

MEMORANDUM

September 24, 2013

TO: Honorable Mayor and City Commissioners

VIA: Kenneth Fields, City Manager

FROM: Margaret Swanson, Director of Planning and Development

RE: License and Indemnification Agreement for Spook Hill Elementary School Sign in City Right-of-Way on Dr. J. A. Wiltshire Avenue

SYNOPSIS: The Polk County School Board has requested permission to locate a sign for the Spook Hill Elementary School in the City's road right-of-way on Dr. J. A. Wiltshire Avenue. An indemnification agreement approved by the City Commission and a permit from the City Manager are required. The grassy area between the school parking area and the street where the sign is proposed is almost all in the City's road right-of-way.

RECOMMENDATION

Staff recommends approval of the license and indemnification agreement and its endorsement by the Mayor.

The City Attorney has approved the agreement as to form.

BACKGROUND

The Polk County School Board has applied for a permit to place a sign in the right-of-way of Dr. J. A. Wiltshire Avenue. The grassy area in front of the school where the sign is proposed is in the City's road right-of-way except for a very narrow strip along the curb edging the parking lot.

If approved, the Agreement will be provided to the School Board to be executed at their next regularly scheduled meeting.

The City Manager has reviewed the request and will approve the permit upon receipt of the executed the indemnification agreement.

OTHER OPTIONS

The City Attorney recommends the indemnification agreement where structures are to be located in the right-of-way.

FISCAL IMPACT

No fiscal impact to the City has been identified.

ATTACHMENTS

Indemnification agreement

PLEASE RETURN TO:
Department of Planning and Development
City of Lake Wales, Florida
P.O. Box 1320
Lake Wales, FL 33859-1320

LICENSE AND INDEMNIFICATION AGREEMENT

The School Board of Polk County, Florida, a statutory Florida school district, (hereinafter referred to as the "Board) whose address is 1915 South Floral Avenue, Bartow, Florida 33830, for and in consideration of the CITY OF LAKE WALES, FLORIDA (hereinafter referred to as the "City) authorizing the placement of a school sign within the City Right-of-way located on Dr. J. A. Wiltshire Avenue near the intersection of North 4th Street as depicted on the attached Exhibit A, which depicts and identifies sign relocation, agrees and reciprocally, City agrees, to indemnify and hold the other harmless, to the extent allowed under Section 768.28, Florida Statutes, from the negligent acts of itself, its officers, agents, and employees. Nothing herein shall be considered a waiver, express or implied of either party's sovereign immunity or considered a waiver of immunity or limits of liability beyond any statutorily limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in F.S. §768.28 or other state statute. To the extent anything contained in this agreement constitutes a waiver of sovereign immunity, such terms and conditions shall be interpreted to the fullest extent possible to effectuate the intent of the parties, by deleting any terms or conditions which would constitute a waiver of sovereign immunity, related to, arising out of, or occasioned by the use of the City's property as a location for the Board's sign located within the City's right-of-way or other property, or any portion thereof. This License and Indemnification Agreement shall be binding upon the successors, grantees, or assignees of the Board. The License granted hereby is revocable at will by the City.

Executed this _____ day of _____, 2013

WITNESSES:

THE SCHOOL BOARD OF POLK COUNTY

Witness #1 sign above
Print Name _____

BY: _____
Hazel Sellers, Board Chair

Witness #2 sign above
Print Name _____

Acknowledgements and approval on the following page:

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF POLK

The foregoing License and Indemnification Agreement was acknowledged before me this _____ day of _____ 2013, by Hazel Sellers, Board Chair and on behalf of the School Board of Polk County.

Notary Public

THIS LICENSE AND INDEMNIFICATION AGREEMENT approved by the City Commission of the City of Lake Wales this _____ day of _____, 2013.

Eugene Fultz, Mayor

ATTEST

Clara VanBlargan, City Clerk

