

**LAKE CONWAY WATER AND NAVIGATION CONTROL DISTRICT
AND
ORANGE COUNTY, FLORIDA
AND
CITY OF BELLE ISLE
INTERLOCAL AGREEMENT
for
LICENSE TO USE LAND FOR WATER QUALITY IMPROVEMENT
PROJECT**

THIS INTERLOCAL AGREEMENT (the “Agreement”) is made and entered into as of the date later executed below by and between **Lake Conway Water and Navigation Control District**, a dependent special district created by Chapter 57-1643, Laws of Florida, as amended (the “District”), **Orange County, Florida**, a charter county and political subdivision of the State of Florida, (the “County”), and the **City of Belle Isle**, a municipal corporation created and existing under the laws of the State of Florida, (the “City”). In this Agreement, the District, the County, and the City may be referred to individually as a “**Party**” or collectively as the “**Parties.**”

WITNESSETH:

WHEREAS, Section 163.01, Florida Statutes, provides that public agencies of this State may jointly exercise their powers and authorities and that such a joint exercise of power shall be made by contract in the form of an interlocal agreement; and

WHEREAS, the Parties are authorized as public agencies pursuant to Section 163.01, Florida Statutes, to enter into this Agreement; and

WHEREAS, the District is acting under its legislative authority as a dependent special district; and

WHEREAS, as provided in Chapter 57-1643, Laws of Florida, as amended (the “District’s Creation Document”) the Orange County Board of County Commissioners acts as the governing authority of the District; and

WHEREAS, the District desires to install a new stormwater retrofit within the Wallace Street public right of way (the “Right of Way”) to provide for the treatment of stormwater runoff to Lake Conway (the “Improvements”); and

WHEREAS, the District desires to enter into this Agreement to have the County install, operate, maintain, and repair the Improvements; and

WHEREAS, the City has maintenance and operational jurisdiction of the Right-of-Way where the Improvements are to be installed; and

WHEREAS, for the benefit of the citizens within the District, the District and the County are requesting to enter into this Agreement to obtain a license from the City for the County's right to install the Improvements in accordance with the plans attached hereto as **Exhibit "A"** (the "Design Plans") and for the County's right to operate, maintain, and repair the Improvements within the Right-of-Way in perpetuity; and

WHEREAS, as provided in the District's Creation Document, the District is authorized to expend and use the funds collected under the taxing and fee provisions of the law to carry out the intent and purpose of said law ("District Funds"); and

WHEREAS, the Improvements will preserve and enhance the water quality as well as the natural beauty and attractiveness of Lake Conway; and

WHEREAS, District Funds will be expended and used in compliance with the District's Creation Document for the County's installation, maintenance, operation, and repairs to the Improvements; and

WHEREAS, the District and the County, in consideration of the City's license to the County to install, operate, maintain, and repair the Improvements, has agreed to the terms, conditions and requirements set forth in this Agreement; and

WHEREAS, the City and the District have determined that the installation of the Improvements is in the interest of the District and the citizens within the District.

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, the Parties agree as follows:

Section 1. Recitals

The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. License

For so long as this Agreement is in effect, the City hereby grants the County the non-exclusive right, privilege, and license to install, operate, maintain, and repair the Improvements as depicted in the Design Plans. The license herein is granted for perpetual use commencing on the Effective Date, as defined below, of this Agreement. Prior to performing maintenance and repair work on the Improvements that would impede public access over and through the Right-of-Way or disturb the City's or others' improvements within the Right-of-Way, the County shall obtain permission for such work from the City, which may require obtaining a right-of-way utilization permit.

Section 3. Construction and Maintenance of Improvements

A. Installation of Improvements. The County shall construct and install the Improvements within and along the Right-of-Way in accordance with the Design Plans. Upon completion of the installation of the Improvements, the County shall repair and restore the Right-of-Way to the City's landscaping standards for a City right-of-way and shall not include an obligation to restore to exotic or enhanced landscaping standards. If the County is using a contractor to perform the installation work, the contractor will be required to obtain a right-of-way permit from the City before commencing installation activities.

B. Maintenance and Repairs. The Improvements shall be operated, maintained and repaired by the County in accordance with this Agreement. No portion of the Improvements shall be maintained in such a manner as may interfere with the use of the Right-of-Way by the City, other utility owners, or the public, or create a safety hazard, as determined by the City in the City's reasonable discretion. The County, and their respective contractors and agents, shall not, while operating, repairing, or maintaining the Improvements, damage or disturb any portion of the Right-of-Way, and improvements therein, without the prior written approval of the City and the City's prior written approval of a plan to restore the Right-of-Way. The County, and their respective contractors and agents, shall take all safety measures required by law for construction, repair, and maintenance work in and along public rights-of-way, including the placing and display of caution signs and signals, when working in the Right-of-Way, and shall prevent any obstructions to the Right-of-Way which are or may become dangerous to the traveling public. In the event that any work to be conducted by the County requires streets or traffic lanes to be closed or obstructed, the County, shall, pursuant to the City ordinances and regulations, obtain all permits from and pay all applicable fees to the City, and shall obtain approval of its maintenance of traffic plan from the City's Police and Public Works Departments prior to commencing such work.

The County, shall have the right to clear and keep clear all trees, undergrowth and other obstructions in the Right-of-Way that interfere with the normal operation or maintenance of the Improvements. The City agrees to not build, construct or create, nor permit others to build, construct or create any buildings or other structures which may interfere with the normal operation or maintenance of the Improvements within the Right-of-Way.

C. Damage Caused. The County shall cause the repair and restoration of any damage to the Right-of-Way including the restoration of sod, landscaping, and pavement caused by the County during the County's work on the Improvements within the Right-of-Way. The County shall repair and restore the same to the condition it was in prior to the damage promptly within the earlier of: (i) ninety (90) days of notification to the County by the City; and (ii) ninety (90) days from the County first becoming aware of such damage; provided however, in an emergency circumstance affecting the health, safety and welfare of the public or surrounding residents or businesses, the County shall take immediate action upon becoming aware of such circumstance to alleviate any dangerous situation or unsafe condition. Such repair and restoration shall be implemented to a condition at least equal to that which existed immediately prior to the infliction of such damage. Further, the County shall be responsible for the repair and restoration

of any damage or injury to any third party's property, improvements or facilities caused during their work on the Improvement within the Right-of-Way.

D. Funding of the Installation, Maintenance, Operation, and Repairs of the Improvements. The District shall appropriate funding for the County's installation, maintenance, operation, and repairs of the Improvements for the duration of this Agreement in compliance with the District's Creation Document. The funds are not to be used in a manner inconsistent with the District's Creation Document.

E. Compliance with the Law. Unless otherwise provided for herein, during the operation, construction, installation, repair and maintenance of the Improvements, the County shall comply with any and all laws, ordinances, and regulations of the City, County, state, and federal governments, related to its activities, including but not limited to laws and regulations concerning landscaping, trees, planting, maintenance, drainage, utilities, and signage within and along public rights-of-way.

To the extent of any conflict between the additional requirements set forth above and any current or future City, County, state, or federal law or regulation, the more stringent requirement shall control unless preempted by law.

Section 4. Inspection

At all times, the City shall have the right to inspect the installation and construction of the Improvements to ensure compliance with the terms of this Agreement.

Section 5. Equitable Rights of the District and the County

The District and the County shall be entitled to written notice from the City if the City is considering or intending to vacate any portion of the Right-of-Way subject to this Agreement. The District and the County shall be entitled to seek equitable relief if the City fails to provide written notice to the District and the County.

Section 6. Indemnification

No Party, their officers, employees, or agents shall be deemed to assume any liability for the acts, omissions, and negligence of the other Party, its officers, employees or agents. However, the City, subject to the provisions of Section 768.28, Florida Statutes, will defend, indemnify and hold harmless the District and the County, from and against said claims arising out of the City's neglect, acts, errors or omissions in connection with the Project, or the negligent acts, errors or omissions of anyone acting under its direction, control or on its behalf. Nothing in this Agreement is intended as a waiver of sovereign immunity by the Parties.

Section 7. Term and Termination

This Agreement shall commence and become effective upon the date the last Party executes this Agreement ("Effective Date"). This Agreement may be terminated at any time by mutual written consent of the Parties.

Section 8. Modification

Any change, amendment, or alteration to this Agreement shall be in writing and signed by the Parties.

Section 9. Notice

Any notice required or allowed to be delivered hereunder must be in writing and be deemed to be delivered when (a) hand-delivered to the official designated in this Section 9; (b) such notice is sent by Federal Express or other nationally recognized overnight courier service; or (c) such notice is sent by the United States mail, postage prepaid, certified mail, return receipt requested, all to be addressed to a Party at the address set forth opposite the Party's name below.

If to District: Orange County Environmental Protection Division
 ATTN: Manager
 3165 McCroy Place, Suite 200
 Orlando, Florida 32803

With Copy to: Orange County Office of Management and Budget
 ATTN: Budget Manager
 201 South Rosalind Avenue, 3rd Floor
 Orlando, Florida 32801

If to County: Orange County Administrator's Office
 Orange County Administration Building
 201 South Rosalind Avenue, 5th Floor
 Orlando, Florida 32801

With Copy to: Orange County Environmental Protection Division
 ATTN: Manager
 3165 McCroy Place, Suite 200
 Orlando, Florida 32803

If to City: City of Belle Isle
 ATTN: City Manager
 1600 Nela Ave
 Belle Isle, FL 32809

With Copy to: City of Belle Isle
ATTN: City Clerk
1600 Nela Ave
Belle Isle, FL 32809

Section 10. Entire Agreement

This Agreement constitutes the entire agreement between the Parties. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein.

Section 11. No Third-Party Beneficiaries

This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the Parties.

Section 12. Governing Law; Venue

The Parties acknowledge that this Agreement is executed and delivered in the State of Florida. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for all actions arising out of or related to this Agreement shall be proper only in a state court of competent jurisdiction located in Orange County, Florida.

Section 13. Assignment

Neither this Agreement, nor any right or obligation of any Party may be assigned, delegated, or otherwise transferred, in whole or in part, without the express written consent of all Parties.

Section 14. Attorney's Fees

The Parties expressly agree that each Party shall bear the cost of its own attorney and legal fees in connection with any dispute arising out of this Agreement, or the breach, enforcement, or interpretation of this Agreement, regardless of whether such dispute results in mediation, arbitration, litigation, all, or none of the above, and regardless of whether such attorney and legal fees are incurred at trial, retrial, on appeal, at hearings or rehearings, or in administrative, bankruptcy, or reorganization proceedings.

Section 15. Waiver Of Jury Trial

The Parties hereto waive a trial by jury of any and all issues arising in any action or proceeding between them or their successors under or connected with this Agreement or any of its provisions and any negotiations in connection herewith.

Section 16. Severability

If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability will not affect the other parts of this Agreement if the rights and obligations of the Parties and if the intention of the Parties can continue to be effective. To that end, this Agreement is declared severable.

Section 17. Captions

Titles used throughout this Agreement are intended for ease of reference only and are not intended to be dispositive.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set below.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Jerry L. Demings, Orange County Mayor

Date: _____

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

**LAKE CONWAY WATER AND
NAVIGATION CONTROL DISTRICT**
By: Board of County Commissioners

By: _____
Jerry L. Demings, Orange County Mayor

Date: _____

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

CITY OF BELLE ISLE, FLORIDA
Florida municipal corporation

By: _____
Jason Carson
Mayor

By: _____
Attest: Yolanda Quiceno
City Clerk

DESIGN PLANS