

From: William Clague

Sent: Tuesday, July 30, 2019 3:08 PM

To: Joy LeggettMurphy <joy.leggettmurphy@mymanatee.org>

Cc: Mitchell Palmer <mitchell.palmer@mymanatee.org>; Alex Nicodemi <alex.nicodemi@mymanatee.org>; Pamela DAgostino <pamela.dagostino@mymanatee.org>; Charlie Bishop <charlie.bishop@mymanatee.org>; Cheri Coryea <cheri.coryea@mymanatee.org>; John Osborne <john.osborne@mymanatee.org>; Karen Stewart <karen.stewart@mymanatee.org>; Mike Gore <mike.gore@mymanatee.org>; Aaron Rawley <aaron.rawley@mymanatee.org>; Bryan White <bryan.white@mymanatee.org>; Juliet Shepard <juliet.shepard@mymanatee.org>

Subject: SMR Mitigation Bank Credits; RLS-2019--0367

Joy:

Pursuant to the above Request for Legal Services you have asked this Office to review an Agreement for Transfer of Mitigation Bank Credits (Agreement), by which the County intends to purchase \$4,500 worth of wetland mitigation credits needed for a road project. I provide the following advice in response:

1. The road project is being constructed by a developer pursuant to a prior Exchange of Property Agreement for Easements (Exchange Agreement), reviewed by this Office pursuant to RLS-2017-0426. Upon completion, the road will be dedicated to the County.
2. The Agreement follows a standard form accepted by this Office in past similar transactions, and includes terms that are customary in similar transactions. Therefore, I have no comments to the specific provisions of the Agreement.
3. The Agreement provides that the County will purchase the mitigation bank credits for the road project. Section 15 of the Exchange Agreement provides that the County will be responsible for paying the cost of any required wetland mitigation—in this case, the purchase of the credits. The SWFWMD permit, however, is addressed directly to the developer who is charged with building and dedicating the road. Please confirm that SWFWMD will recognize the purchase of the credits by the County as mitigation, in light of the fact that the County does not appear to be named on the permit.

Subject to the resolution of any business issues identified by staff, I have no objection from a legal standpoint to the Agreement being scheduled for approval by the Board. I express no opinion as to the business judgment of entering into the Agreement.

This concludes my response to the RLS. Please contact me if you have any questions or concerns.

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