

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: August 14, 2018	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
Department:	<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing

Submitted By: Department of Airports

Submitted For:

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I. EXECUTIVE BRIEF



Motion and Title: Staff recommends motion to receive and file: Access Agreement (Agreement) with JAEE Environmental Services, Inc. (JAEE), at the Palm Beach International Airport (PBIA) at no cost.

Summary: JAEE was contracted by Florida Power & Light Company (FPL) to conduct limited groundwater sampling in connection with FPL’s planned construction of a solar canopy at the travel plaza at PBIA. The Agreement allowed JAEE to access the property to complete sampling from May 30, 2018, to June 1, 2018. Countywide (AH)

Background and Justification: Delegation of authority for execution of the standard County agreement above was approved by the Board in R-2006-2716.

Attachments:
Access Agreement (1)

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LB	Recommended By:		6/27/18
		Department Director	Date
	Approved By:		7/11/18
		County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

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

Is Item Included in Current Budget? Yes _____ No X

Does this item include the use of federal funds? Yes _____ No X

Budget Account No: Fund 4100 Department 120 Unit _____ RSource _____
Reporting Category _____

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

There is no fiscal impact.

C. Departmental Fiscal Review: *CM Simon*

III. REVIEW COMMENTS

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

Lisa Pan 7/2/18
OFMB *PS* 7/2/18

Ann J. Jacobson 7/6/18
Contract Dev. and Control *7/6/18*

B. Legal Sufficiency:

Anne Delgado 7/9/18
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03
ADM FORM 01

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

CERTIFICATE
(Corporation)

The undersigned hereby certifies that the following are true and correct statements:

1. That ARLENE SMITHERMAN is the Secretary of JAE ENVIRONMENTAL SERVICES, INC., a corporation organized and existing in good standing under the laws of the State of Florida, hereinafter referred to as the "Corporation", and that the following Resolutions are true and correct copies of certain Resolutions adopted by the Board of Directors of the Corporation as of the 30 day of MAY, 2018, in accordance with the laws of the State of Florida, the Articles of Incorporation and the By-laws of the Corporation:

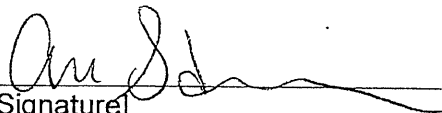
RESOLVED, that the Corporation shall enter into that certain ACCESS AGREEMENT between Palm Beach County, a political subdivision of the State of Florida and the Corporation (the "Agreement"), a copy of which is attached hereto; and be it

FURTHER RESOLVED, that WILLIE SMITHERMAN, the PRESIDENT of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to fulfill its obligations under the Agreement.

2. That the foregoing resolutions have not been modified, amended, rescinded, revoked or otherwise changed and remain in full force and effect as of the date hereof.

3. That the Corporation is in good standing under the laws of the State of Florida, and has qualified, if legally required, to do business in the State of Florida and has the full power and authority to enter into such Agreement.

IN WITNESS WHEREOF, the undersigned has set his hand and affixed the Corporate Seal of the Corporation the 30 day of MAY, 2018.


[Signature]

(Seal)

ARLENE SMITHERMAN, Secretary

Summary of Certificates

This report displays detailed Certificate of Insurance information for a selected Insured. Any items shown in red are deficient.

Tuesday, June 26, 2018

Simple View

Certificate Images

Documents

Insured: JAEE Environmental Services, Inc

Insured ID: PBI-JAEE-18-01-PBC

Status: Compliant

ITS Account Number: PLC3224

Project(s): Palm Beach County - Airport Properties

Insurance Policy	Required	Provided	Override
<u>General Liability</u>			
Expiration: 10/27/2018			
General Aggregate:	\$1,000,000	\$2,000,000	
Products - Completed Operations Aggregate:	\$0	\$0	
Personal And Advertising Injury:	\$0	\$0	
Each Occurrence:	\$1,000,000	\$2,000,000	
Fire Damage:	\$0	\$0	
Medical Expense:	\$0	\$0	
<u>Automobile Liability</u>			
Expiration: 11/21/2018			
	All Owned Autos	All Owned Autos	
	Hired Autos	Hired Autos	
	Non-Owned Autos	Non-Owned Autos	
Combined Single Limit:	\$1,000,000	\$1,000,000	
OR			
Bodily Injury (Per Person):	\$0	\$0	
Bodily Injury (Per Accident):	\$0	\$0	
Property Damage:	\$0	\$0	
<u>Workers Compensation/Employers Liability</u>			
Expiration: 10/27/2018			
	WC Stat. Limits	WC Stat. Limits	

Notifications [\(Show All\)](#)

There were no deficiency letters issued.

Do you have an updated Certificate? Click the button below to submit a Certificate.

Certificate Submittal

ACCESS AGREEMENT

THIS ACCESS AGREEMENT ("Agreement") is made and entered into as of June 11, 2018, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County"), and JAE Environmental Services, Inc., having its office and principal place of business at 3101 Peachtree Cir., Davie, FL 33328 ("Licensee").

WITNESSETH:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. Term. The term of this Agreement shall commence at 8:00 a.m. on May 30, 2018, and expire at 4:00 p.m. on June 1, 2018, unless terminated earlier in accordance with the provisions of this Agreement (the "Term").

2. Right of Entry. During the Term, Licensee and its duly authorized agents and employees shall have the right to enter upon the property located at: SEE ATTACHED EXHIBIT "A" (the "Property") and for sole the purposes of surveying, soundings, drillings, appraisals, environmental assessments and examinations (the "Inspections") in order to evaluate the condition of the Property. All Inspections shall be performed by people or entities properly licensed in the respective areas or matters tested. Licensee shall perform or cause the Inspections to be performed in the least intrusive manner possible at its sole cost and expense and in a manner which minimizes the impact upon County's use of the Property. Licensee shall be solely responsible for, and shall, at its sole cost and expense, promptly repair any damage resulting from Licensee's exercise of the rights granted hereby, and restore any improvements or landscaping now existing or constructed within the Property to the condition it was in prior to such damage, using materials of like kind and quality. Licensee shall deliver to County complete copies of all reports or similar items evidencing the results of the Inspections. Licensee acknowledges and agrees that the rights granted by this Agreement are and shall be strictly limited to the right to perform the Inspections, and that Licensee may not utilize the Property for any other purpose whatsoever. Licensee shall promptly cause any lien imposed against the Property as a result of Licensee's exercise of the rights granted hereby to be discharged or transferred to bond. Licensee's obligations under this paragraph shall survive the termination or expiration of this Agreement until satisfied.

3. Condition of Property. Licensee acknowledges and agrees that County shall have no liability whatsoever relating to the condition of the Property and Licensee hereby knowingly enters the Property in its "As Is" condition. Licensee shall indemnify, defend and save harmless the County from and against any and all claims, suits, actions, damages, and/or causes of action arising as a result of Licensee, its agents, employees, licensees and invitees' entry onto the Property for any personal injury, loss of life and/or damage to property sustained by reason of or as a result of the use, occupancy and testing by Licensee, its agents, employees, licensees, invitees, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney's fees, expenses and liabilities incurred in and about the defense of any such claim. In the event that 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 harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. Licensee's obligations under this paragraph shall survive the termination or expiration of this Agreement.

4. Insurance. During the Term, Licensee shall maintain, and 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 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 Premises/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 County as an Additional Insured. 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 Department of Airports, Access Agreement". 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 Licensee and/or Licensee's contractors and subcontractors pursuant to this Agreement. Such Certificate shall require at least thirty (30) days prior notice of cancellation or non-renewal. In no event shall the limits of said insurance policies be considered as limiting the liability of Licensee and/or its contractors and subcontractors under this Agreement.

5. Notices. All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail, a nationally-recognized overnight mail delivery service or personal delivery to the following:

If to County:

Palm Beach County Department of Airports
ATTN: Director
846, Palm Beach International Airport
West Palm Beach, Florida 33406-1491

With a copy to:

Palm Beach County Attorney's Office
ATTN: Airport Attorney
301 North Olive Ave., Suite 601
West Palm Beach, FL 33401

If to Licensee:

JAEE Environmental Services, Inc.
3101 Peachtree Cir.
Davie, FL 33328

Either party may from time to time change the address or addresses to which notices under this Agreement shall be given to such party upon three (3) days prior written notice. The effective date of any notice shall be: (i) the date of delivery if such notice is delivered by personal delivery; (ii) three (3) business days after the date deposited in the United States mail if such notice is delivered by mail; or (iii) the next business day after the date deposited in overnight mail if such notice is delivered by a nationally-recognized overnight mail delivery service.

6. No Recording. This Agreement shall not be recorded in the Public Records of Palm Beach County. In the event Licensee records this Agreement, this Agreement shall automatically terminate and become null and void upon the date of recordation.

7. License. The parties acknowledge and agree that nothing in this Agreement shall be construed as granting Licensee any title, interest or estate in the Property. Notwithstanding any provision of this Agreement to the contrary, the rights granted to Licensee hereunder amount only to a license to enter the Property for the purposes set forth herein, which is expressly revocable by County for any reason whatsoever upon written notice to Licensee.

8. Termination. Either party may terminate this Agreement upon written notice to the other party, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations that expressly survive the termination or expiration of this Agreement.

9. Venue. 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 in a state court of competent jurisdiction in Palm Beach County, Florida.

10. Captions. The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

11. Construction/Severability. No party shall be considered the author of this Agreement since the parties 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 is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

12. Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of Licensee, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

13. No Third Party Beneficiaries. No provision of this 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 Agreement, including but not limited to any citizen or employees of County and/or Licensee.

14. Non-Discrimination.

A. Non-Discrimination in County Contracts. Licensee warrants and represents to County that all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information.

B. Federal Non-Discrimination Covenants.

1. Licensee, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that:

- a. In the event facilities are constructed, maintained, or otherwise operated by on County property by Licensee for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Licensee will maintain and operate such facilities and services in compliance with all requirements imposed by the nondiscrimination acts and regulations listed in the Nondiscrimination Authorities (as hereinafter defined), as may be amended, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- b. No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of County property.
- c. In the construction of any improvements on, over, or under County property and the furnishing of services thereon, no person on the ground of race, color, or national origin, will

be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

- d. Licensee shall comply with, and use County property in compliance with, the requirements imposed by or pursuant to the Nondiscrimination Authorities.
2. In the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate this Permit as if this Permit had never been made or issued. This Permit shall not be terminated pursuant to this paragraph until the procedures of 49 CFR Part 21 are followed and completed, including, the exercise or expiration of appeal rights.
3. For purposes of this Article, the term "Non-Discrimination Authorities" includes, but is not limited to, the non-discrimination statutes, regulations and authorities listed in Appendix "E" of Appendix "4" of FAA Order 1400.11, Non-discrimination in Federally-Assisted Programs at the Federal Aviation Administration, as may be amended.
4. Licensee shall comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Licensee for the period during which Federal assistance is extended to the Airport through the Airport Improvement Program. In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates Licensee for the longer of the following periods: (a) the period during which the property is used by County or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which County or any transferee retains ownership or possession of the property.
5. Licensee shall comply with all applicable requirements of the Americans with Disabilities Act, the State of Florida Accessibility Requirements Manual, and Section 504 of the Rehabilitation Act of 1973 and all implementing rules, regulations and orders, including, but not limited to 28 CFR Parts 35 and 36 and 49 CFR Parts 27 and 37.

15. Entire Agreement. 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.

16. Effective Date. This Agreement shall become effective upon execution by the parties hereto.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have executed this Agreement on the date as of the first above written.

WITNESSES:

By: Ray Walker
Signature

Ray Walker
Print Name

By: Debra Reese
Signature

Debra Reese
Print Name

PALM BEACH COUNTY:

By: [Signature]
County Administrator or Designee

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

By: Anne Helgenst
County Attorney

WITNESSES:

Signed in the presence of:

Arlene Smitherman
(Signature of Witness)

Arlene Smitherman
(Print Name of Witness)

[Signature]
(Signature of Witness)

Janet Smitherman
(Print Name of Witness)

LICENSEE:

By: [Signature]
(Signature)

Willie Smitherman
(Print Signatory's Name)

Its: [Signature]

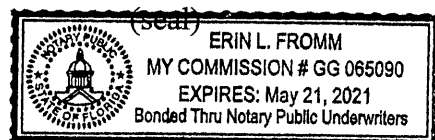


EXHIBIT "A"

