Permit No.	1191
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THIS PERMIT IS NOT RECORDABLE

WITNESSETH:

WHEREAS, the District is a Water Control District, deriving its authority pursuant to Chapter 298, Laws of the State of Florida. District owns in fee simple title, real property which is generally depicted in Exhibit "1" (hereinafter, "Right-Of-Way");

WHEREAS, County, a political subdivision of the State of Florida, is organized and exists pursuant to the laws of the State of Florida. County wishes to construct and to maintain fiber optic cable within existing bridge-mounted conduit along the east side of Pine Island Road crossing the 2L-2W, 2L-3W, and C-2 canals (hereinafter, "Improvements") which are more particularly depicted on plan sheet numbers 10, 11, 15, 23 and 25 of Exhibit "2";

WHEREAS, County requests a permit allowing it and its contractors, subcontractors, agents, servants, and employees, to have ingress and egress upon the Right-Of-Way for purposes of construction, maintenance, and repair of the Improvements and for public use;

WHEREAS, the District desires to grant a permit to County to allow for construction, maintenance, and repair of the Improvements, and for its public use;

WHEREAS, the District grants this permit, without any warranties of title, express or implied, and the County accepts this permit, without any warranties of title, express or implied;

NOW, THEREFORE, in consideration of the sum of \$10.00 and other good and valuable consideration given to the District by County and the terms of this permit granted by the District, the Parties agree as follows:

- 1. <u>RECITALS:</u> The Parties warrant that the recitals contained herein are true and correct.
- 2. <u>DEFINITIONS:</u> The Parties agree that the following definitions shall prevail herein:
 - 2.1 "Construction Documents" shall mean Exhibit "2", which is attached hereto and incorporated herein.
 - 2.2 "Right-Of-Way" shall mean that portion of real property owned by the District, which is more particularly depicted in Exhibit "1".
 - 2.3 "Improvements" shall mean those construction improvements that shall be constructed in accordance with the Construction Documents.
 - 2.4 "District" shall mean Old Plantation Water Control District or its successors and assigns.
 - 2.5 "County" shall mean Broward County, a political subdivision of the State of Florida, its successors and assigns.
- 3. <u>AFFIRMATION OF RIGHT-OF-WAY:</u> County affirms and acknowledges that the District's title to the Right-Of-Way, which is the subject of this permit, is superior in right, title, or dignity to the rights granted to County under this permit or any claims of County and its successors and assigns, and County hereby subordinates its interests under this permit to the District's title to the Right-Of-Way.
- 4. <u>DESCRIPTION OF PERMIT:</u> The District does hereby grant to County a non-exclusive, revocable permit to construct (or have constructed), to maintain, and to repair the Improvements for public purposes only, in the Right-Of-Way ("Permit"). This Permit grants ingress and egress to this Right-Of-Way to construct (or have constructed), to maintain, and to repair the Improvements and to store and install equipment and material during the course of construction or repair operations. This Permit does not grant to County the right to discharge storm water into the District's adjacent canal.

- 5. <u>LIMITATIONS ON PERMIT:</u> The Permit granted to County, as described in paragraph 4, is non-exclusive, revocable and subject to these additional limitations and agreements which County agrees to abide by:
 - A. As to the Improvements contemplated by the Construction Documents, County will provide, at its expense, the legal description and a survey sketch of the Right-Of-Way, all other surveys, architectural and engineering plans, drawings, specifications, and data (in duplicate) to the District for its approval, and construction shall not commence until the District approves this documentation. No amendments to the stated Improvements shall be permitted unless Construction Documents evidencing these modifications have been delivered to the District and the District has approved them in writing. No "field-changes" that affect the extent or scope of this Permit are permitted unless accepted by the District in writing.
 - B. This Permit is limited solely to the Right-Of-Way and does not extend to any other land owned or used by the District.
 - C. This Permit is revocable at any time by the District or the County after providing six (6) months written notice to the other.
 - D. Except as specifically allowed herein, no other Improvements to the Right-Of-Way shall be permitted except as shown in the Construction Documents or amendments approved in writing by the District.
 - E. The District has not provided a title examination of the Right-Of-Way subject to this Permit and further does not provide an express or implied warranty of title as to the Right-Of-Way to be utilized by County. This Permit is a non-exclusive license, which may be used by County in conjunction with the rights of others. It is the obligation of County to assure itself that the construction of the Improvements and their repair and maintenance do not disrupt, damage, or impair the use or enjoyment of other improvements that might be owned, constructed or maintained by others in the Right-Of-Way. County agrees that in constructing and maintaining its Improvements it will confer with others, having rights in and to the Right-Of-Way, to the extent necessary to coordinate the construction and maintenance of its Improvements so as not to impair, damage, or harm the beneficial use and enjoyment of any other structures or improvements constructed by others in the Right- Of-Way. County has conducted a diligent examination of the site. The decision to place the Improvements in the location depicted on pages 10, 11, 15, 23, and 25 of Exhibit "2" is solely that of County. No information, express or implied, has been given by the District to County which in any way has influenced its decision to construct and maintain the Improvements in the location depicted on pages 10, 11, 15, 23 and 25 of Exhibit "2". County has been advised that this Right-Of-Way may be subject to prior rights of use by others. To that extent, it is the

obligation of County to conduct any and all surveys, title examinations, examinations of public records, and to ascertain the whereabouts of any other improvements in the Right-Of-Way before constructing the Improvements and to determine the status of the District's title to the Right-Of-Way.

- F. County shall deliver legal descriptions, surveys, architectural and engineering drawings, construction drawings, specifications, and shop drawings to the District's engineer, for all Improvements. The District's engineer is not responsible for design, construction, or the selection of materials, which in every respect is County's responsibility to ensure that the same conforms to all governmental laws and regulations concerning the construction and maintenance of the Improvements. County shall be responsible for permitting and final inspection of all construction and the compliance of its plans and specifications with existing laws and good engineering and construction practice. County shall construct and maintain the Improvements, at its own expense, in good order and repair complying with all existing law. At the conclusion of construction, County shall deliver, at its own cost and expense, to the District both "as built plans" and an "as-built survey" showing the location of the Improvements. The County shall also provide to the District a written certificate that all Improvements are built per Construction Documents and conform to all laws and if there are amendments to the Construction Documents, approved by the District's engineer, which have been made, such amendments shall be explained in the certificate. During construction, all debris shall be removed to suitable storage on a daily basis. Upon completion, all debris shall be removed within five days. County is responsible for ensuring that all sod, plants, trees, fixtures or structures, if any, in the Right-Of-Way that are damaged during construction by County, its contractors, subcontractors, employees or agents are replaced with comparable replacements. County at its expense will repair all the District's canal banks, if any, and Right-Of-Way damaged by County, its contractors, subcontractors, employees or agents and will remove all temporary Improvements which the District and County cannot agree in writing should remain as permanent Improvements.
- G. County shall comply with any and all applicable laws, regulations and administrative rules of the United States of America, the State of Florida, South Florida Water Management District, and the District, and any other governmental body having jurisdiction, which may now be in effect, or which may be hereinafter enacted or adopted during and after construction. All vehicular and pedestrian access shall be constructed with guardrails extending to the Right-Of-Way in accordance with State of Florida Department of Transportation road standards. County shall ensure that during construction, there are adequate silt, petroleum, and discharge barriers, to avoid water pollution in the District's canals. All pollution arising from the construction shall be cleaned and remediated by County immediately, and County shall promptly notify the District and

- all governmental agencies of any such pollution. County shall conduct all Improvements, their maintenance and repair, at its expense, and it shall be County's obligation to secure all permitting required by law.
- H. This Permit is subject to the right of condemnation of the Right-Of-Way held by the District by any other authorized governmental agency, is subject to the continued existence of the District, and is subject to all instruments in the chain of District's title, which may include reversionary rights in favor of the Peters' family.
- In the event the Improvements authorized by this Permit are not approved by the District, are defectively constructed, are improperly maintained, or are negligently operated so as to endanger life or other property owners' improvements, or damage or endanger the District's improvements or canals, or should County discharge any pollutants into the District's canal or otherwise impede or degrade the operation of the District's canal, the District may, in addition to its other rights of revocation, at its option, subject to the time limit for notification, revoke this permit.
- J. During construction, County's contractors, subcontractors, laborers, and those working on these job sites shall observe and comply with all OSHA, State of Florida, and governmental safety regulations and all governmental laws and regulations dealing with environmental issues, and the District in delivering to County the right of possession in and to the permitted area during and after construction is not exercising any degree of control over the construction site, the means or methods of construction, maintenance, or repair, of the Improvements once completed. During and after construction, it shall be the duty of County to see to the maintenance and repair of the construction site and to take all precautions for the safety of workers and the public.
- 6. <u>INSURANCE</u>: County will deliver to District all certificates of liability and worker's compensation insurance that it requires of its contractors or sub-contractors for construction, maintenance or repair of the Improvements and the District shall be designated as an additional insured on all these certificates. County shall require its contractor(s) and subcontractor(s) to have general liability, workers' compensation, and automobile liability insurance during the term of their work on this project, and to make County and District additional insureds on the general liability and automobile liability policies. Proof of contractor(s) coverage shall be provided to the District before construction commences.
- 7. <u>INDEMNITY</u>: Except for the indemnity delineated in this paragraph, neither the District, nor the County, to which sovereign immunity is applicable herein,

intend anything in this Permit to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other associated contract. COUNTY, to the fullest extent permitted by law, will defend, indemnify and save District, its employees, supervisors, and agents harmless against any and all liabilities, suits, obligations, fines, damages, claims bills, assessments, penalties, claims, costs, charges, expenses including, without limitation, court costs, deposition fees, investigative fees, expert fees and attorney's fees, which District, its employees, or agents may incur as a result of claims, lawsuits, administrative proceedings, governmental prosecution or legislative claim's bills arising out of COUNTY's or its contractors' use of the Right-Of-Way under this Agreement, whether at trial, upon appeal, or in a legislative-claims bill proceeding. There is excepted from this duty of indemnity damage, injury or death caused by the fault of the District through its agents, servants, employees, professional consultants and independent contractors. This obligation of indemnity, to the extent permitted by law, shall exist whether COUNTY, its agents, servants, employees, or independent contractors caused the acts complained of. Additionally, COUNTY shall permit no liens related to the Improvements or use of the Right-Of-Way to be filed against the District's Right-Of-Way in which the Improvements are located, shall require its contractors to obtain and record a payment and performance bond pursuant to section 255.05 Fla. Stat. and indemnify and hold the District harmless from any all claims against it for failure to post such bond.

- 8. <u>CONDITION OF PERMITTED PREMISES:</u> County accepts the lands that are the subject of this Permit in an "as-is"-"where-is" condition, and acknowledges that no oral or written representations, statements, warranties, or affirmations concerning these lands or their suitability have been given by the District to County and that County has made its own independent analysis of the suitability of accepting this Permit and utilizing the lands that are the subject matter of this Permit.
- 9. <u>LAWS OF THE STATE OF FLORIDA AND VENUE:</u> This Permit shall be governed in accordance with the laws of the State of Florida, and venue shall be in Broward County, Florida.

10. <u>NOTICES:</u> Notices shall be written and shall be given to the Parties, by delivery or US Mail, as their addresses appear below:

Old Plantation Water Control District P.O. Box 15405 Plantation, Florida 33318 (954) 472-5596 (telephone number) (954) 472-5950 (fax number)

Broward County
Director of Highway Construction and Engineering Division
1 N. University Drive, Box B300
Plantation, FL 33324-2038
(954) 577-4579 (telephone number)
(954) 357-5715 (fax number)

- 11. <u>SURRENDER OF PREMISES</u>: In the event of revocation of this Permit, the Right-Of-Way shall be peaceably surrendered to the District, and County, shall at its expense, remove all Improvements and restore the District's Right-Of-Way to its condition existing before the Permit.
- 12. <u>NONRECORDABILITY</u>: County cannot record this Permit in the Public Records of Broward County, Florida. In the event that County records this Permit in the Public Records of Broward County, Florida, then County shall pay all costs and fees incurred in removing that from the Public Records of Broward County, Florida, and shall agree to execute any and all documents necessary to remove the same. If anybody, not a party to this Permit, records this Permit in the Public Records, the parties agree to execute the documents necessary to remove this from the Public Records.
- 13. <u>ATTORNEYS FEES AND VENUE</u>: In the event it becomes necessary to enforce this Permit in a legal proceeding, then venue shall be exclusively in Broward County, Florida and the prevailing party shall be reimbursed for reasonable attorneys' fees and awardable court costs at a trial or appellate level.
- 14. <u>MERGER OF AGREEMENTS</u>: This Permit contains the full and complete agreement of the Parties and any prior arrangements, written or oral, shall be extinguished

and merged into this Permit. This Permit may be only modified by a document executed by both of the Parties thereto. In the event of a conflict between this Permit and other Permits issued prior to September 21, 1990, the terms of this Permit shall prevail.

15. <u>SUCCESSORS AND ASSIGNS:</u> This Permit shall be binding upon the Parties' successors and assigns. No assignment of this Permit is permitted unless it is to another governmental body that agrees in writing to be bound by this Permit.

Date Permit Issued: 25 day of February, 20 19.

<u>DISTRICT</u>		
Signature Print/Type Name Print/Type Name	OLD PLANTATION WATER CONTROL DISTRICT By Chairman Chairman Print/Type Name 25 day of PCB , 20 9.	
COUNTY		
ATTEST:	BROWARD COUNTY, by and through its Board of County Commissioners	
Broward County Administrator, as Ex-Officio Clerk of the Broward County	By Mayor day of, 20	
Insurance requirements approved by Broward County Risk Management Division By Council O3 Odg Signature (Date) Collum Pounall Risk Analyst Print Name and Title above	Approved as to form by Andrew J. Meyers Broward County Attorney Governmental Center, Suite 423 115 South Andrews Avenue Fort Lauderdale, Florida 33301 Telephone: (954) 357-7600 Telecopier: (954) 357-7641 By Maya Moore (Date) Assistant County Attorney Michael J. Kerr (Date) Deputy County Attorney	











