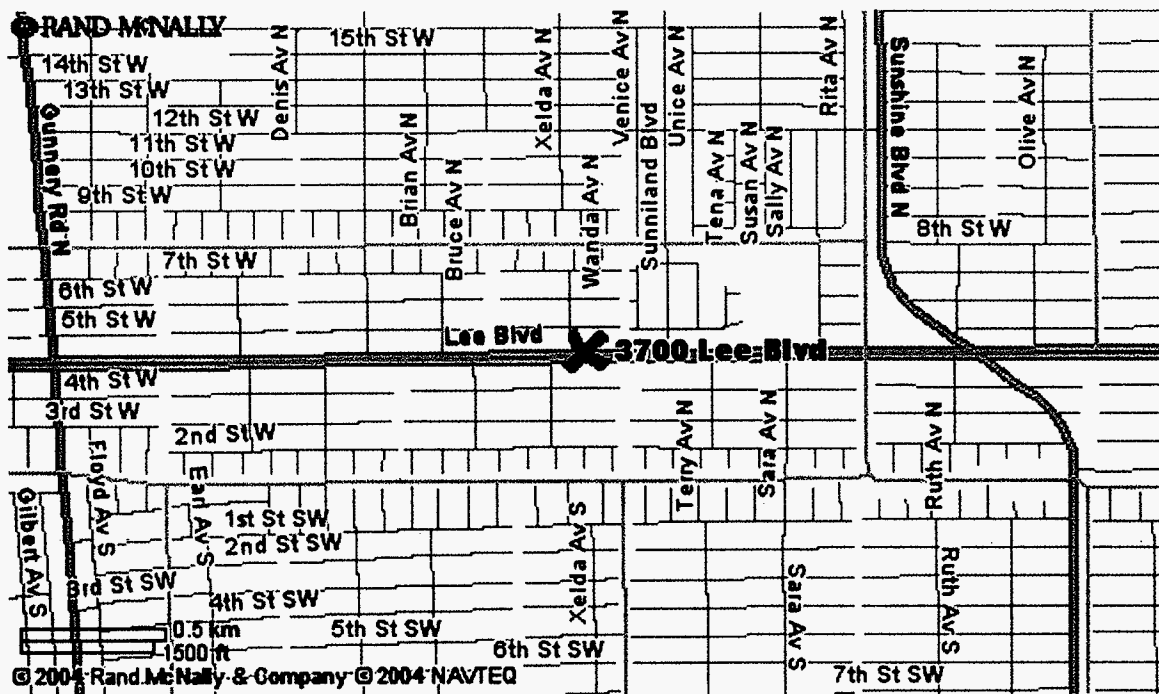
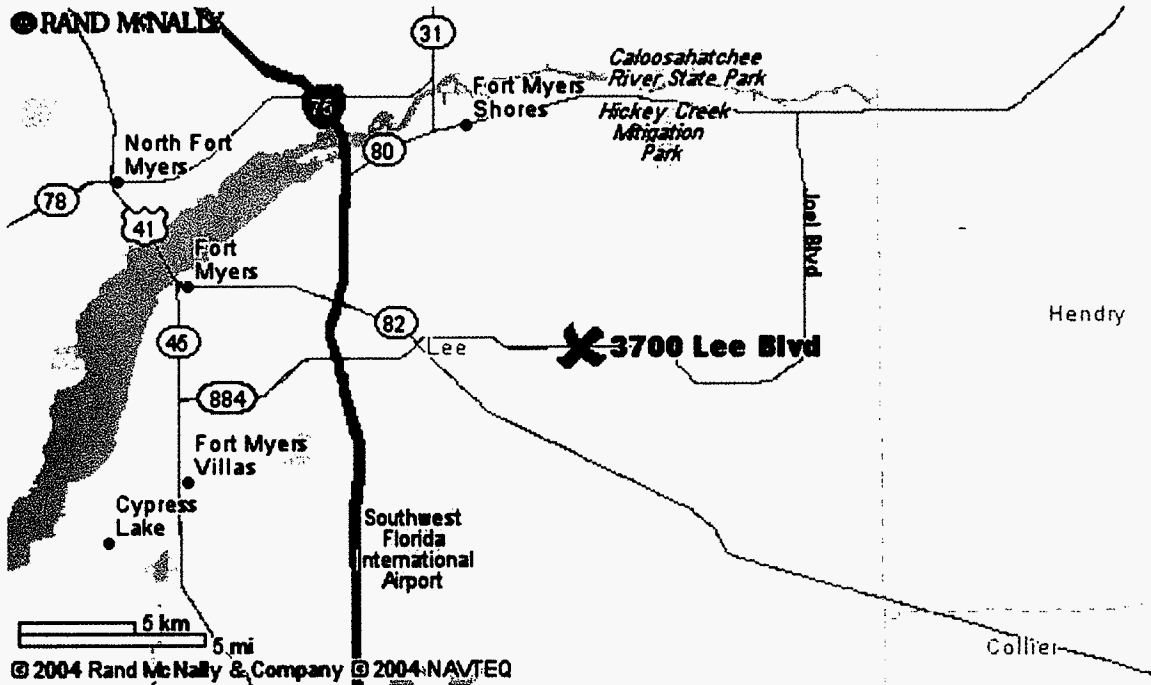
Prior to the District having the powers described in subsection (2), the additional power granted to the District must receive approval by a majority vote of the qualified electors of the district voting in a referendum election to be called by the District at the next general election, with the exception of the following three parks:

- (a) Lake Camille Park
- (b) Williams Park
- (c) Eco Park."

**EXHIBIT "B"**

**JIM FLEMING ECOLOGICAL PARK – LOCATION MAP**

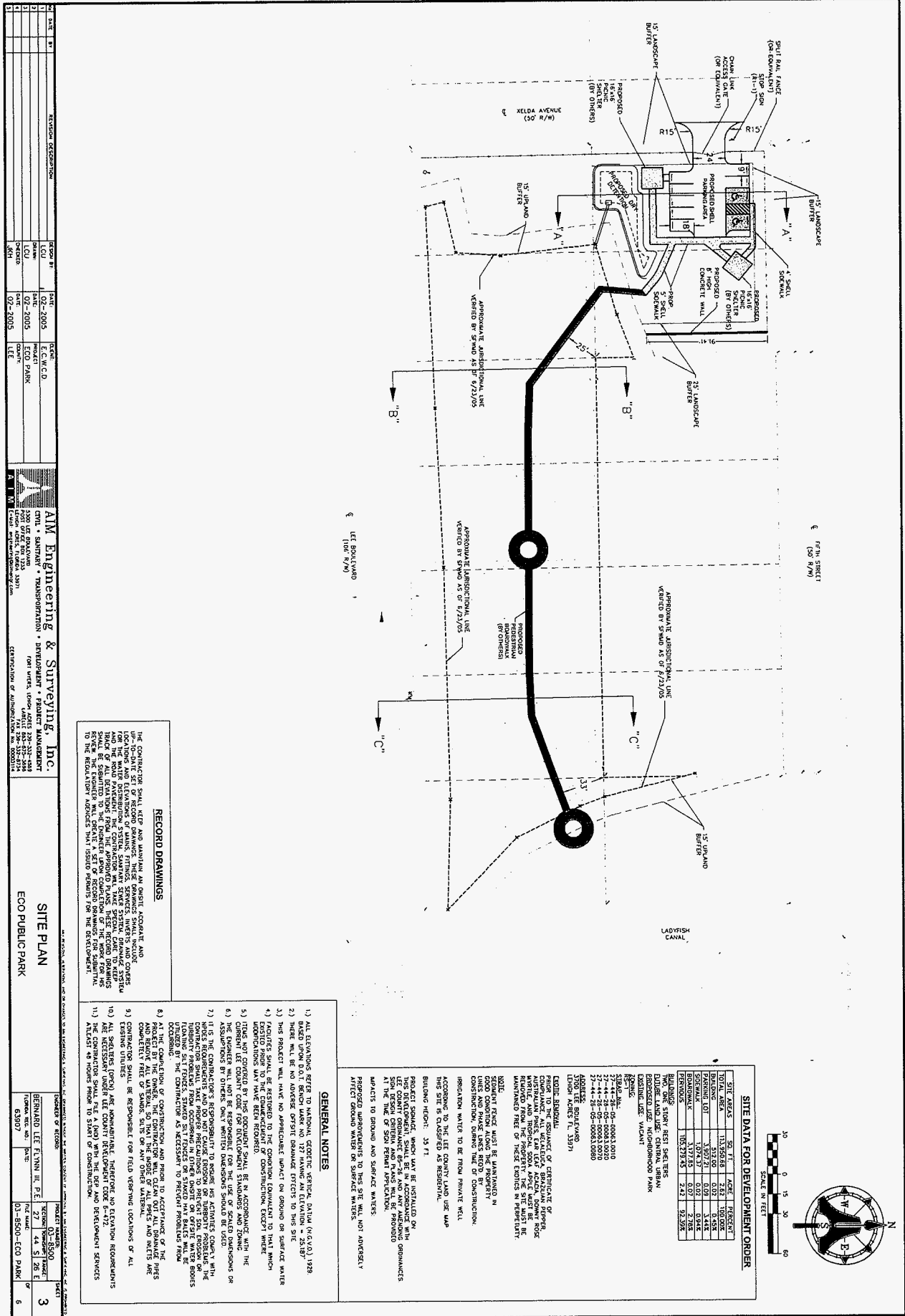
# Location Maps for Eco Public Park



**EXHIBIT "C"**

**JIM FLEMING ECOLOGICAL PARK -- CONCEPTUAL SITE PLAN**





DATE	REVISED DESCRIPTION	BY	DATE	DESCRIPTION
02-2005	ECO PARK	ECWCD	02-2005	ECO PARK
02-2005	ECO PARK	ECWCD	02-2005	ECO PARK
02-2005	ECO PARK	ECWCD	02-2005	ECO PARK

**AM Engineering & Surveying, Inc.**  
 CIVIL, SURVEYING, TRANSPORTATION, ENVIRONMENTAL, PLANNING, DESIGN, CONSTRUCTION, AND ASSESSMENT SERVICES  
 1001 W. 10th Street, Suite 200, Lincoln, NE 68502  
 Phone: (402) 441-2222  
 Fax: (402) 441-2222  
 Email: info@am-engineering.com

**RECORD DRAWINGS**  
 THE CONTRACTOR SHALL KEEP AND MAINTAIN AN ACCURATE RECORD OF ALL LOCATIONS AND ELEVATIONS OF LINES, FINISHES, SERVICES, UTILITIES AND COVERS, AND THE ROADWAY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE RECORD DRAWINGS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE RECORD DRAWINGS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE RECORD DRAWINGS.

**GENERAL NOTES**  
 1.) ALL ELEVATIONS REFER TO NATIONAL GEODETIC SERVICE DATUM (N.G.A.D.), 1928  
 2.) BASED FROM D.O.T. BENCH MARK NO. 137 HAVING AN ELEVATION = 25.817'  
 3.) THESE SHALL BE AND ADHERE TO THE COUNTY ENGINEER'S OFFICE RECORD DRAWINGS.  
 4.) THIS PROJECT WILL HAVE NO SURFACE WATER DRAINAGE TO SURFACE WATER.  
 5.) THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE RECORD DRAWINGS.  
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**EXHIBIT "D"**

**PROPOSED COUNTY COMMISSION CONSENT RESOLUTION**

LEE COUNTY RESOLUTION NO. 07-\*\*\*\*

**A RESOLUTION APPROVING THE EXERCISE BY THE EAST COUNTY WATER CONTROL DISTRICT OF THOSE SPECIAL POWERS SET FORTH IN CHAPTER 2000-423, SECTION 3, SUBSECTION 7(2), LAWS OF FLORIDA, RELATING TO THE PLANNING, DEVELOPMENT AND SUBSEQUENT OPERATION OF THE “JIM FLEMING ECOLOGICAL PARK” BY THE DISTRICT; AND PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, The East County Water Control District is an independent special district of the State of Florida established in accordance with Chapter 2000-423, Laws of Florida (the “District Charter”) and the applicable provisions of Chapters 189, 197 and 298, Florida Statutes (the “Statutes”) (collectively, the District Charter and the Statutes comprise the District’s “Authorizing Legislation”); and

**WHEREAS**, The District Charter, Section 3, Subsection 7(2) provides the District may exercise the special power to “plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreation, cultural and educational uses”, subject to the consent of the local general purpose government within the jurisdiction of which the special power is to be exercised; and

**WHEREAS**, The District intends to develop and subsequently operate the Jim Fleming Ecological Park (formerly referred to as “Eco Park”), a conceptual site plan for which is attached hereto as **Exhibit “A”** for locational reference purposes only, as a public facility for the benefit of its residents and taxpayers without cost or recourse to Lee County; and

**WHEREAS**, development and operation of the Jim Fleming Ecological Park by the District was expressly contemplated by the Florida Legislature in adopting the District Charter; and

**WHEREAS**, the Jim Fleming Ecological Park is located with the unincorporated area of Lee County, Florida; and

**WHEREAS**, Lee County therefore constitutes the appropriate local general purpose government, the consent of which is required by the District Charter before the District may exercise its special power to develop and subsequently operate the Jim Fleming Ecological

Delete  
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Park; and

**WHEREAS**, the requested special power is not inconsistent with and its exercise shall be subject to the Lee County Comprehensive Land Use Plan and Lee County land development regulations.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:**

**SECTION ONE: RESOLUTION AUTHORITY**

This Resolution is adopted in accordance with Chapter 2000-423, Laws of Florida, and other applicable provisions of law governing Lee County Resolutions.

**SECTION TWO: CONSENT TO EXERCISE OF POWER BY THE DISTRICT**

The Board of County Commissioners of Lee County, Florida, hereby consent to and authorize East County Water Control District to exercise the special power set forth in the District's Charter, Section 3, Subsection 7(2) and the District's Authorizing Legislation to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreation, cultural and educational uses in the Jim Fleming Ecological Park, without limitation and without cost or recourse to Lee County.

**SECTION THREE: CONFLICT AND SEVERABILITY**

In the event this Resolution conflicts with any Lee County ordinance or other applicable law, the more restrictive will apply. If any phase or portion of this Resolution is held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion.

**SECTION FOUR: EFFECTIVE DATE**

This Resolution becomes effective immediately upon passage.

**DRAFT 01-25-07**

Commissioner \_\_\_\_\_ made a motion to adopt the foregoing ordinance, seconded by Commissioner \_\_\_\_\_. The vote was as follows:

Robert P. Janes	_____
Brian Bigelo	_____
Ray Judah	_____
Tammara Hall	_____
Frank Mann	_____

**DULY PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.**

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Tammara Hall  
Chair

APPROVED AS TO FORM:

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

Assistant County Attorney  
Office of the County Attorney

Delete  
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**DRAFT 01-25-07**

**EXHIBIT "A"**

**CONCEPTUAL SITE PLAN FOR ECO PARK**

**Delete  
re Eco**

**ANALYSIS OF THE EAST COUNTY WATER CONTROL DISTRICT PETITION TO EXERCISE ITS SPECIAL POWER TO PLAN, DEVELOP, OPERATE AND MAINTAIN THE JIM FLEMING ECOLOGICAL PARK**

**Prepared for  
Board of County Commissioners  
by  
Lee County Division of Planning  
March 23, 2007**

The East County Water Control District was originally created by decree of the circuit court in and for the twelfth (12<sup>th</sup>) judicial circuit, Lee County, on May 5, 1958. The East County Water Control District was ratified, confirmed and approved by an act of the Florida Legislature in 1963 where the East County Water Control was declared to exist as an independent special district. This act has been codified into Chapter 2000-423, Laws of Florida.

The East County Water Control District, hereafter called "District", is a "political sub-division of the State of Florida" and has its offices located at 601 East County Lane, Lehigh Acres, Florida, 33936. The District includes land in both Lee County and Hendry County, Florida and encompasses over 63,000 acres.

The District has requested that the Lee County Board of County Commissioners adopt a Resolution consenting to and authorizing the exercise of certain special powers. A petition to consent to the exercise its special power to plan, develop, operate and maintain the Jim Fleming Ecological park was received by Lee County from the District on March 12, 2007. Lee County Planning staff has reviewed the petition and finds it to be sufficient.

In accordance with Chapter 2000-423, Section 3, Subsection 7(2) of the District's authorizing legislation, the District has the special power to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreation, cultural and education uses. Prior to the District exercising these special powers, the consent of the local general purpose government must be obtained.

The District's request for consent by the County to exercise these special powers is not inconsistent with, and will always be subject to, the Lee County Comprehensive Plan and all of the County's related land development regulations.

Planning staff recommends that the Lee County Board of County Commissioners adopt a resolution consenting to the District's special power to plan, develop, operate and maintain the Jim Fleming Ecological Park as authorized by Chapter 2000-423, Laws of Florida.

**LEE COUNTY RESOLUTION NO. 07-**

**A RESOLUTION CONSENTING TO THE EXERCISE BY THE EAST COUNTY WATER CONTROL DISTRICT OF THOSE SPECIAL POWERS SET FORTH IN CHAPTER 2000-423, SECTION 3, SUBSECTION 7(2), LAWS OF FLORIDA, RELATING TO THE PLANNING, DEVELOPMENT AND SUBSEQUENT OPERATION OF THE "JIM FLEMING ECOLOGICAL PARK" BY THE DISTRICT; AND PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, The East County Water Control District is an independent special district of the State of Florida established in accordance with Chapter 2000-423, Laws of Florida (the "District Charter") and the applicable provisions of Chapters 189, 197 and 298, Florida Statutes (the "Statutes") (collectively, the District Charter and the Statutes comprise the District's "Authorizing Legislation"); and

**WHEREAS**, The District Charter, Section 3, Subsection 7(2) provides the District may exercise the special power to "plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreation, cultural and educational uses", subject to the consent of the local general purpose government within the jurisdiction of which the special power is to be exercised; and

**WHEREAS**, The District intends to develop and subsequently operate the Jim Fleming Ecological Park (formerly referred to as "Eco Park"), a conceptual site plan for which is attached hereto as Exhibit "A" for locational reference purposes only, as a public facility for the benefit of its residents and taxpayers without cost or recourse to Lee County; and

**WHEREAS**, development and operation of the Jim Fleming Ecological Park by the District was expressly contemplated by the Florida Legislature in adopting the District Charter; and

**WHEREAS**, the Jim Fleming Ecological Park is located with the unincorporated area of Lee County, Florida; and

**WHEREAS**, Lee County is the appropriate local general purpose government required to consent to the District's exercise its special power to develop and subsequently operate the Jim Fleming Ecological Park; and

**WHEREAS**, exercise of the requested special power is not inconsistent with and will be subject to the Lee County Comprehensive Land Use Plan and Lee County land



development regulations.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:**

**SECTION ONE: RESOLUTION AUTHORITY**

This Resolution is adopted in accordance with Chapter 2000-423, Laws of Florida, and other applicable provisions of law governing Lee County Resolutions.

**SECTION TWO: CONSENT TO EXERCISE OF POWER BY THE DISTRICT**

The Board of County Commissioners of Lee County, Florida, hereby consent to and authorize East County Water Control District to exercise the special power set forth in the District's Charter, Section 3, Subsection 7(2) and the District's Authorizing Legislation to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreation, cultural and educational uses in the Jim Fleming Ecological Park as depicted on attached Exhibit A, without limitation and without cost or recourse to Lee County.

Development of the Jim Fleming Ecological Park must be in compliance with applicable Lee County land development regulations.

**SECTION THREE: CONFLICT AND SEVERABILITY**

In the event this Resolution conflicts with any Lee County ordinance or other applicable law, the more restrictive will apply. If any phase or portion of this Resolution is held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion.

**SECTION FOUR: EFFECTIVE DATE**

This Resolution becomes effective immediately upon passage.

Commissioner \_\_\_\_\_ made a motion to adopt the foregoing resolution, seconded by Commissioner \_\_\_\_\_. The vote was as follows:

Robert P. Janes	_____
Brian Bigelow	_____
Ray Judah	_____
Tammara Hall	_____
Frank Mann	_____

DULY PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2007.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Robert P. Janes  
Chair

Approved as to form by:

\_\_\_\_\_  
Dawn E. Perry-Lehnert  
County Attorney's Office