

MEMORANDUM

March 13, 2009

TO: Honorable Mayor and City Commission

VIA: Anthony G. Otte, City Manager ^{AGO}
Arthur R. Creel, Utilities Director

FROM: Sarah Kirkland, Utilities Projects Supervisor

RE: Peace Creek Drainage Canal Access License Agreement between the City of Lake Wales and the Southwest Florida Water Management District

SYNOPSIS: The Southwest Florida Water Management District requests that the City of Lake Wales grant them access to the Peace Creek Drainage Canal by way of the Lake Wales Municipal Airport for cleaning and maintenance.

STAFF RECOMMENDATION

It is recommended that the City Commission:

1. Approve the agreement between the City of Lake Wales and the Southwest Florida Water Management District.
2. Authorize the Mayor to execute the agreement on the City's behalf.

BACKGROUND

The Southwest Florida Water Management District (SWFWMD) is requesting that the City of Lake Wales allow them access through the Municipal Airport property for the purpose of performing maintenance activities in the Peace Creek Drainage Canal and its channel. Uses may included ingress and egress for workers, machinery, vehicles, excavation and grading of the existing sediment or removal of other obstructions in the canal waterway

OPTIONS

Not allow SWFWMD access to maintain and clean the Peace Creek Drainage Canal and create a potential flood hazard.

FISCAL IMPACT

The City incurs no cost by allowing SWFWMD to have access to perform maintenance of the canal.

ATTACHMENTS

Public Access Licenses Agreement

LICENSE AGREEMENT

This License Agreement is made and entered into by and between **City of Lake Wales (Municipal Airport), a government agency, whose address is 201 W. Central Avenue, Lake Wales, Florida 33853** hereinafter referred to as "Licensor" and the Southwest Florida Water Management District, a public corporation, whose address is 2379 Broad Street, Brookville, Florida 34604-6899, hereinafter referred to as "Licensee."

WHEREAS, Licensee desires both access to and use of Licensor's real property for the public purpose of performing maintenance activities in the Peace Creek Canal and its channel. Uses may include ingress and egress for workers, machinery and vehicles, and excavation and grading of existing sediment or removal of other obstructions in the canal waterway; and

WHEREAS, Licensor agrees to provide access to and use of real property owned by Licensor for the purposes provided herein.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, Licensor and Licensee hereby agree as follows:

1. Licensor grants to Licensee, its employees, agents and subcontractors a license to enter upon and use the real property owned by Licensor having the following Parcel Identification Number(s):

273003000000043010

("Real Property"), as depicted on the overall Project area attached hereto and incorporated herein by reference as Exhibit "A."

2. Licensor authorizes Licensee's Executive Director to allow access to the Real Property by agents or personnel from the Department of Environmental Protection and inspection of the proposed activities specified by this License and to facilitate Licensee's compliance with any permitting requirements of said agencies.
3. Licensor authorizes Licensee to access the Real Property, excavate sediment or remove obstructions in the canal within the Real Property. The excavated sediment will be placed on the Real Property. Access points, spoil areas and work location are identified on Exhibit "B" attached hereto and incorporated herein by reference.
4. Licensor requests advance notification prior to on-site activities. Licensee will notify Licensor in advance of on-site activities. The Licensee should contact _____ by telephone at the following number _____.

5. The license period will begin upon execution of this License Agreement by both parties and will continue in effect for a period of not longer than 18 months.
6. This License Agreement may be terminated at will by the Licensor.
7. Licensee agrees that it does not and will not claim at any time any interest or estate of any kind in the Real Property and it will restore the property to a safe and aesthetic condition, as existed prior to this Project.
8. Licensee will assume all risk involved in entering upon and utilizing the Real Property in performing the public purposes provided herein and, to the extent permitted under Section 768.28, F.S., will hold the Licensor harmless for all claims, loss, or damage arising from the negligent acts or omissions of Licensee's officers, employees, agents related to activities permitted in this License Agreement. However, the Licensee will not be responsible for the negligent acts or omissions of the Licensor. Nothing herein will be deemed a waiver, express or implied, of Licensee's sovereign immunity under Section 768.28, F.S., or extend Licensee's liability beyond the limits established in Section 768.28, F.S.

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IN WITNESS WHEREOF, the parties have executed this License Agreement on the day and year last written below.

WITNESS

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

David L. Moore, Executive Director Date

CITY OF LAKE WALES REPRESENTATIVE

Lee A. Wheeler III, Mayor/Commissioner Contact No.

WITNESS

CITY OF LAKE WALES REPRESENTATIVE

Please Sign Date

