

Lake Worth Drainage District General Permit Conditions

The following general permit conditions shall be incorporated within any permit issued by the Lake Worth Drainage District (LWDD). Conditions may be expressly waived as necessary or determined to be in the best interest of LWDD. Special conditions specific to the permit use type shall also be incorporated into the issued permit.

- 1.1 All structures and/or works located on LWDD rights-of-way constructed by permittee shall remain the property of the permittee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. It is left to the sole discretion of LWDD to determine whether or not the facilities are being properly maintained. Permittees are advised that other federal, state and local safety standards may govern the occupancy and use of the LWDD's rights-of-way. The LWDD assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused to others by any such failure.
- 1.2 Permittee solely acknowledges and accepts the duty and all associated responsibilities to incorporate safety features, which meet applicable engineering practice and industry standards, into the design, construction, operation and continued maintenance of the permitted facilities/authorized use. This duty shall include, but not be limited to, permittee's consideration of LWDD's regulation and fluctuation, without notice, of water levels in canals and works, as well as the permittee's consideration of upgrades and modifications to the Permitted facilities/authorized use which may be necessary to meet any future changes to applicable engineering practice and accepted industry standards. Permittee acknowledges that LWDD's review and issuance of this permit, including, but not limited to, any field inspections performed by LWDD, does not in any way consider or ensure that the permitted facilities/authorized use is planned, designed, engineered, constructed, or will be operated, maintained or modified so as to meet applicable engineering practice and accepted industry standards, or otherwise provide any safety protections. Permittee further acknowledges that any inquiries, discussions, or representations, whether verbal or written, by or with any LWDD staff or representative during the application review and permit issuance process, including, but not limited to, any field inspections, shall not in any way be relied upon by permittee as LWDD's assumption of any duty to incorporate safety features, as set forth above, and shall also not be relied upon by permittee in order to meet permittee's duty to incorporate safety features, as set forth above.
- 1.3 Permittee agrees to abide by all terms and conditions of this permit, including any representations made on the permit applications and related documents. Permittee agrees to pay all demolition, removal and restoration costs, investigative costs, court costs and reasonably attorney's fees, including appeals, resulting from any action taken by LWDD to obtain compliance with the conditions of the permit or removal of the permitted use. If legal action is taken by LWDD, "reasonable attorney's fees" is understood to mean the fair market value of the services provided, based upon what a private attorney would charge.
- 1.4 This permit does not create any vested rights, and except for governmental entities and utilities, is revocable at will upon 30 days prior written notice. LWDD reserves the right to amend the terms and conditions contained herein at any time and for any reason. Permittee bears all risk of loss as to monies expended in furtherance of the permitted use. Upon revocation, the permittee shall promptly modify, relocate or remove the permitted use and properly restore the right-of-way to the LWDD's satisfaction. In the event of failure to so comply within the specified time frame, LWDD may remove the permitted use and permittee shall be responsible for all removal and restoration costs. In addition, the permittee agrees and acknowledges that any failure to comply constitutes a violation of section 298.66, Florida Statutes, and LWDD may pursue any and all remedies available under law.
- 1.5 This permit does not convey any property rights nor any rights or privileges other than those specified herein and this permit shall not, in any way, be construed as an abandonment of any other such impairment or disposition of LWDD's property rights. The LWDD approves the permitted use only to the extent of its interest in the works of LWDD. Permittee shall obtain all other necessary federal, state, local, special district and private authorizations prior to the start of any construction or alteration authorized by this permit. Permittee shall comply with any more stringent conditions or provisions which may be set forth in other required Permits or other authorizations. However, the LWDD, assumes no duty to ensure that any such authorizations have been obtained or to protect the legal rights of the underlying fee owner, in those instances where the LWDD owns less than fee.
- 1.6 Unless specifically prohibited or limited by statute, permittee agrees to indemnify, defend and save the LWDD (which used herein includes LWDD and its past, present and/or future employees, agents, representatives, officers and/or Board members and any of their successors and assigns) from and against any and all lawsuits, actions, claims, demands, losses, expenses, costs, attorney's fees, judgements and liabilities which arise from or may be related to the ownership, construction, maintenance or operation of the permitted use or the possession, utilization,

maintenance, occupancy or ingress and egress of the LWDD's right-of-way which arise directly or indirectly and are caused in whole or in part by the acts, omissions or negligence of the permittee or of third parties. Permittee acknowledges that LWDD is exempt from liability for personal injury and damages that may occur as a result of permitted use or activity by virtue of Chapter 2009-258, Laws of Florida. Permittee agrees to provide legal counsel acceptable to the LWDD if requested for the defense of any such claims.

- 1.7 Permittee releases LWDD for any and all damages that may be caused by LWDD to the permitted use, while exercising its responsibilities and obligations of maintenance of its drainage system. The LWDD is not responsible for the repair of or claims of damage to any facilities and uses which may incur damage resulting from water fluctuations or flows, or by the use of LWDD's rights-of-way by LWDD or a third party. Improvements placed within the right-of-way are done so at the sole risk of the owner/permittee.
- 1.8 The LWDD is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the LWDD canals or any activities which may include use of contact with water from LWDD canals, since LWDD periodically sprays its canals and/or rights-of-way for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.
- 1.9 The LWDD does not waive sovereign immunity, per section 768.28, Florida Statutes.
- 1.10 As specified by LWDD, permittee shall maintain insurance coverage to the required amounts and limits throughout the duration of the permit.
- 1.11 The permittee shall not engage in any activity regarding the permitted use which interferes with the construction, alteration, maintenance or operation of the works of LWDD including, but not limited to: a) discharging of debris or aquatic weeds into the works of LWDD; b) causing erosion or shoaling within the works of LWDD; c) planting trees or shrubs or erecting structures which limit or prohibit access by LWDD equipment and vehicles, except as authorized by the permit; d) leaving construction or other debris on the LWDD right-of-way or waterway; e) damaging LWDD berms and levees; f) removing of LWDD owned spoil material; g) removing or damaging LWDD locks, gates, and fencing; h) opening of LWDD rights-of-way to unauthorized vehicular access; or i) running or allowing livestock on the LWDD rights-of-way.
- 1.12 Permittee shall allow all LWDD staff the right to inspect the permitted use at any reasonable time.
- 1.13 Permittee shall allow, without charge or any interference, the LWDD, its employees, agents, and contractors, to utilize the permitted facilities before, during and after construction for the purpose of conducting LWDD's routine and emergency, canal operation, maintenance, and construction activities. To the extent there is a conflicting use, the LWDD's use shall have priority over the permittee's use.
- 1.14 This permit is non-exclusive and revocable. Permittee shall not interfere with any other existing or future permitted uses or facilities authorized by the LWDD.
- 1.15 If the use involves the construction of facilities for a non-exempt water withdrawal or surface water discharge, the permittee must apply for and obtain the appropriate water management permit before or concurrently with any activities which may be conducted pursuant to this permit.
- 1.16 Permittee authorizes the LWDD to record the permit through filing the appropriate notice in the public records of Palm Beach County. Governmental entities and utilities are not subject to this provision.
- 1.17 Permittee shall be responsible for the repair or replacement of any existing facilities located within the LWDD right-of-way which are damaged as a result of construction or maintenance of the authorized facility.
- 1.18 If determined that the permitted use interferes with LWDD's canal maintenance, operations or rehabilitation efforts, permittee agrees that all or part of the permitted use must be removed and/or reconstructed at permittees expense.
- 1.19 Permittee shall provide prior written notice to their successors in title of the permit and its terms and conditions. As the LWDD has no control over the sale or transfer of real or personal property, it is the sole obligation of a permittee to disclose the existence of an LWDD right-of-way permit, its terms and conditions to prospective purchasers.
- 1.20 Permittee agrees that the transfer of any rights, title or interests of the property or facility ownership referenced in this permit herein shall require a transfer of permit. Within thirty (30) days of any transfer of interest or control of the subject property, the permittee must notify the LWDD in writing of the property transfer. Notification of the transfer does not by itself constitute a permit transfer. All successors and assigns shall be required to apply for a transfer of permit with LWDD within 60 days of obtaining property or facility. LWDD shall have the right to approve

in writing the successors and assigns of transfer of any rights or conditions contained in this permit, which approval shall not be unreasonably withheld. Failure to submit a transfer of permit shall be considered a default of the terms and conditions of this permit and LWDD shall have the right to terminate this permit upon 10 days written notice to permittee.

- 1.21 This permit is issued by the LWDD as a license to use or occupy LWDD works or lands. It does not create any right of entitlement, either legal or equitable, to the continued use of the LWDD works or lands. Since this permit conveys no right to the continued use of the works or lands, the LWDD is under no obligation to transfer this permit to any subsequent owner. By acceptance of this permit, the permittee expressly acknowledges that the permittee bears all risks of loss as a result of the revocation of this permit.
- 1.22 Permittee agrees that no other encroachments and/or facilities shall be located within the right-of-way without prior authorization from LWDD.
- 1.23 It shall be the responsibility of the permittee to locate and protect the underground facilities of the LWDD or those of others prior to and during construction.
- 1.24 Permittee shall take the necessary precautions to prevent turbidity and/or silting upstream or downstream during construction.
- 1.25 All unpermitted facilities installed prior to or during construction must be removed prior to the project's final approval.
- 1.26 The permittee must make a copy of this permit available and/or post at the job site prior to and during any construction. Failure to comply may result in suspension of construction.
- 1.27 Permittee agrees that significant construction shall commence within one year and construction be completed within two (2) years from the date of permit issuance or the permit may terminate and a new permit application must be submitted. The new application must meet current operating policies including current applicable fees. Prior to the expiration date, the permittee may submit a request in writing for an extension of time to commence or complete construction.
- 1.28 Permittee or permittee's representative shall notify the LWDD construction inspector at least forty-eight (48) hours prior to any work to be undertaken within LWDD rights-of-way. All underground installations must be inspected prior to backfilling.
- 1.29 No dewatering into LWDD canals is authorized until written notification of approval from South Florida Water Management District has been submitted to LWDD.
- 1.30 Any non-compliance by the permittee of any condition listed herein will result in the termination of this permit, removal of permitted uses or facilities at the permittees expense, and/or LWDD requesting other jurisdictional agencies to withhold their final approvals.
- 1.31 Permittee shall submit record drawings within sixty (60) days of project completion. Drawings shall be signed and sealed by a Florida Professional Engineer and shall include sufficient information to show that the permitted facilities have been installed or constructed in substantial compliance with the plans and design approved by the LWDD. All elevations shall be referenced to N.G.V.D. 1929 (adjusted). In lieu of signed and sealed record drawings, utility cable companies may submit, within sixty (60) days of project completion, a project certification stating that the permitted facilities have been installed or constructed in substantial compliance with the plans and design approved by the LWDD. Failure of the Permittee to provide these drawings or certification within the time specified may result in LWDD revoking this permit and requesting that all jurisdictional agencies withhold their final approval until the drawings are received and approved by LWDD.
- 1.32 Special Conditions that are specific to the project site and right-of-way usage shall be incorporated into this permit as may be necessary in the best interest of the LWDD.