



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.17.

7/12/2022

Subject:

Approval, Re: Property Access License Contract with Beyel Brothers, Inc. - Port St. Boat Ramp (District 1)

Fiscal Impact:

There is no fiscal impact.

Dept/Office:

Parks and Recreation Department

Requested Action:

It is requested the Board of County Commissioners approve and authorize the Parks and Recreation Director to execute a Property Access License Contract and any renewals with Beyel Brothers, Inc. upon review and approval by the County Attorney's Office, Risk Management and Central Services.

Summary Explanation and Background:

The Port St. John Boat Ramp is located at 6650 North Cocoa Boulevard, Port St. John, Florida 32927.

Beyel Brothers, Inc. is managing an Orlando Utilities Commission Power Plant project at 7800 US Highway 1, Titusville - just north of the Port St. John Boat Ramp. They are requesting use of a small portion of the northeast corner of the seawall at the boat ramp to unload equipment from a Beyel Brothers, Inc. barge and then transport the equipment to the power plant. The Total estimated time of use will be for four hours (each occurrence) during the timespan of the project.

Parks and Recreation staff will be on site to ensure safety protocols are followed. Beyel Brothers, Inc. agrees to adjust the schedule of equipment unloading so that unloading will be performed during house that has the least effect on patron usage of the dock area. If staff determines it is necessary, Beyel Brothers, Inc. will arrange to have the Sheriff's Department on site for traffic control.

A contract with Beyel Brothers, Inc. was approved by the Board of County Commissioners on July 20, 2021 for a term of one year. Beyel Brothers, Inc. is requesting additional time for access to this portion of the boat ramp as they are still waiting on transformers to be delivered due to delays caused by Covid and a lessened work force.

This Property Access License Contract will be effective for a term of six months with one renewal for an additional six months. The contract has been reviewed and approved by the County Attorney's Office and Risk Management.

Clerk to the Board Instructions:

Please send the Clerk's Memorandum and related documents to Melissa Renninger, Parks and Recreation Department or call when ready for pick up (321) 350-9125.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

July 13, 2022

MEMORANDUM

TO: Mary Ellen Donner, Parks and Recreation Department
RE: Item F.17., Approval for Property Access License Contract with Beyel Brothers, Inc. – Port St. John Boat Ramp

The Board of County Commissioners, in regular session on July 12, 2022, approved and authorized you to execute a Property Access License Contract and any renewals with Beyel Brothers, Inc. approval by the County Attorney's Office, Risk Management and Central Services.

Upon execution by all parties, please return one fully-executed Contract to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/pp



Brevard County
Parks and Recreation Department



Property Access

License Contract

Joseph D. Beyel
Beyel Brothers, Inc.

Port St. John Boat Ramp
6650 N. Cocoa Blvd, Port St. John, Florida 32927

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Property Access License Contract



This Contract, made by and between the **Board of County Commissioners of Brevard County, Florida**, a political subdivision of the State of Florida, hereinafter referred to as "County", and **Beyel Brothers, Inc.**, a Florida Profit Corporation whose address is 550 Cidco Rd, Cocoa, Florida 32926, hereinafter referred to as "Licensee".

Witnesseth

Whereas, the County is the owner, lessee, or authorized administrator of certain real property located in Brevard County, Florida, commonly known as **Port St. John Boat Ramp**, located at 6650 N. Cocoa Blvd, Port St. John, Florida 32927, hereinafter referred to as "Park" (attached hereto as Exhibit A) and

Whereas, the Licensee has expressed a need for temporary access to the Park to unload a transformer for providing power to the community; and.

Now, Therefore, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

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

Section 1. License.

The County hereby grants a temporary, non-exclusive, personal and revocable License to the Licensee at the Park solely for the purpose of allowing Licensee ingress and egress to the Property by use of the fire line for the term of this Contract. This License shall not be interpreted or construed as granting the right to the ingress, egress, or use of the fire line by any other person, third party, or property owner other than Licensee, except for invited guests of the Licensee. Licensee shall be present at any and at all times guests are accessing the fire line. This License shall not be construed or interpreted as granting or attempting to grant the Licensee ingress or egress across property owned by any other person or legal entity. This Contract does not operate or confer on, or vest in, the Licensee any title, interest or estate in the Park. This License may be revoked at any time.

Section 2. Term.

This Contract shall be effective from the date of the last signature for a period of three months. Licensee may request an extension of this Contract for an additional three-month term and two subsequent extensions for additional three-month terms upon written notice to the County received at least thirty days prior to the date of termination of the current term.

Section 3. Americans with Disabilities Act Compliance.

The County and Licensee shall conform to current requirements of the Americans with Disabilities Act in the performance of this Contract, and shall not cause or place on the Park any condition causing the Park to become non-compliant. The parties shall work together to remedy any known violations of the Americans with Disabilities Act that may occur.

Section 4. Alterations, Changes, and Additions.

No structural changes, alteration or additions shall be made by the Licensee to the Park without the prior written consent of the county.

Section 5. Assignment.

This Contract may not be assigned, transferred, conveyed or devised to any other person, corporation, partnership or other entity.

Section 6. Attorney's Fees.

In the event of any legal action to enforce the terms of this Contract each party shall bear its own attorney's fees and costs.

Section 7. Construction of Contract.

The parties hereby acknowledge that they have fully reviewed this Contract and its attachments and have had the opportunity to consult with legal counsel of their choice, and that this Contract shall not be construed against any party as if they were the drafter of this Contract.

Section 8. Counterparts.

This Contract may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. The parties agree that executed counterparts may be transmitted by e-mail and that such counterparts shall be treated as originally executed instruments. Each party undertakes to provide the other with a copy of the original Contract bearing actual original signatures and initials within a reasonable period of time following the execution of this contract.

Section 9. Entire Contract.

This Contract shall constitute the entire Contract between the Parties with respect to the matters addressed herein and supersedes any prior Contracts or understandings. Any prior understanding or representation of any kind, relating to the matters addressed herein, preceding the date of this Contract shall not be binding upon either party and is expressly terminated by the execution of this Contract.

Section 10. E-Verify.

A. The County shall not enter into, or renew, a contract for goods or services with a Licensee that is not enrolled in E-Verify. Any Licensee providing goods or services to the County shall be contractually required to utilize E-Verify to confirm the employment eligibility of any employee hired during the contract term.

- B. The County shall verify the Licensee's participation in E-verify Program by confirming their enrollment on the Department of Homeland Security E-verify Website. Licensee's whose participation cannot be verified on the Department of Homeland Security's E-verify Website shall provide acceptable evidence of their enrollment prior to award and the execution of a contract. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business.
- C. The Licensee shall expressly require any subcontractor performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- D. The Licensee must meet this requirement, unless:
 - 1.) the contract is solely for goods-based procurement where no services are provided; or
 - 2.) where the requirement is waived by the Board of County Commissioners;
 - 3.) the contract is being executed with a Sole Proprietor who does not hire employees and therefore not required to file a Department of Homeland Security Form I-9 (which is the necessary document used for performing an E-Verify search); or
 - 4.) the contract is being executed with a company based outside of the United States of America and does not have a corporation or office located within the United States of America and does not employ any United States of America citizens.
- E. The Licensee's compliance with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.

Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

Section 11. Florida Public Records Law.

Pursuant to Section 119.0701, Florida Statutes, a request to inspect or copy public records relating to this Contract must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Licensee of the request and the Licensee shall provide the records to the County or allow the records to be inspected or copied within twenty-four hours (not including weekends or legal holidays) of the request so the County can comply with the requirements of Chapter 119, Florida Statutes, Florida Public Records Law. The Licensee may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

If Licensee fails to provide the requested public records to the County within a reasonable time, the Licensee may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties pursuant to Section 119.10, Florida Statutes. Licensee's failure to comply with public records requests is considered a

material breach of this Contract and grounds for termination. If Licensee claims certain information is exempt and/or confidential, it must cite to specific statutory provisions or case law in order to justify removal or redaction of said information.

Should the County face any legal action to enforce inspection or production of the records within the Licensee's possession and control, the Licensee agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Licensee shall hire and compensate attorneys to represent the Licensee and County in defending such action. The Licensee shall pay all costs to defend such action and any costs and attorney's fees awarded pursuant to Section 119.12, Florida Statutes.

If the Licensee has questions regarding the application of Chapter 119, Florida Statutes, to the Licensee's duty to provide Public Records relating to this contract, contact the custodian of Public Records: Misty Adams, Administrative Assistant, 2725 Judge Fran Jamieson Way, Building B, Suite 203, Viera, Florida 32940; Email the Records Custodian; (321) 633-2046.

Section 12. Governing Law.

This Contract shall be deemed to have been executed and entered into within the State of Florida and this Contract, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

Section 13. Illegal, Unlawful or Improper Use.

The Licensee shall not make any unlawful, immoral, improper, or offensive use of the Park nor allow said Park to be utilized for any purpose other than that hereinabove set forth. Failure of the Licensee to comply with this provision shall be considered a material breach of this Contract and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Park and terminate this Contract.

Section 14. Indemnification and Insurance.

Licensee agrees that it will indemnify and hold harmless the County, its officers, employees, and agents, against any and all claims, losses, and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the performance, failure in the performance of, or defect in the products or services outlined in this Property Access License Contract. Licensee shall indemnify and hold harmless the County when such claim, damage, loss, or expense is: (1) attributable to bodily injury, sickness, disease, death, or personal injury, or to property damage, including loss of use resulting therefrom, and (2) caused in whole or in part by any negligent, reckless, or intentional act or omission of the Licensee, or its contractors or subcontractors, or any of its officers, employees, or agents, or arises from a job-related injury. The Parties acknowledge specific consideration has been exchanged for this provision.

The County's liability obligations hereunder shall be subject to the right of sovereign immunity

and limited to the extent of the protections of and limitations on damages as set forth in Section 768.28, Florida Statutes. Nothing in this Property Access License Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the County's sovereign immunity.

Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. The Licensee accepts all risks arising from construction or operation of the Project.

The Licensee shall acquire and maintain, and shall require its contractors and subcontractors to acquire and maintain, - such liability, workers' compensation, and automobile insurance as required by their current rules and regulations.

At its own expense, the Licensee shall keep in force and at all times maintain during the duration of the Project the following minimum levels of insurance including, but not limited to:

(a) **Automobile Liability Insurance:** Commercial Automobile Liability Insurance: Insurance issued by responsible insurance companies as outlined in subsection (d) below, with combined single limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

(b) **General Liability Insurance:** General Liability Insurance issued by responsible insurance companies as outlined in subsection (c) below, with combined single limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

(c) **Workers' Compensation Coverage:** Full and complete Workers' Compensation Coverage, as required by State of Florida law, and where applicable, full coverage for maritime obligations, the United States Longshoremen's and Harbor Workers' Compensation Act, shall be provided.

(d) **Insurance Certificates:** the Licensee shall provide the County with Certificate(s) of Insurance on all policies of insurance and renewals thereof in an industry standard Acord form. Said Commercial Automobile Policy and General Liability Policy shall provide that the County be included as an additional insured via endorsement. The Workers' Compensation Policy shall include a waiver of subrogation. The County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action if replacement insurance meeting the requirements and specifications therein cannot be obtained. All insurance policies shall be issued by responsible companies who are licensed and authorized under the laws of the State of Florida.

(e) **Contractors and Subcontractors:** the Licensee shall require its contractors and subcontractor to obtain and maintain these minimum coverages and limits.

County does hereby covenant with Licensee that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof.

This License is granted upon the condition that the property will be restored to a condition as nearly as possible to its original condition that existed prior to the use intended by this easement.

Section 15. Interest in the Property.

This Contract is the grant of a personal right to the Licensee. This Contract shall not be construed to create any real property interest in the County's Property.

Section 16. Maintenance.

The County represents that it has the right to grant the License herein described. The County shall not bear any responsibility for the maintenance of the Park, including the fire line, and shall have no duty to keep the Park in a condition passable by the Licensee. Licensee shall not undertake any maintenance or improvement of the Park without the expressed written permission of the County, which permission may be withheld at the County's sole discretion. Licensee shall have the right, after obtaining written approval from the County, to maintain but not improve the fire line. Maintenance includes trimming of trees and brush that restrict travel along the fire line and removal of the tire ruts and tire tracks so as to keep the fire line in condition to support travel on it. No maintenance may be conducted outside the boundaries of the fire line.

Section 17. Modification.

No modification of this Contract shall be binding on the County or the Licensee unless reduced to writing and signed by a duly authorized representative of County and the Licensee.

Section 18. Notice.

Notice under this Contract shall be given to the County by mailing written notice postage prepaid, to: North Area Parks Operations, 1515 Sarno Road, Building A, Melbourne, Florida 32935 and notice shall be given to the Licensee by mailing written notice; postage prepaid, to Jesse O. Duenas, 6030 Baltimore Avenue, Cocoa, Florida 32927.

Section 19. Recording.

This Contract shall not be recorded in the official records of Brevard County, Florida, by either party.

Section 20. Revocation.

This Contract may be revoked or terminated by the County upon fifteen days written notice to the Licensee, upon one or more of the following occurrences:

- A. Licensee transfers ownership of all or any part of the Licensees' Property. In the event of transfer of ownership of all or any part of the Licensee's Property, Licensee agrees to make a condition of the sale that the new owner applies thirty days prior to the transfer of title to

the County for a Property Access License Contract, which shall not be unreasonably withheld by the County. In the event the County has reason not to enter into a contract with the new owner, the County will notify Licensee within this thirty-day period of the reasons why a Property Access License Contract should not be issued to the prospective new owner.

- B. Licensee obtains alternate access for ingress and egress to Licensee's Property.
- C. Licensee violates any law, rule, regulation, or management plan applicable to the County's Property, as promulgated by the State of Florida, or any of its agencies; the County; or any other governmental agency with jurisdiction.
- D. Licensee Engages in any hunting activity at the Park.
- E. Licensee discharges any firearms on or across any portion of the Park.
- F. Licensee conducts any illegal or unauthorized activity at the Park.
- G. Licensee enters upon or conducts activity at the Park for uses other than use of the fire line for ingress and/or egress during the term of this Contract.
- H. Licensee violates any term, provision, or condition of this License Agreement.

If, in the sole discretion of the County, Licensee's continued use of the Park for the specific purposes outlined herein interfere with the County's management of the Park; the County has the discretion to provide alternate access for ingress and/or egress if possible.

Section 21. Responsibility.

The Licensee shall be responsible for abiding by the terms of this Contract. The Area Manager shall be responsible for assuring the terms of this Contract are enforced.

Section 22. Right of Entry by County.

The County or its agents may at any time enter in and on the referenced Park for the purpose of inspection of same and performing such other duties as are required by the terms of this Contract and the rules, regulations, ordinances and laws of any government body.

Section 23. Right to Audit Records.

In the performance of this Contract, the Licensee shall keep books, records, and accounts of all activities related to this Contract in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Licensee in conjunction with this Contract and the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the County. The Licensee shall retain all documents, books and records for a period of five years after termination of this Contract, unless such records are exempt from section 24(a) of Article I of the State Constitution and chapter 119, Florida Statutes. All records or documents created by or provided to the Licensee by the County in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

The Licensee shall ensure that public records which are exempt or confidential and exempt from

public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Contract and following termination of the Contract if the Licensee does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Contract, the Licensee may transfer, at no cost to the County, all public records in possession of the Licensee. If the Licensee transfers all public records to the County upon termination of the Contract, the Licensee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

Section 24. Severability.

If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall nevertheless continue in full force without being impaired or invalidated in any way.

Section 25. Statutes, Laws, Rules and Regulations.

The Licensee's use of the Park will be in accordance with all applicable laws, rules, regulations, policies and procedures approved by the Department and/or the County including but not limited to: Department Policy PRP-1 Prohibiting Smoking at Brevard County Youth Athletic Facilities, PRD-4 Background Screening for Volunteers and Contracted Services, and prescribed safety rules and regulations. The County reserves the right to disapprove any and all programs held at the Park, which may be in conflict with the Department's and/or the County's Policies and Administrative Orders, and agrees to furnish the Licensee with a copy of such rules, regulations, policies, procedures, and amendments.

It shall be the Licensee's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.

Section 26. Termination.

This Contract may be terminated by either party upon thirty days written notice to the other party. Upon termination of this Contract, the Licensee shall have fifteen days from the date of termination within which to remove any personal property or equipment from any Park. Any personal property or equipment not removed within said fifteen-day period shall become the property of the County.

Section 27. Venue.

Venue for any legal action brought by any party to this Contract to interpret, construe or enforce this Contract shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

In Witness Whereof, the parties have hereunto set their hands and seals on the day and year written herein below.

Reviewed for legal form and content:

Board of County Commissioners
of Brevard County, Florida

Robin Rogers 6/29/2021
Robin B. Rogers
Assistant County Attorney

By: Mary Ellen Donner 7/30/2021
Mary Ellen Donner, Date
Parks and Recreation Department Director

As approved by the Board on July 20, 2021.

Licensee: Beyel Brothers, Inc.

[Signature]
By: 6/30/2021
Joseph D. Beyel, President (or) Date
Mark Beyel, Secretary/Treasurer

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of physical presence or
 online notarization, this 6/30/21 by MARK JOSEPH Beyel. He/she is personally known to me or has
produced _____ as identification.

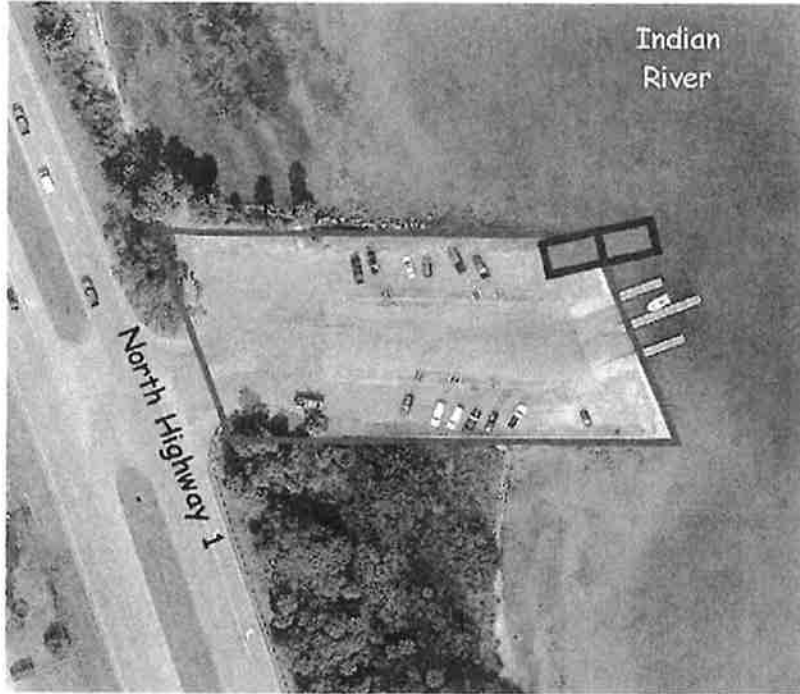
[Notary Seal]

Notary Public

Sally Mead-Jones
Name typed, printed or stamped
My Commission Expires:



Exhibit A



**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONTRACT REVIEW AND APPROVAL FORM


SECTION I - GENERAL INFORMATION

1. Contractor: Beyel Brothers, Inc.		2. Amount: 0	
3. Fund/Account #:		4. Department Name: Parks & Recreation	
5. Contract Description: Property Access License Contract for PSJ Boat Ramp			
6. Contract Monitor: Melissa Renninger		8. Contract Type:	
7. Dept/Office Director: Mary Ellen Donner		TERM CONTRACT	
9. Type of Procurement: Other			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>
	<u>YES</u>	<u>NO</u>	
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>
	<u>YES</u>	<u>NO</u>	
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Renninger, Melissa <small>Digitally signed by Renninger, Melissa Date: 2022.04.07 15:13:49 -0400</small>
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	_____
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	 4/29/2022 JJ
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<u>CM DATABASE REQUIRED FIELDS</u>	<u>Complete</u> ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



**Brevard County
Parks and Recreation Department**



Property Access License Contract

Beyel Brothers, Inc.

Port St. John Boat Ramp
6650 N. Cocoa Blvd, Port St. John, Florida 32927

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Witnesseth

Whereas, the County is the owner, lessee, or authorized administrator of certain real property located in Brevard County, Florida, commonly known as **Port St. John Boat Ramp**, located at 6650 N. Cocoa Blvd, Port St. John, Florida 32927, hereinafter referred to as "Park" (attached hereto as Exhibit A) and

Whereas, the Licensee has expressed a need for temporary access to the Park to unload a transformer for providing power to the community; and.

Now, Therefore, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

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

Section 1. License.

The County hereby grants a temporary, non-exclusive, personal and revocable License to the Licensee at the Park solely for the purpose of allowing Licensee use of a portion of the northeast corner of the seawall at the boat ramp for the term of this Contract. This License shall not be interpreted or construed as granting the right to the seawall by any other person, third party, or property owner other than Licensee, except for subcontractors of the Licensee. Licensee shall be present at any and at all times subcontractors are accessing the seawall. This License shall not be construed or interpreted as granting or attempting to grant the Licensee access to property owned by any other person or legal entity. This Contract does not operate or confer on, or vest in, the Licensee any title, interest or estate in the Park. This License may be revoked at any time.

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This Contract shall be effective from the date of the last signature for a period of six months. Licensee may request an extension of this Contract for an additional six-month term upon written notice to the County received at least thirty days prior to the date of termination of the current term.

Section 3. Americans with Disabilities Act Compliance.

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This Contract may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. The parties agree that executed counterparts may be transmitted by e-mail and that such counterparts shall be treated as originally executed instruments. Each party undertakes to provide the other with a copy of the original Contract bearing actual original signatures and initials within a reasonable period of time following the execution of this contract.

Section 9. Entire Contract.

This Contract shall constitute the entire Contract between the Parties with respect to the matters addressed herein and supersedes any prior Contracts or understandings. Any prior understanding or representation of any kind, relating to the matters addressed herein, preceding the date of this Contract shall not be binding upon either party and is expressly terminated by the execution of this Contract.

Section 10. E-Verify.

A. In accordance with Chapter 448.095, Florida Statutes, the contractor shall register and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract; and

- B. The Contractor shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract; and
- C. The Contractor agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program.
- D. Compliance with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.
- E. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E verify program, the contractor hires or employs a person who is not eligible for employment.

Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

Section 11. Florida Public Records Law.

Pursuant to Section 119.0701, Florida Statutes, a request to inspect or copy public records relating to this Contract must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Licensee of the request and the Licensee shall provide the records to the County or allow the records to be inspected or copied within twenty-four hours (not including weekends or legal holidays) of the request so the County can comply with the requirements of Chapter 119, Florida Statutes, Florida Public Records Law. The Licensee may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

If Licensee fails to provide the requested public records to the County within a reasonable time, the Licensee may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties pursuant to Section 119.10, Florida Statutes. Licensee's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination. If Licensee claims certain information is exempt and/or confidential, it must cite to specific statutory provisions or case law in order to justify removal or redaction of said information.

Should the County face any legal action to enforce inspection or production of the records within the Licensee's possession and control, the Licensee agrees to indemnify the County for all

damages and expenses, including attorney's fees and costs. The Licensee shall hire and compensate attorneys to represent the Licensee and County in defending such action. The Licensee shall pay all costs to defend such action and any costs and attorney's fees awarded pursuant to Section 119.12, Florida Statutes.

If the Licensee has questions regarding the application of Chapter 119, Florida Statutes, to the Licensee's duty to provide Public Records relating to this contract, contact the custodian of Public Records: Misty Adams, Administrative Assistant, 2725 Judge Fran Jamieson Way, Building B, Suite 203, Viera, Florida 32940; Email the Records Custodian; (321) 633-2046.

Section 12. Governing Law.

This Contract shall be deemed to have been executed and entered into within the State of Florida and this Contract, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

Section 13. Illegal, Unlawful or Improper Use.

The Licensee shall not make any unlawful, immoral, improper, or offensive use of the Park nor allow said Park to be utilized for any purpose other than that hereinabove set forth. Failure of the Licensee to comply with this provision shall be considered a material breach of this Contract and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Park and terminate this Contract.

Section 14. Indemnification and Insurance.

Licensee agrees that it will indemnify and hold harmless the County, its officers, employees, and agents, against any and all claims, losses, and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the performance, failure in the performance of, or defect in the products or services outlined in this Property Access License Contract. Licensee shall indemnify and hold harmless the County when such claim, damage, loss, or expense is: (1) attributable to bodily injury, sickness, disease, death, or personal injury, or to property damage, including loss of use resulting therefrom, and (2) caused in whole or in part by any negligent, reckless, or intentional act or omission of the Licensee, or its contractors or subcontractors, or any of its officers, employees, or agents, or arises from a job-related injury. The Parties acknowledge specific consideration has been exchanged for this provision.

The County's liability obligations hereunder shall be subject to the right of sovereign immunity and limited to the extent of the protections of and limitations on damages as set forth in Section 768.28, Florida Statutes. Nothing in this Property Access License Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the County's sovereign immunity.

Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. The Licensee accepts all risks arising from construction or operation of the Project.

The Licensee shall acquire and maintain, and shall require its contractors and subcontractors to acquire and maintain, - such liability, workers' compensation, and automobile insurance as required by their current rules and regulations.

At its own expense, the Licensee shall keep in force and at all times maintain during the duration of the Project the following minimum levels of insurance including, but not limited to:

- (a) Automobile Liability Insurance: Commercial Automobile Liability Insurance: Insurance issued by responsible insurance companies as outlined in subsection (d) below, with combined single limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
- (b) General Liability Insurance: General Liability Insurance issued by responsible insurance companies as outlined in subsection (c) below, with combined single limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
- (c) Workers' Compensation Coverage: Full and complete Workers' Compensation Coverage, as required by State of Florida law, and where applicable, full coverage for maritime obligations, the United States Longshoremen's and Harbor Workers' Compensation Act, shall be provided.
- (d) Insurance Certificates: the Licensee shall provide the County with Certificate(s) of Insurance on all policies of insurance and renewals thereof in an industry standard Acord form. Said Commercial Automobile Policy and General Liability Policy shall provide that the County be included as an additional insured via endorsement. The Workers' Compensation Policy shall include a waiver of subrogation. The County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action if replacement insurance meeting the requirements and specifications therein cannot be obtained. All insurance policies shall be issued by responsible companies who are licensed and authorized under the laws of the State of Florida.
- (e) Contractors and Subcontractors: the Licensee shall require its contractors and subcontractor to obtain and maintain these minimum coverages and limits.

County does hereby covenant with Licensee that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof.

This License is granted upon the condition that the property will be restored to a condition as nearly as possible to its original condition that existed prior to the use intended by this easement.

Section 15. Interest in the Property.

This Contract is the grant of a personal right to the Licensee. This Contract shall not be construed to create any real property interest in the County's Property.

Section 16. Maintenance.

The County represents that it has the right to grant the License herein described. Licensee shall not undertake any maintenance or improvement of the Park without the expressed written permission of the County, which permission may be withheld at the County's sole discretion.

Section 17. Modification.

No modification of this Contract shall be binding on the County or the Licensee unless reduced to writing and signed by a duly authorized representative of County and the Licensee.

Section 18. Notice.

Notice under this Contract shall be given to the County by mailing written notice postage prepaid, to: North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32780 and notice shall be given to the Licensee by mailing written notice; postage prepaid, to Beyel Brothers, Inc. Joseph D. Beyel, President, 3823 Sterling Street, Cocoa, Florida 32926.

Section 19. Recording.

This Contract shall not be recorded in the official records of Brevard County, Florida, by either party.

Section 20. Revocation.

This Contract may be revoked or terminated by the County upon fifteen days written notice to the Licensee, upon one or more of the following occurrences:

- A. Licensee transfers ownership of all or any part of the Licensees' Property. In the event of transfer of ownership of all or any part of the Licensee's Property, Licensee agrees to make a condition of the sale that the new owner applies thirty days prior to the transfer of title to the County for a Property Access License Contract, which shall not be unreasonably withheld by the County. In the event the County has reason not to enter into a contract with the new owner, the County will notify Licensee within this thirty-day period of the reasons why a Property Access License Contract should not be issued to the prospective new owner.
- B. Licensee obtains alternate staging area.
- C. Licensee violates any law, rule, regulation, or management plan applicable to the County's Property, as promulgated by the State of Florida, or any of its agencies; the County; or any other governmental agency with jurisdiction.
- D. Licensee discharges any firearms on or across any portion of the Park.
- E. Licensee conducts any illegal or unauthorized activity at the Park.
- F. Licensee enters upon or conducts activity at the Park for uses other than use of the portion of the seawall during the term of this Contract.
- G. Licensee violates any term, provision, or condition of this License Agreement.

If, in the sole discretion of the County, Licensee's continued use of the Park for the specific purposes outlined herein interfere with the County's management of the Park; the County has the discretion to provide alternate access for ingress and/or egress if possible.

Section 21. Responsibility.

The Licensee shall be responsible for abiding by the terms of this Contract. The Area Manager shall be responsible for assuring the terms of this Contract are enforced.

Section 22. Right of Entry by County.

The County or its agents may at any time enter in and on the referenced Park for the purpose of inspection of same and performing such other duties as are required by the terms of this Contract and the rules, regulations, ordinances and laws of any government body.

Section 23. Right to Audit Records.

In the performance of this Contract, the Licensee shall keep books, records, and accounts of all activities related to this Contract in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Licensee in conjunction with this Contract and the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the County. The Licensee shall retain all documents, books and records for a period of five years after termination of this Contract, unless such records are exempt from section 24(a) of Article I of the State Constitution and chapter 119, Florida Statutes. All records or documents created by or provided to the Licensee by the County in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

The Licensee shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Contract and following termination of the Contract if the Licensee does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Contract, the Licensee may transfer, at no cost to the County, all public records in possession of the Licensee. If the Licensee transfers all public records to the County upon termination of the Contract, the Licensee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

Section 24. Severability.

If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall nevertheless continue in full force without being impaired or invalidated in any way.

Section 25. Statutes, Laws, Rules and Regulations.

The Licensee's use of the Park will be in accordance with all applicable laws, rules, regulations, policies and procedures approved by the Department and/or the County including but not limited to: Department Policy PRP-1 Prohibiting Smoking at Brevard County Youth Athletic Facilities, PRD-4 Background Screening for Volunteers and Contracted Services, and prescribed safety rules and regulations. The County reserves the right to disapprove any and all programs held at the Park, which may be in conflict with the Department's and/or the County's Policies and Administrative Orders, and agrees to furnish the Licensee with a copy of such rules, regulations, policies, procedures, and amendments.

It shall be the Licensee's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.

Section 26. Termination.

This Contract may be terminated by either party upon thirty days written notice to the other party. Upon termination of this Contract, the Licensee shall have fifteen days from the date of termination within which to remove any personal property or equipment from any Park. Any personal property or equipment not removed within said fifteen-day period shall become the property of the County.


Section 27. Venue.

Venue for any legal action brought by any party to this Contract to interpret, construe or enforce this Contract shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

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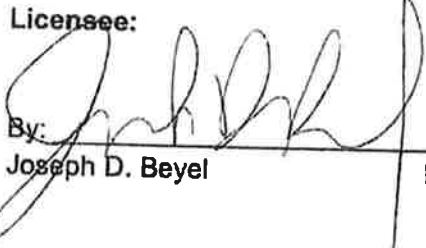
In Witness Whereof, the parties have hereunto set their hands and seals on the day and year written herein below.

Reviewed for legal form and content:


Justin Caron
Assistant County Attorney

**Board of County Commissioners
of Brevard County, Florida**

By: Mary Ellen Donner 7.13.2022
Mary Ellen Donner, Date
Parks and Recreation Department Director

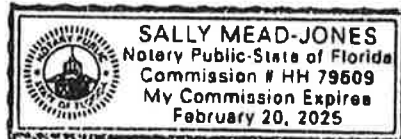
Licensee:
By: 
Joseph D. Beyel Date July 13, 2022

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 7/13/22 by Joseph D. Beyel. He/she is personally known to me or has produced _____ as identification.

[Notary Seal]

Notary Public



Sally Mead-Jones
Name typed, printed or stamped
My Commission Expires: _____

Exhibit A

