

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

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Meeting Date:	September 12, 2006	Consent [X]	Regular []
		Public Hearing []	
Submitted By:	Water Utilities Department		
Submitted For:	Water Utilities Department		

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I. EXECUTIVE BRIEF

Motion and title: Staff recommends motion to approve: a License Agreement with the School Board of Palm Beach County for temporary use of School Board property to facilitate construction of the Lake Region Water Treatment Plant (LRWTP).

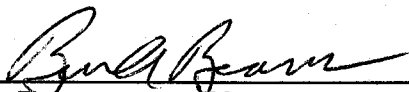
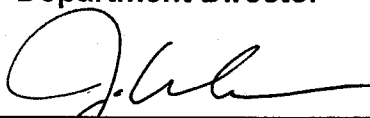
Summary: A License Agreement (R2005-2170) was previously approved allowing the County's contractors to store piping and construction materials on the School Board property adjacent to the LRWTP site until August 31, 2006. This new Agreement provides an additional one-year period ending on August 31, 2007.

(WUD Project No. 03-169) District 6 (MJ)

Background and Justification: The Water Utilities Department is constructing the LRWTP near Belle Glade on a site adjacent to the School Board property. On September 27, 2005, the Board approved construction of the LRWTP with the Poole & Kent Co. (R-2005-1928). The contractor needs the adjacent vacant School Board site for storage of piping, pumps and associated water treatment plant equipment. On November 1, 2006, the Board approved a license agreement (R-2005-2170) with the School Board that expired on August 31, 2006. This new Agreement provides for an additional one-year period. The construction of the Lake Region Water Treatment Plant is scheduled for completion in March of 2008.

Attachments:

- 1. Two (2) Original Agreements
- 2. Location Map

Recommended By:		
	Department Director	Date
Approved By:		8/21/06
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Is Item Included in Current Budget? Yes No

Reporting Category N/A

B. Recommended Sources of Funds/Summary of Fiscal Impact:

This item does not have a fiscal impact.

C. Department Fiscal Review: Guy Egerton

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Elizabeth Bloesch 8/15/06
OFMB
8-15-06
8/17/06

Don J. Janel 8/17/06
Contract and Development Control
8/16/06
This License Agreement
complies with our
review requirements.

B. Legal Sufficiency:

W. J. Janel 8/17/06
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

LICENSE AGREEMENT

THIS IS A LICENSE AGREEMENT (the "Agreement") made _____, and granted by the SCHOOL BOARD OF PALM BEACH COUNTY, a corporate body politic of the State of Florida, hereinafter referred to as "School Board"; in favor of PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County",

RECITALS

WHEREAS, School Board owns certain real property located east of the intersection of Hooker Highway and NW 16th Street (aka State Road 715), Belle Glade, Florida (the "School Board Property");

WHEREAS, County has requested a license from School Board to give County certain rights as described hereinafter to utilize the School Board Property (or a portion thereof) to facilitate the construction of a project to be undertaken by the County and its authorized contractors to construct the Water Treatment Plant, Wells, and Transmissions Mains (hereinafter referred to as the "Project");

NOW THEREFORE, in consideration of the grants, agreements and covenants contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein.
2. The School Board hereby grants to County and its authorized contractors a non-exclusive license in and to the portion of the School Board Property depicted on Exhibit "A" attached hereto by reference (the "License Property"). County shall be entitled to utilize the License Property during construction of the Project for the following purpose: vehicular access and storage of well drilling equipment (the "Plans and Specifications"). The County shall coordinate with the School Board in the event material changes are made to the plans and specifications. The County shall obtain, or cause to be obtained, permits from all applicable regulatory agencies prior to commencement of Project construction. The County shall diligently pursue the Project to completion. This Agreement shall automatically terminate upon the earlier of completion of the Project or August 31, 2007. Notwithstanding the foregoing, the County shall promptly deliver to the School Board a release of Agreement if so requested by School Board at any time after automatic termination hereof as aforesaid.
3. Prior to exercising the rights conferred hereunder, County shall locate any utility facilities within the License Property and shall contact and coordinate with all utilities providers that have facilities within the License Property. The County shall be solely responsible for and shall, at its sole cost and expense, promptly repair any damage arising out of County's exercise of the rights granted hereby and restore any improvements or landscaping now existing or constructed or installed hereinafter to the condition it was in prior to such damage, using materials of like kind and quality.
4. The County acknowledges and agrees that the rights granted by this Agreement are and shall be strictly limited to those specifically granted herein and that the County may not utilize the License Property for any purpose not specifically permitted hereby. The County further agrees to exercise the rights granted hereunder in a manner which minimizes the impact upon the School Board's use and enjoyment of the School Board Property. The County's exercise of the rights granted by this Agreement is at the County's sole risk.

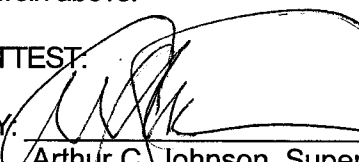
5. School Board hereby retains all rights relating to the License Property not specifically granted by this Agreement Including the right to use the License Property and any improvements now existing or constructed hereinafter therein. School Board also retains the right to grant to third parties additional rights in the License Property or the right to use the improvements therein, so long as the grant of such additional rights will not interfere with the rights granted to County hereunder.
6. The School Board's interest in the School Board Property shall not be subject to liens arising from County's use of the License Property, or exercise of the rights granted hereunder. The County shall promptly cause any lien imposed against the School Board Property relating to the Project to be discharged or transferred to bond, Nothing herein shall be construed as granting to County a real property interest in the School Board Property.
7. School Board and County acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. School Board and County agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an Agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.
8. The County shall require, its contractors and subcontractors to maintain and keep in full force and effect General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate, bodily injury and property damage liability coverage and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes, The General Liability policy shall (include coverage for the Recreation Field, Operations, Contractual Liability, Independent Contractors Contractual liability, and Broad Form Property Damage Liability coverages. In addition, County shall require its contractors and subcontractors to maintain Business Automobile Liability at a limit of liability not less than Five Hundred Thousand Dollars (\$500,000) Each Occurrence for all owned, non-owned and hired automobiles. In the event the County's contractors or subcontractors do not own any automobiles, they shall maintain Hired & Non-Owned Auto Liability in such amount. Coverage shall be provided on a primary basis. Except for Workers Compensation and Automobile Liability, all insurance policies shall name the School Board as Additional Insured. Such Insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by the School Board. A Certificate of Insurance evidencing such insurance coverage shall be provided to the School Board prior to the commencement of any work by this County's contractors and subcontractors pursuant to this Agreement. Such Certificate shall require at thirty (30) days prior notice of cancellation or adverse material change in coverage. In no event shall the limits of said insurance policies be considered as limiting the liability of the County's contractors and subcontractors under this Agreement.
9. County hereby accepts the License Property "As Is", without warranty or representation and subject to zoning and other governmental restrictions, matters reflected on any plat relating to the License Property, and all easements, restrictions, conditions, encumbrances and other matters of record.

10. This Agreement shall be governed, by, construed and enforced in accordance with, the laws of the State of Florida, Venue in any action, suit or proceeding in connection with this Agreement shall be to a state court of competent jurisdiction in Palm Beach County, Florida.
11. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not effect the remaining portions of this Agreement and the same shall remain in full force and effect.
12. This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof. No amendment shall be effective unless the same is in writing and signed by all parties.
13. No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document so as to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent Jurisdiction to be invalid, such shall not effect the remaining portions of this Agreement and the same shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth herein above.

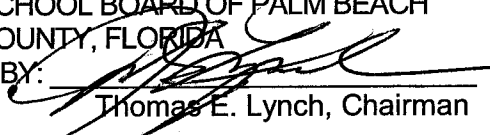
ATTEST:

BY:


Arthur C. Johnson, Superintendent


SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA

BY:


Thomas E. Lynch, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY:


School Board Attorney

7/18/06

ATTEST:
Sharon R. Bock,
Clerk and Comptroller

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Tony Masilotti, Chairman

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

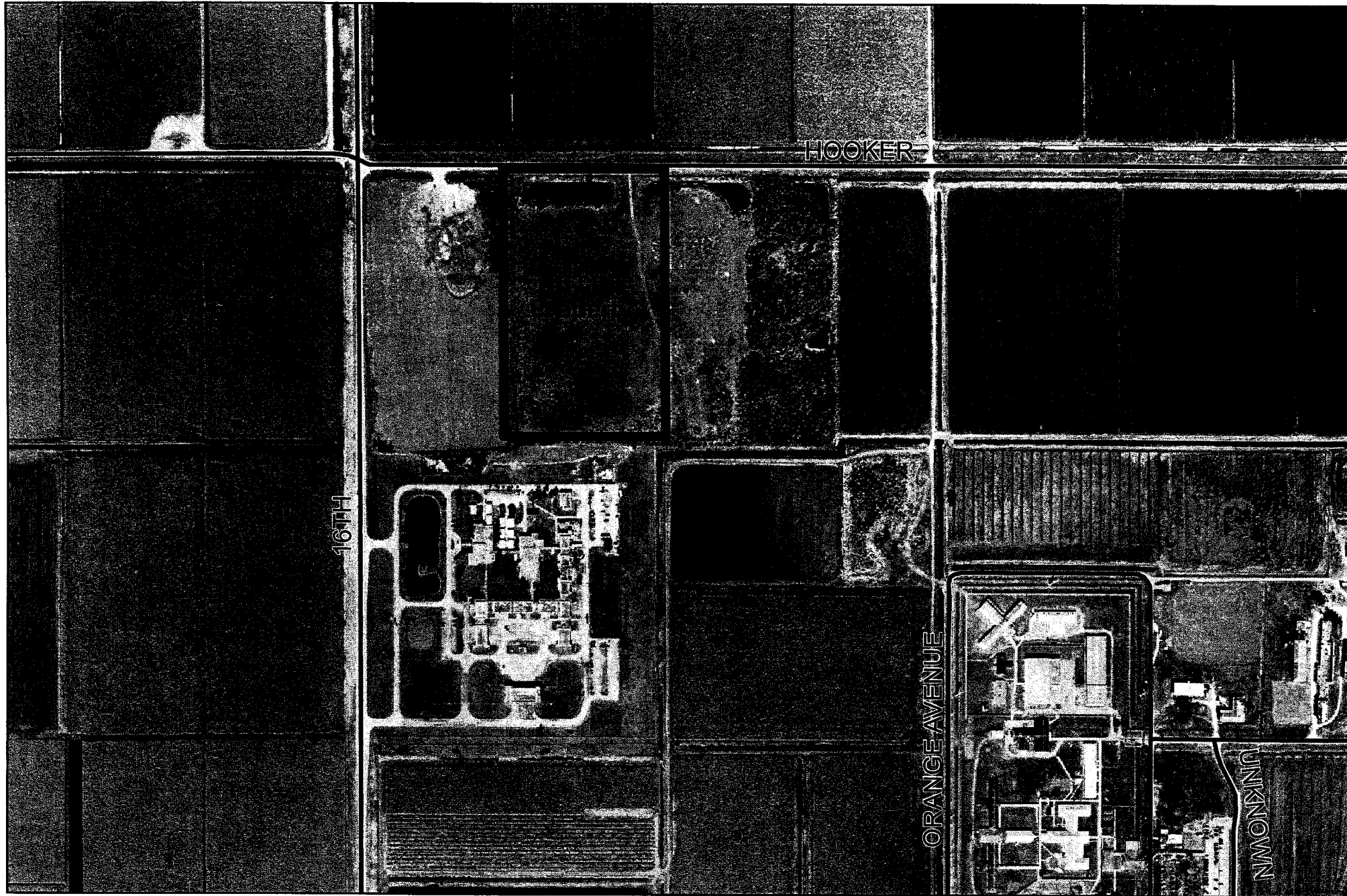
APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
County Attorney

BY:  _____
Department Director

[Note: This signature page represents a continuation of the License Agreement between the
School Board of Palm Beach County and Palm Beach County]

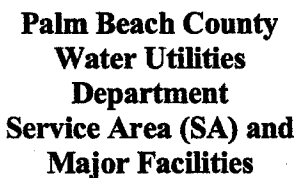
Exhibit "A"



Prepared by Planning Department - GIS
For Real Estate Department

7/18/2006 - S. Gilles
File: license_agreement_July06





Attachment 2

Legend

P.B.C.W.U.D. SA

***** MANDATORY RECLAIMED SA

== • Palm Beach County Limits

★ Administration

Water Reclamation Facility

▲ Water Treatment Facility

 Wetlands