



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	* <u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes \_\_\_\_\_ No \_\_\_\_\_  
 Does this item include the use of federal funds Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No: Fund \_\_\_\_\_ Dept \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
 Program \_\_\_\_\_

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

\* No fiscal impact.

Fixed Asset Numbers: N/A

C. Departmental Fiscal Review: *Kays*

**III. REVIEW COMMENTS**

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

*[Signature]* 3/20/18  
 OFMB 3/20 3/23/19

*[Signature]* 3/22/18  
 Contract Development and Control 3/22/18

**B. Legal Sufficiency:**

*[Signature]* 3/23/18  
 Assistant County Attorney

**C. Other Department Review:**

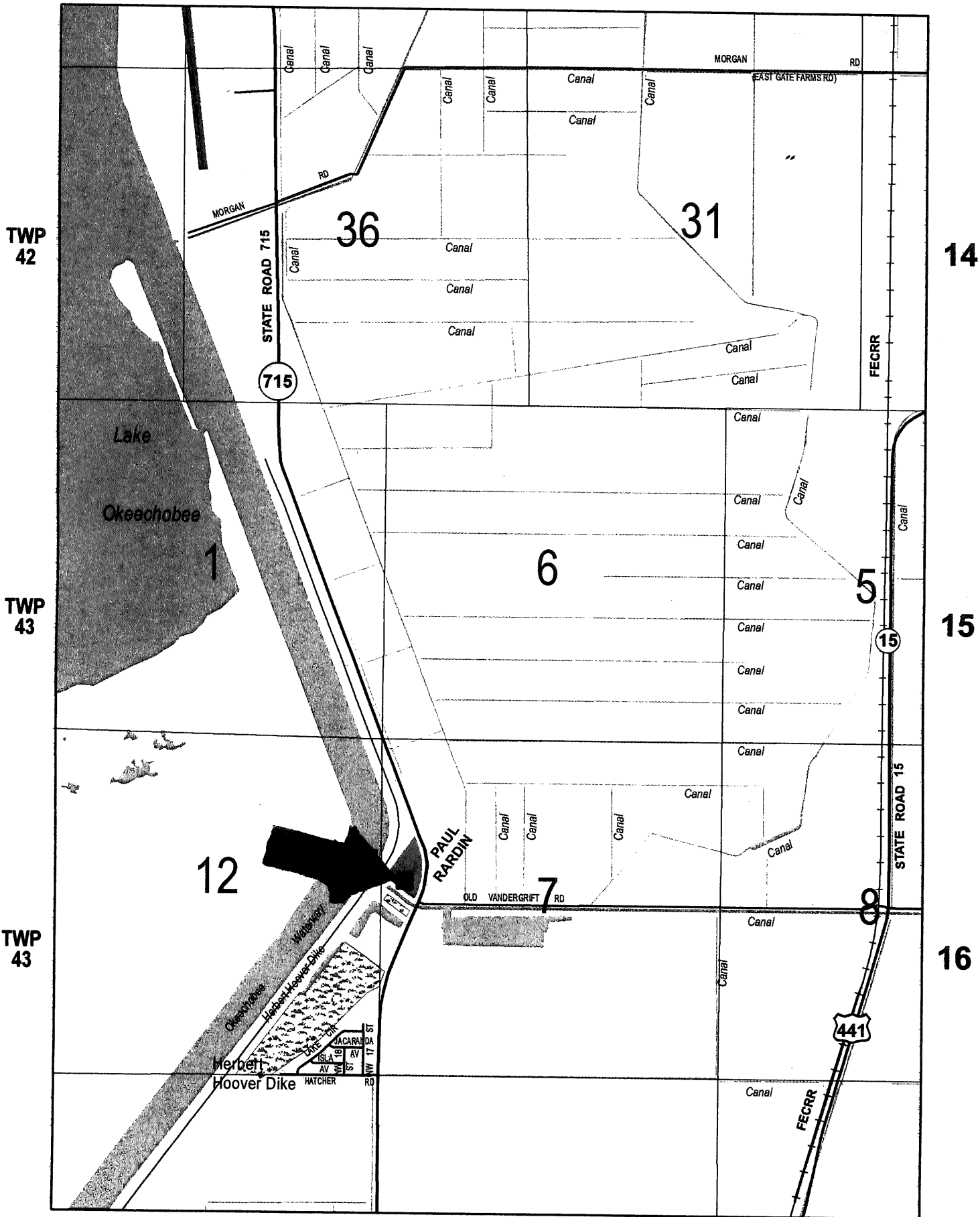
\_\_\_\_\_  
 Department Director

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

**Background and Justification Continued:** The revision to the Standard License Agreement provides for a term of up to one (1) year and requires a non-governmental entity to pay a fee for its use of County property. On July 22, 2014, (R-2014-1040), the Board approved a License Agreement allowing Thalle to use part of the Park for the placement of temporary above ground storm water discharge pipes and the staging of construction materials for the project. The term of the License Agreement was for 15 months, commencing on August 5, 2014 and expiring on November 5, 2015. On October 6, 2015, (R-2015-1390), the Board approved a second License Agreement for a 13 month term, commencing on November 6, 2015 and expiring on December 20, 2016. On January 10, 2017, (R-2017-0047), the Board approved a third License Agreement for a 12 month term, commencing on December 21, 2016 and expiring on December 20, 2017. On December 13, 2017, Thalle requested continued use of the park property for an additional period of 12 months due to delays with construction material required for the project and also requested that the standard fee be waived. This activity is part of a federally funded construction project and is being paid with federal dollars. If charged a fee for this use, Thalle will pass the license fee through to the USACE. The County desires to see the construction project completed and since the remainder of the Park will remain open to the public during the term of the License Agreement, there is no impact on the County. A Disclosure of Beneficial Interests was provided in January 2017, which identified the beneficiaries as Peter K. Tully (25%), Thomas E. Tully (25%), Kenneth W. Tully (25%) and James M. Tully (25%). Thalle has verified that the beneficiary information remains unchanged.

PP

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RNG 36

RNG 37

# LOCATION MAP

Attachment No. 1

Page 1 of 1



**Attachment No. 2**  
**Standard License Agreement for Use of County Property**  
**11 Pages**

**STANDARD LICENSE AGREEMENT  
FOR USE OF COUNTY-OWNED PROPERTY**

This License Agreement made and entered into \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "County" and Thalle Construction Company, Inc., a New York corporation, hereinafter referred to as "Licensee".

**WITNESSETH:**

**WHEREAS**, Licensee has applied for a License to Use County owned property via the Application for License to Use County-Owned Property (the "Application"), attached hereto as **Exhibit "A"** and incorporated herein by reference; and

**WHEREAS**, County is the owner of the real property and/or improvements described on the Application; and

**WHEREAS**, County is willing to grant Licensee a revocable license to use the property for the purposes described on the Application and hereinafter defined.

**NOW THEREFORE**, in consideration of the covenants and agreements hereinafter set forth on the part of the Licensee to be observed and performed, the County hereby permits Licensee to use the Premises, as hereinafter defined, upon the terms and conditions contained in this License Agreement.

1. **Premises**

The Premises, for the purpose of this License Agreement, is the real property and/or improvements identified on the Application. The Application, which may include special conditions of use as set forth in the Application, is hereby made a part of this License Agreement. The Licensee accepts the Premises in its "as is" condition. The County is in no way representing that the Premises is suitable for the Licensee's use and Licensee hereby accepts all risk relating to the use of the Premises.

Licensee shall use the Premises solely and exclusively for the use listed on the Application; Licensee shall not use, permit or suffer the use of the Premises for any other purpose whatsoever. Licensee shall be entitled to use the Premises only on the days and times listed on the Application. Licensee shall make no improvements, alterations or additions to the Premises. The use of the Premises by Licensee shall not interfere with County's use or operation of the Premises.

Licensee shall immediately report to a County representative any condition or activity on the Premises which poses a risk to persons or property. If directed by the County, Licensee shall postpone its activity until the County notifies the Licensee that it is safe to resume the activity.

2. **Length of Term and Commencement Date**

This License Agreement shall commence upon December 21, 2017, (the "Commencement Date"). The term of this License Agreement shall continue until the earlier of December 20, 2018 or termination in accordance to the terms of this License Agreement.

3. **License Fee Waiver**

No License Fee is assessed as the activity is a federally funded construction project to repair the dike which is in the best interest of the community's safety and welfare. Licensee may be required to pay charges for custodial, set-up or special requirements as indicated on the Application.

4. **Termination**

The County may terminate this License Agreement at any time upon written notice to the Licensee. Upon Licensee's receipt of written notice from the County, this License Agreement shall terminate and County shall be relieved of all further obligations hereunder accruing subsequent to the date of such termination. Licensee may terminate this License Agreement upon written notice to the County. Notwithstanding such termination, Licensee shall remain obligated to surrender and restore the Premises as required by this License Agreement and for any obligations arising prior to such termination.

5. **Waste or Nuisance**

Licensee shall not commit or suffer to be committed any waste upon the Premises or any nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect County's fee interest in the Premises. Licensee shall keep the access to the Premises, the parking areas, driveways and other contiguous areas to the Premises free and clear of obstruction.

6. **Governmental Regulations**

Licensee shall, at Licensee's sole cost and expense, secure any required permits and comply with all regulations of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to Licensee or its use of the Premises, and shall faithfully observe in the use of the Premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force and all applicable association/governing body rules and regulations pertaining to the Licensee's use of the Premises. Licensee shall not store or dispose any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents, including any petroleum products, used or produced in Licensee's activity, on the Premises or in any manner not permitted by law. Licensee shall indemnify, defend and save County, its agents, officers, and employees harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Licensee's failure to perform its obligations specified in this Section. Licensee's indemnification obligations set forth in the foregoing shall survive termination or expiration of this License Agreement.

7. **Non-Discrimination**

Licensee assures and certifies that it shall comply with Title VII of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, disability, gender identity or expression or genetic information with respect to their use of the Premises.

8. **Surrender of Premises**

Upon termination of each use of the Premises by the Licensee, Licensee, at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to the County in at least the same condition the Premises were in at the start of each period of use.

9. **Maintenance and Repair**

Licensee shall conduct all maintenance or repairs to the Premises. In the event that Licensee damages the Premises, County, at its sole discretion may complete the necessary repairs and Licensee shall reimburse County for all expenses incurred by County in doing so.

10. **Indemnification of County**

To the extent permitted by law, Licensee shall indemnify, defend and save County, its agents, officers, and employees harmless from and against any and all claims, actions, damages, liability and expense, whether at trial or appellate level or otherwise, in connection with loss of life, personal injury and/or damage to or destruction of property arising from or out of the occupancy or use by Licensee of the Premises or any part thereof; or any act, error or omission of Licensee, its agents, contractors, employees, volunteers or invitees. In case County shall be made a party to any litigation commenced against Licensee or by Licensee against any third party, then Licensee shall protect and hold County, its agents, officers, and employees harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, whether at trial or appellate level or otherwise. This Section shall survive termination or expiration of this License Agreement. Nothing herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes.

11. **Insurance**

Licensee shall, during the entire Term hereof, keep in full force and effect General Liability Insurance in an amount not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage liability and Workers Compensation insurance covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for Premises - Operations, Contractual and Product Liability, Independent Contractors, Contractual Liability and Personal Injury, and Broad Form Property Damage Liability coverages.



Licensee shall add the County to the commercial general liability as an "additional insured" with a CG 2026 Additional Insured-Designated Person or Organization endorsement or similar endorsement. The additional insured endorsement shall read "Palm Beach County Board of County Commissioners, a political subdivision of the State of Florida, its officers, employees and agents, c/o Facilities Development & Operations Department". The additional insured endorsement shall provide coverage on a primary basis. Such insurance shall be with an insurance company licensed to do business in the State of Florida and subject to the approval of the County's Risk Management Department. A Certificate of Insurance evidencing such insurance coverage shall be provided to the County at least fifteen (15) days prior to the Commencement Date, such Certificate indicating at least ten (10) 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 Licensee under this License Agreement. In the event that Licensee shall fail to obtain and maintain in full force and effect any insurance coverage required to be obtained by Licensee under this License Agreement, County shall have the right of injunction, or County may immediately terminate this License Agreement, notwithstanding any provisions herein to the contrary. Notwithstanding the foregoing, Licensee shall and does nevertheless indemnify, defend and hold County harmless from any loss or damage incurred or suffered by County from Licensee's failure to maintain such insurance.

In the event of loss or damage to the Premises, the Licensee shall look solely to any insurance in its favor without making any claim against the County, and the Licensee shall obtain and deliver to the County, from the insurer under each policy of such insurance, an agreement whereby such insurer waives subrogation of any claim against the County for loss or damage within the scope of the insurance, and the Licensee, for itself and its insurers, waives all such insured claims against the County.

12. **Rules of Premises**

Licensee shall strictly adhere to the Rules that govern the Premises as set forth in the Application, at all times. Licensee also acknowledges that any violation of the Rules governing the use of the Premises may result in the suspension or termination of this License Agreement.

13. **Subcontracting**

The Licensee may not subcontract or assign any rights, responsibilities or obligations of this License Agreement.

14. **Entire Agreement**

This License Agreement and any Exhibits attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between County and Licensee. All representations, either oral or written, shall be deemed to be merged into this License Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this License Agreement shall be binding upon County or Licensee unless reduced to writing and signed by them.

15. **Notices**

All notices and elections (collectively, "Notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any Notice shall be the date of delivery of the Notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which Notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

(a) If to the County at:

FDO Business & Community Agreements Manager  
2633 Vista Parkway  
West Palm Beach, FL 33411  
Fax: (561) 233-0206

with a copy to:

Palm Beach County  
Attn: County Attorney  
301 North Olive Avenue  
West Palm Beach, FL 33401  
Fax: (561) 355-6461

(b) If to the Licensee at:

Thalle Construction Company, Inc.  
900 NC Highway 86 North  
Hillsborough, NC 27278  
Fax: (919) 245-1516

Either party hereto may change the address for service of Notices required or permitted hereunder upon three (3) days' prior written notice to the other party.

16. **Severability**

If any term or provision of this License Agreement shall be held invalid or unenforceable, the remainder of this License Agreement shall not be affected and every other term and

provision of this License Agreement shall be deemed valid and enforceable to the extent permitted by law.

17. **WAIVER OF JURY TRIAL**

THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH PROCEEDINGS OR COUNTERCLAIMS BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER, IN CONNECTION WITH THIS LICENSE AGREEMENT.

18. **Governing Law and Venue**

This License Agreement shall be governed by and interpreted according to the laws of the State of Florida and venue shall be in a state court of competent jurisdiction in Palm Beach County.

19. **Recording**

Licensee shall not record this License Agreement, or any memorandum or short form thereof in the public records of Palm Beach County. Any such recording shall constitute a default hereunder and shall result in immediate termination of this License Agreement.

20. **Time of Essence**

Time is of the essence with respect to the performance of every provision of this License Agreement in which time of performance is a factor.

21. **Palm Beach County Office of the Inspector General**

Pursuant to Palm Beach County Code, Sections 2-421 through 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to have the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

22. **No Third Party Beneficiary**

No provision of this License Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this License Agreement, including but not limited to any citizen or employees of the County and/or Licensee.

23. **Effective Date**

This License Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

IN WITNESS WHEREOF, County and Licensee have executed this License Agreement, or have caused the same to be executed as of the day and year first above written.

**WITNESS:**

By: Allen K Thrift  
Signature

Allen K Thrift  
Print Witness Name

**LICENSEE:**

**THALLE CONSTRUCTION  
COMPANY, INC.,** a New York  
corporation

By: [Signature]  
Signature

STEPHEN E. KOHLER  
Print Name

**ATTEST:**

**SHARON R. BOCK  
CLERK & COMPROLLER**

By: \_\_\_\_\_  
Deputy Clerk

Signed and delivered  
in the presence of:

**COUNTY:**

**PALM BEACH COUNTY,** a political  
subdivision of the State of Florida

By: \_\_\_\_\_  
Melissa McKinlay, Mayor

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

By: [Signature]  
Assistant County Attorney

**APPROVED AS TO TERMS AND  
CONDITIONS**

By: [Signature]  
Department Director

EXHIBIT "A"

APPLICATION FOR LICENSE TO USE  
COUNTY-OWNED PROPERTY

This application may be used to apply for a License to use County owned property. The application must be submitted at least twenty (20) days prior to the proposed date of the requested use. Please send the completed application to:

Facilities Development & Operations Department (FDO)  
PBCFacilityUsePermit@pbcgov.org  
2633 Vista Parkway  
West Palm Beach, FL 33411-5603  
ATTN: Director  
Telephone: 561-233-0220 / Fax: 561-233-0206

Upon approval of the application by FDO, the property will be reserved and the user will be informed of any Special Conditions of Use, and fees for the Use as defined herein. Any fees are due prior to the Use.

1. USER/APPLICANT

Name of Applicant: Stephen E. Kohler  
Name of  
Organization/Licensee: Thalle Construction Company, Inc.  
Address: 900 NC 86 North  
City: Hillsborough State: NC Zip: 27278  
Phone: (919-) 245 - 1490 Email: Skohler@Thalle.com  
Name of the Authorized Representative : Christopher Haverstrom, Project Executive  
Type of Entity:  Public Agency  Non-Profit  Other Corporation  
(Specify)

2. REQUESTED PROPERTY

Name of Property: Paul Rardin Park  
(Please include room or area requested)  
Address: SR 715  
City: Pahokee State: FL Zip: 33476

3. NATURE OF USE: (Please check one)

Training  Educational  Recreational  Meeting  
 Non-profit Event  Other Staging Area

Does Use include the sale of Goods and/or Services?  Yes  No

Will User charge an Admission Fee and/or Participation Fee?  Yes  No

Amount to be charged for Admission Fee and/or Participation Fee: N/A

Detailed description of the nature and purpose of use (attach additional sheets as necessary):  
**For the purpose of a staging area for construction material for the USACE Herbert Hoover Dike Rehabilitation Structure Replacement S-273 (C10) and S-275 (C12) project and for the placement of temporary storm water discharge pipes across the Premises to allow pumping between Lake Okeechobee and the Canal system in the event of a major storm during the construction of the drainage facility on the East Shore Drainage District property located immediately south of and adjacent to the Premises.**

#### 4. FOOD AND BEVERAGE

Use includes food and/or beverage?  Yes  No

Use includes the sale, use or consumption of alcohol?  Yes  No

Note: A custodial fee may be imposed if the Use involves food and/or beverages.

#### 5. DATE AND TIME OF USE

Date(s) of Use: 12/21/2017 to 12/20/2018

Time(s) of Use:           :          AM/PM -          :          AM/PM

#### 6. EQUIPMENT

Amount of Equipment Requested: N/A Tables N/A Chairs

All equipment contained or used within the Facility is subject to approval by the Department.

#### 7. ADDITIONAL USERS

Organization(s)/individual(s) participating in use, if other than Applicant (attach additional pages to list more organization(s)/individual(s)):

Name: N/A

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: ( ) - Email: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Type of Entity:  Public Agency  Non-Profit  Other (Specify) \_\_\_\_\_

#### 8. VENDORS

List all vendors of the Event: N/A

**9. ADVERTISING**

Will the event be advertised to the Public?  Yes  No

If yes, by what means?:  Radio  TV  Other \_\_\_\_\_

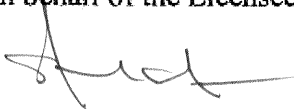
**TO BE PROVIDED BY FDO (After evaluation of the Application):**

**1. FEES AND ADDITIONAL CHARGES**

<input type="checkbox"/>	License Fees	\$ 0.00
<input type="checkbox"/>	Custodial Fees	\$ 0.00
<input type="checkbox"/>	Service Costs	\$ 0.00
<input type="checkbox"/>	Other Costs	\$ 0.00

2. Special Conditions of Use: See attached Exhibit A-1

By signing below, I certify that I have the authority to represent and obligate the Licensee and I agree on behalf of the Licensee to comply with the terms of this Application.



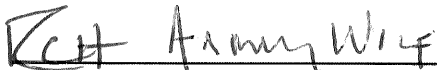
Date: 02.21.18

\_\_\_\_\_  
Signature of Authorized Representative

STEPHEN E. KOHLER PRESIDENT/COO

\_\_\_\_\_  
Printed Name and Title of Authorized Representative

**APPROVED BY:**



Date: 3/15/18

\_\_\_\_\_  
Director, Facilities Development & Operations Department

**OTHER DEPARTMENTAL REVIEW (If necessary):**

\_\_\_\_\_  
Signature of Director

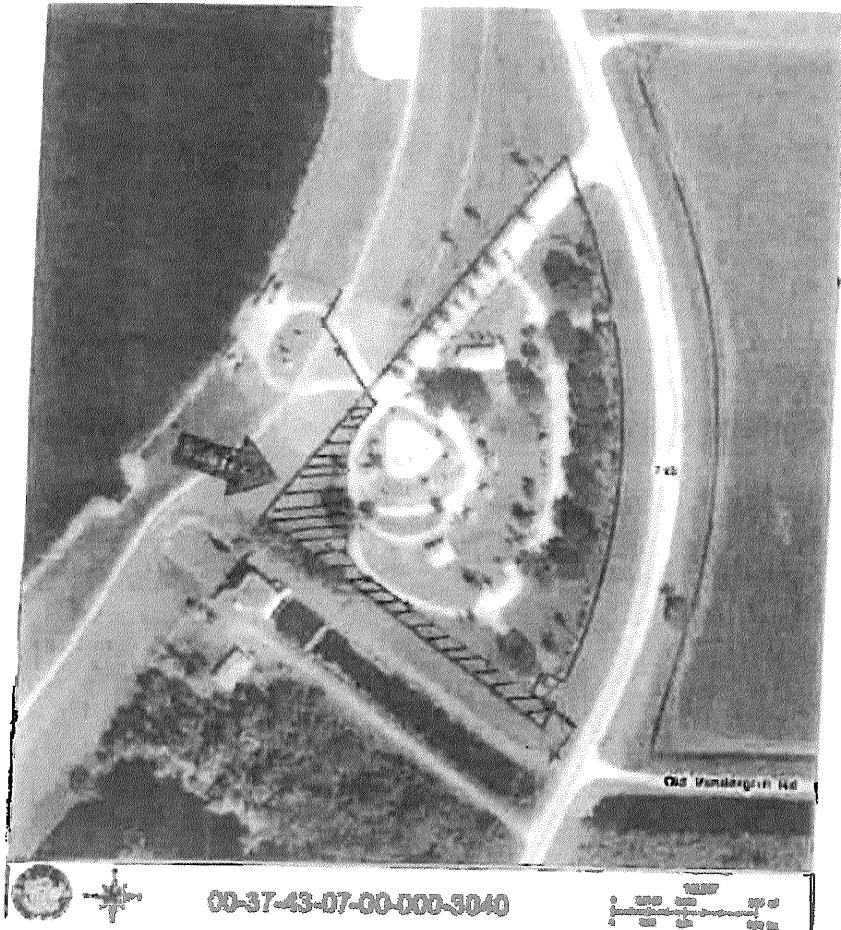
Date: \_\_\_\_\_

**Exhibit "A-1"**

**Special Conditions of Use**

Access/Staging Area is limited to the cross hatched area as depicted below:

**//////** **CROSSED HATCHED AREA - ACCESS/STAGING AREA**





TENANT'S DISCLOSURE OF BENEFICIAL INTERESTS

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Stephen E. Kohler, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the President (position - i.e. president, partner, trustee) of Thalle Construction Co., Inc. (name and type of entity - i.e. ABC Corporation, XYZ Limited Partnership), (the "Tenant") which entity is the lessee of the real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is: 900 NC 86 North  
Hillsborough, NC 27278

3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Tenant and the percentage interest of each such person or entity.

4. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

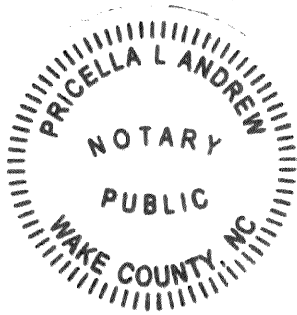
5. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete, and will be relied upon by Palm Beach County relating to its lease of the Property.

FURTHER AFFIANT SAYETH NAUGHT.

[Signature], Affiant

Print Affiant Name: STEPHEN E. KOHLER

The foregoing instrument was sworn to, subscribed and acknowledged before me this 18 day of Nov., 2016, by Stephen E. Kohler [  ] who is personally known to me or [  ] who has produced Drivers license as identification and who did take an oath.



[Signature]  
Notary Public  
Pricella L. Andrew  
(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large North Carolina  
My Commission Expires: 9-11-2021

Attachment 3  
1 of 3

**EXHIBIT "A"**

**PROPERTY**

/////// **CROSSED HATCHED AREA - ACCESS/STAGING AREA**

