

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

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Meeting Date: June 21, 2011 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: Brownfields Site Access Permission Agreement (Agreement) with the Treasure Coast Regional Planning Council (TCRPC) and Bureau Veritas North America, Inc (BVNA) to facilitate Brownfields cleanup of the former Pike Utilities property located at 4220 Charleston Road, Lake Worth.

Summary: On April 5, 2011, the Palm Beach County Board of County Commissioners approved an Interlocal Subgrant Agreement with TCRPC to facilitate Brownfields cleanup and redevelopment of the former Pike Utilities property. The Agreement provides the TCRPC access to the site to effect cleanup of the property. BVNA will perform the Brownfields assessment, cleanup, and remediation for TCRPC, and will provide insurance and indemnification to the County. The Agreement requires no additional funding from that approved on April 5, 2011. District 2 (MJ)

Background and Justification: Pike Utilities operated a wastewater treatment facility during the 1970s and 1980s, which ceased in mid-1980 when the facility was decommissioned. Palm Beach County acquired the property in 1988. In 2000, contamination was discovered during a preliminary soil investigation, which led to a Phase 1 and limited Phase 2 Environmental Site Assessment that was completed by 2006, as Palm Beach County entertained redevelopment of the site for affordable housing. However, redevelopment did not occur, but for reasons other than site contamination. The FDEP requires site cleanup in accordance with Chapter 62-780, F.A.C. by September 2011.

Attachments:

- 1. Location Map
- 2. Three (3) Original Brownfields Site Access Permission Documents

Recommended By: 
Department Director Date

Approved By:  6/9/11
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating 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> <i>See below</i>	<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>

Budget Account No.: Fund 0 Agency 0 Org. 0 Object 0

Is Item Included in Current Budget? Yes ___ No ___

Reporting Category **N/A**

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

No No Fiscal Impact

C. Department Fiscal Review: *Allura invest*

III. REVIEW COMMENTS

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

 [Signature] 6/7/11
OFMB

 [Signature] 6/9/11
Contract and Development Control

B. Legal Sufficiency:

 [Signature] 6/9/11
Assistant County Attorney

C. Other Department Review:

Department Director

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



REVISED	BY	DATE

DRAWN:
 N.A.C.
 DATE:
 DEC. 06



1000 AVENUE AVENUE, SUITE 1000
 BOCA RATON, FLORIDA 33432
 PHONE: (561) 994-5200
 FAX: (561) 994-5224

FORMER PIKE WASTEWATER TREATMENT PLANT
 4220 CHARLESTON ST., LAKE WORTH, PALM BEACH CO., FLORIDA
 JOB NO.: 386162286

DATE: DECEMBER 2006

SITE MAP



FIGURE:
 2

BROWNFIELDS SITE ACCESS PERMISSION

Execution of this Brownfields Site Access Permission Form ("Form") is a requirement for assistance through the Brownfields Site Assessment, Cleanup and Remediation program. For one dollar and other good and valuable consideration the receipt and sufficiency of which is acknowledged by the undersigned, the undersigned agree as follows.

- 1) Palm Beach County ("Owner"), hereby gives permission to the Treasure Coast Regional Planning Council ("TCRPC") and its employees, agents, representatives and its contractors (and their subcontractors), including but not limited to Bureau Veritas North America, Inc. ("BVNA") to enter the Owner's property ("the Property") located at 4220 Charleston St., Lake Worth, Florida, 33467. The Owner represents and warrants that the Owner owns 100% of the fee simple title to the Property. It is agreed that one of TCRPC's contractors is an engineering firm.
- 2) This permission is contemplated to be used for the TCRPC's Brownfields site assessment, cleanup and/or remediation and to include the following activities, which may be performed by the TCRPC, its employees, agents, representatives and its contractors (and their subcontractors), including but not limited to BVNA, to evaluate, cleanup and/or remediate environmental conditions that may be present at the Property and including but not limited to the following:
 - a) To access all areas of the Property including areas where environmental contamination may exist;
 - b) To conduct interviews, photographs, site sketches and air monitoring;
 - c) To collect, remove, modify any waste, contaminants, soil, surface water, sediment, groundwater and any other materials or substances for the purpose of sampling, cleanup and/or remediation of the Property, as deemed necessary, including, but not limited to, the installation of groundwater monitoring wells;
 - d) To use on the Property such equipment, including but not limited to vehicles, backhoes and drill rigs, as is deemed necessary to perform any of the above activities; and
 - e) To take such other actions as to the Property as are in furtherance of the Interlocal Subgrant Agreement between Owner and TCRPC.
- 3) The granting of this permission by the Owner is not intended, nor should it be construed, as an admission of liability on the part of the Owner or the Owner's successors and assigns for any possible groundwater, sediment, air or soil contamination detected in the samples.
- 4) The TCRPC, its employees, agents, representatives and its contractors (and their subcontractors), including but not limited to BVNA may enter the Property during normal business hours and may also make special arrangements to enter the Property at other times after Owner has given written consent to do so.
- 5) This permission shall remain effective and shall continue until such time as the Owner delivers to TCRPC written notice of revocation, which revocation, shall become effective 10 days after delivery to TCRPC. Notwithstanding the foregoing, this Permission shall in any event terminate 2 years from the date it has been executed by TCRPC.
- 6) This instrument shall be construed and enforced in accordance with the laws of the State of Florida and shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. If any term or provision of this instrument shall be deemed by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall remain in full force and effect. This instrument contains the entire permission between the parties and supersedes all prior and contemporaneous permissions. This instrument may be modified only by an instrument in writing signed by the party to be charged with the modification. Nothing contained in this instrument shall be deemed to make the parties partners or engaged in a joint venture with one another. This instrument may be signed in more than one counterpart, in which case each counterpart shall constitute an original of this instrument. An executed facsimile or emailed copy of this Permission shall be considered for all purposes an original.
- 7) BVNA shall 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 One Million Dollars (\$1,000,000) general aggregate, bodily injury and property damage liability coverage; Business Automobile Liability at a limit of liability not less than One Million Dollars (\$1,000,000) each occurrence for all owned, non-owned and hired automobiles; and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for the Agreement Area, Operations, Contractual Liability, Independent Contractors Contractual Liability, and Broad Form Property Damage Liability coverages. Coverage shall be provided on a primary basis. The General Liability policy shall name Owner as an Additional Insured pursuant to the blanket additional insured endorsement on the policy (see attached). The Additional Insured Endorsement shall cover "Palm Beach County Board of County Commissioners, a Political Subdivision of the state of Florida, its Officer, Employees, and Agents." Such insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by County. A Certificate of Insurance evidencing such insurance coverage shall be provided to County prior to entry upon the Property by BVNA or BVNA's contractors and subcontractors pursuant to this Agreement. Such Certificate shall require prior notice of cancellation or non-renewal. In no event shall the limits of said insurance policies be considered as limiting the liability of BVNA under this Agreement. TCRPC will not enter the Property until it has received written approval of BVNA's insurance from the County Attorney's office.
- 8) BVNA shall protect, reimburse, indemnify, and hold Owner, its agents, employees, and elected officers harmless from and against claims, liability, expense, loss, cost, damages, or causes of action of every kind or character, including reasonable attorney's fees and costs, whether at trial or appellate levels or otherwise, incurred due to the acts or omissions of BVNA, its employees, agents, or subcontractors during the Brownfield's site assessment, cleanup, and/or remediation described in this Form and the Interlocal Subgrant Agreement between Owner and TCRPC. This provision shall survive the termination or expiration of this Form. The total aggregate liability of BVNA shall not exceed \$50,000 or the amount of the total fees hereunder, whichever is greater, for negligent professional acts, or errors or omissions.

ATTEST:
SHARON R. BOCK, CLERK AND
COMPROLLER

PALM BEACH COUNTY, BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Karen T. Marcus, Chair

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: _____
Director of Water Utilities

Accepted by the Treasure Coast Regional Planning Council:

Elizabeth L. Stewart
Witness

[Signature] 5/20/11
Executive Director Date:

Bureau Veritas North America, Inc.

By: Robert W. Donze

Print Name: Robert W. Donze

Title: COO

Date: 5/18/11