

TEMPORARY LICENSE
AGREEMENT

This Temporary License Agreement is made and entered into by and between Polk County, a Political Subdivision of the State of Florida; having an address of 330 W. Church Street, Bartow, Florida 33831-9005 (County Licensor), City of Lakeland, Political Subdivision of the State of Florida, having an address of 228 S. Massachusetts Avenue, Lakeland, Florida 33801-5012 (City Licensor)(collectively with County Licensor, "Licensors"), and the Southwest Florida Water Management District, a public corporation, having an address of 2379 Broad Street, Brooksville, Florida 34604-6899 (Licensee).

WHEREAS, City Licensor owns Socrum Loop Road North and associated Right-of-Way within Polk County as recorded in Plat Book 22, Page 5, Public Records of Polk County; and

WHEREAS, County Licensor holds a Perpetual Easement in land as recorded in OR Book 616, Page 34, Public Records of Polk County, Florida (Property); and

WHEREAS, County Licensor owns the "Gibson Structure" for water conservation within City of Lakeland Right-of-Way for Socrum Loop Road North; and

WHEREAS, Licensee has the ability to monitor, maintain, and operate the "Gibson Structure"; and

WHEREAS, Licensee desires to access and use a certain portion of Licensors' property; and

WHEREAS, Licensors agree to grant Licensee access to and use of a portion of Licensors' property and Easement, as described and for the purposes provided, herein.

NOW THEREFORE, in consideration of the mutual terms, covenants, and conditions set forth herein, Licensors and Licensee hereby agree as follows:

1. Licensors grant to Licensee, its employees, agents, and subcontractors a temporary license to enter upon, over, and across and to use any and all lands, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (Temporary License Area), to perform operations and maintenance of the Polk County "Gibson Structure" for water conservation. Uses may include ingress and egress for workers, machinery, and vehicles. The number of workers and the type of machinery and vehicles shall be the minimum reasonably necessary to effectuate the purpose of this License Agreement.
2. The license period for the Temporary License shall begin upon the final execution of this document and shall continue in effect for a period of no greater than eighteen (18) months, unless earlier terminated by either party giving thirty (30) days prior written notice to the other party at the address set forth above, or both parties mutually enter into a long-term Agreement for operations and maintenance prior to expiration.

3. Licensee agrees to assume all service and financial obligations for activities directly related to the operations and maintenance of the Gibson Structure.
4. County Licensor agrees to assume financial responsibility for breakdown and repairs and capital improvement needs of the Gibson Structure.
5. Licensee agrees that: (i) it shall, at its expense, promptly comply with all laws, rules, and regulations promulgated by any governmental authority having jurisdiction over the Licensed Property that pertain to the physical condition of improvements constructed by Licensee, repairs and maintenance required by Licensee's operation upon the Licensed Property, and the use of the Licensed Property by Licensee; (ii) it shall not at any time claim any interest or estate of any kind in the Licensed Property; (iii) it shall not create or cause to be imposed, claimed, or filed upon the Licensed Property, or any portion thereof; or upon the interest therein of Licensor, any lien, charge, or encumbrance whatsoever; and (iv) it shall promptly restore the Licensed Property to a safe and aesthetic condition, as existed prior to Licensee's use.
6. To the extent permitted by law, Licensee agrees to indemnify and hold harmless Licensors, their agents, employees, and officers from and against all liabilities, claims, damages, expenses, or actions, either at law or in equity, including attorneys' fees and costs and attorneys' fees and costs on appeal, caused or incurred, in whole or in part, as a result of any negligent act or omission by Licensee or anyone for whose negligent acts or omissions Licensee may be liable as a result of Licensee's rights under this License Agreement. Nothing contained herein shall constitute a waiver of Licensee's sovereign immunity under Section 768.28, F.S., or to extend the limits of liability or recovery under Section 768.28, F.S. This provision shall survive the termination of this License Agreement.
7. Licensee shall at all times keep the Licensed Property free of hazardous materials generated by, resulting from, or being incident to Licensee's use of the Licensed Property, and neither Licensee nor any of its employees, agents, invitees, licensees, contractors, or subtenants (if permitted) shall use, generate, manufacture, refine, treat, process, produce, store, deposit, handle, transport, release, or dispose of hazardous materials in, on or about the Licensed Property, in violation of any federal, state or local laws, rules, regulations, ordinances, orders, codes, and guidelines currently in existence or hereafter enacted or rendered. Licensee shall give Licensors prompt written notice of any claim received by Licensee from any person, entity, or governmental agency that a release or disposal of hazardous materials has occurred on the Licensed Property.
8. This License Agreement may not be assigned, in whole or in part, by Licensee without the written consent of both Licensors, which consent may be withheld by Licensors in its sole discretion.
9. The waiver by either party of a breach of any provision of this License Agreement shall not operate or be construed as a waiver of any subsequent breach thereof or the waiver of any breach of any other provision of this License Agreement.
10. If any covenant or provision of this License Agreement is determined to be invalid, illegal, or incapable of being enforced, all other covenants and provisions of this License

Agreement shall, nevertheless, remain in full force and effect, and no covenant or provision shall be dependent upon any other covenant or provision unless so expressed herein.

11. This License Agreement may only be amended by an instrument in writing signed by all of the parties hereto.
12. This License Agreement shall be construed in accordance with the laws of the State of Florida and venue of any legal proceedings shall be in Polk County, Florida, if the action is commenced in state court. If any action is commenced in federal court, then venue shall be in the United States District Court for the Middle District of Florida.
13. Except as otherwise specified herein, each party shall be responsible for its own legal and attorneys' fees, costs, and expenses incurred in connection with any dispute or any litigation arising out of, or relating to this License Agreement, including attorneys' fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.
14. Notwithstanding anything to the contrary contained herein, including, without limitation, Sections 3 or 4 above, this Agreement shall be deemed automatically terminated upon any failure of performance by Licensee of its obligations under the terms of this License Agreement, provided Licensors shall have given Licensee at least ten (10) days advance written notice (unless otherwise provided herein, or, in the case of an emergency, such lesser time and form of notice as shall be reasonable) of the failure, and the failure shall not have been cured within such applicable period.
15. Counterparts and Authority to Sign. The signatures of all parties need not appear on the same counterpart. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and bind the respective party to the Agreement.
16. In no event shall any party be liable to the other for indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature, including loss of profit, whether foreseeable or not, arising out of or resulting from the nonperformance or breach of this agreement, whether based in contract, common law, warranty, tort, strict liability, contribution, indemnity or otherwise.

IN WITNESS WHEREOF, the parties have executed this License Agreement effective on the day and year last written below.

COUNTY LICENSOR:

Polk County, a political subdivision
of the State of Florida

By: _____
Bill Braswell,
Chairman

Date: _____

CITY LICENSOR:

City of Lakeland, a political subdivision
of the State of Florida

By: Greg James
Greg James,
Assistant Director, Department of Public Works

Date: 4/9/2024

LICENSEE:

Southwest Florida Water Management District

By: Brian S. Starford
Brian S. Starford
Operations, Lands & Resource
Monitoring Acting Division Director

Date: 1/12/24

Exhibit A
Lake Gibson- Polk County, Florida
Section 30, Township 27 South, Range 24 East



Southwest Florida
Water Management District

WaterMatters.org • 1-800-423-1476

-  Lake Gibson Structure
-  License Area

