

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made and entered into this _____ day of _____, _____ by and between **Leder Hillsboro, LLC**, a Florida limited liability company (hereinafter referred to as "Indemnitor") and the City of Coconut Creek, a Municipal Corporation of the State of Florida ("City").

WHEREAS, Indemnitor is in the process of constructing a **Pet Lodge and Self-storage facility** located at **4171, 4181 and 4191 West Hillsboro Boulevard** in the City of Coconut Creek, Florida; and

WHEREAS, in order to provide water/wastewater/reclaimed water service to a certain parcel of property, Indemnitor is required to construct and install two (2) connections to the City's existing 8-inch water main; and

WHEREAS, the utility facilities to be constructed and depicted in the Florida Department of Transportation ("FDOT") Utility Permit(s) shall be referred to herein as "Utility Facilities," and a copy of the Utility Permit(s) is attached hereto as **Exhibit "A"** and incorporated herein by reference; and

WHEREAS, the City's water main to which the Utility Facilities must be connected is located within FDOT right-of-way thereby requiring issuance of an FDOT permit to proceed; and

WHEREAS, FDOT will issue a permit(s) ("Utility Permit(s)") in the name of the City's Utilities and Engineering Department as the Permittee, and City is concerned about the potential liability that it might incur until the construction of the Utility Facilities is completed and title to those Utility Facilities is transferred to and has been accepted by City; and

WHEREAS, City requires as a condition of entering into the Utility Permits that Indemnitor enter into this Agreement; and

WHEREAS, Indemnitor and City desire to set forth their understandings regarding potential liabilities imposed against the City, arising as a result of entering into the Utility Permit(s).

NOW, THEREFORE, for and in consideration exchanged between the parties, the adequacy of which shall not be disputed by the parties, the parties agree as follows:

1. **RECITALS**. The recitals above are true and correct and are incorporated herein by reference.

2. **TERM.** The term of this Agreement shall commence upon the date first written above and shall terminate upon the lawful transfer of ownership of the Utility Facilities from Indemnitor to the City.

3. **ACKNOWLEDGMENT.** Indemnitor acknowledges and agrees that it will initially be the owner of the Utility Facilities and will be totally responsible for compliance with the Utility Permit(s) and any other applicable laws, rules and regulations during the construction phase of the Utility Facilities and until such time as the ownership of the Utility Facilities are formally transferred to and accepted by City.

4. **INDEMNIFICATION.**

- 4.1 Indemnitor, therefore, agrees to indemnify and hold City, its City Commissioners, officers, employees, and agents harmless from and against any and all costs, losses, claims, demands and liabilities, including reasonable attorneys fees and costs (at both a trial and appellate level), which might arise out of or relate to or are attributable to any and all acts and omissions by Indemnitor or its contractors arising as a result of the construction of the Utility Facilities, including but not limited to, the failure of Indemnitor or its contractors to comply with the rules and regulations of the FDOT (or any authority having jurisdiction) or its demands in connection with the work contemplated by the Utility Permit(s).
- 4.2 If a demand is made on City for any such liability or obligation or City otherwise incurs any loss or expense as a result of the activities described herein, Indemnitor shall forthwith upon demand reimburse City for all expenses incurred as a result thereof. City shall, in its sole discretion, have the right to employ separate counsel in any such action and to participate in the defense thereof, and the reasonable fees and expenses of such counsel shall be paid by Indemnitor. All such fees and expenses payable by Indemnitor shall be paid from time to time as incurred, both in advance of and after the final disposition of such action or claim. All of the foregoing losses, damages, costs and expenses of City shall be payable by Indemnitor upon demand by City. No failure to exercise any right of set-off hereunder shall prejudice or constitute a waiver of any other right or remedy City may have against Indemnitor.
- 4.3 Nothing in this section shall affect the immunities of the City pursuant to Chapter 768, Florida Statutes, as amended from time to time, nor shall it constitute an agreement by the City to indemnify Indemnitor, its officers, employees, subcontractors or agents against any claim or cause of action. Nothing herein shall be construed as consent to be sued by any third parties in any matter arising out of this Agreement. This section shall survive the expiration or termination of this Agreement.

5. **INSURANCE REQUIREMENTS.**

5.1 The Indemnitor shall assume full responsibility and expense to obtain all necessary insurance as required by the City. Throughout the term of this Agreement, Indemnitor and any and all subcontractors or anyone directly or indirectly employed by either of them shall maintain in force, at all times, insurance as follows:

a) Workers' Compensation: Statutory Limits of coverage to apply for all employees in compliance with all applicable State of Florida and federal laws. The policy must include Employers Liability with a limit of \$100,000.00 each accident.

b) General Liability: Commercial General Liability insurance with limits not less than \$1,000,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause. This policy of insurance shall be written in an "occurrence" based format.

c) Automobile Liability: Comprehensive or Business Automobile Liability insurance with limits not less than \$500,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage's for owned, hired, and non-owned vehicles and/or equipment as applicable. This policy of insurance shall be written in an "occurrence" based format.

d) Professional Liability / Errors and Omissions Coverage: The Indemnitor must provide the City with evidence of Professional Liability insurance with, at a minimum of \$1,000,000.00 per occurrence and in the aggregate. "Claims-Made" forms are acceptable for Professional Liability insurance. Coverage shall include all claims arising out of the Indemnitor's operations or premises, any person directly or indirectly employed by the Indemnitor, and the Indemnitor's obligations under indemnification under this Agreement. Indemnitor acknowledges that the City is relying on the competence of the Indemnitor to design the project to meet its functional intent. If it is determined during construction of the project that changes must be made due to Indemnitor's negligent errors and omissions, Indemnitor shall promptly rectify them.

5.2 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit and provides that claims investigation or legal defense costs be included in such general

annual aggregate limit, such general annual aggregate limit shall be double the occurrence limits specified above.

- 5.3 Should any required insurance lapse during the Contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option terminate this Agreement effective on the date of such lapse of insurance. All policies shall be endorsed to provide sixty (60) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:

City of Coconut Creek
Attn: Sanjeev Bissessar,
Risk Manager
4800 West Copans Road
Coconut Creek, Florida 33063

- 5.4 General Liability policies shall be endorsed to provide the following:
- a) Name as additional insured: 1) the City of Coconut Creek and its Officers, Agents, Employees and Commission Members.
 - b) That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that insurance applies separately to each insured against whom claims are made or suit is brought, but the inclusion of more-than one insured shall not operate to increase the insurer's limit of liability.
- 5.5 Certificates of Insurance, in form and evidencing all required insurance and endorsements, shall be submitted by Indemnitor with this executed Agreement. The issuing agency shall include full name, address and telephone number in each insurance certificate issued.
- 5.6 All insurance policies herein required of the Indemnitor shall be written by a company with a A.M. Best rating of A-VII or better that is duly authorized and licensed to do business in the State of Florida and shall be executed by agents, thereof that are duly licensed as agents in said state.

6. **TRANSFER OF UTILITY FACILITIES.** Upon receiving final approval from FOOT confirming satisfactory completion of all aspects of the Utility Permit(s), and the City has inspected and is satisfied with the quality of the work completed, Indemnitor must transfer ownership of and title to the Utility Facilities by executing a Bill of Sale in favor of the City. The Bill of Sale must be approved as to legal form and sufficiency by the City Attorney or designee.

7. **MISCELLANEOUS PROVISIONS.**

7.1 Indemnitor shall comply with all public records laws in accordance with Chapter 119, Fla. Stat. In accordance with Florida law, Indemnitor agrees to:

- a) Keep and maintain all records that ordinarily and necessarily would be required by the City in order to perform the services;
- b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat., or as otherwise provided by law;
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Indemnitor does not transfer the records to the City;
- d) Upon completion of the services within this Agreement, at no cost, either transfer to the City all public records in possession of the Indemnitor or keep and maintain public records required by the City to perform the services. If the Indemnitor transfers all public records to the City upon completion of the services, the Indemnitor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Indemnitor keeps and maintains public records upon completion of the services, the Indemnitor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If Indemnitor does not comply with this Section, the City shall enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.

IF THE INDEMNITOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE INDEMNITOR'S DUTY TO PROVIDE PUBLIC

**RECORDS RELATING TO THIS AGREEMENT,
CONTACT THE CITY'S CUSTODIAN OF PUBLIC
RECORDS AT 954-973-6774,
PublicRecords@coconutcreek.net, 4800 West Copans
Road, Coconut Creek, FL 33063**

- 7.2 **Notice.** All notices, demands, requests, offers or responses permitted or required to be given under this Agreement shall be deemed sufficient if mailed by registered or certified mail, postage prepaid, addressed to the party to be charged with notice, at the following addresses:

CITY OF COCONUT CREEK: Osama Elshami, PE, CFM
Director of Utilities and Engineering
City Engineer
Utilities and Engineering Dept.
5295 Johnson Road
Coconut Creek, FL 33073

With a copy to: Terrill C. Pyburn
City Attorney
4800 West Copans Road
Coconut Creek, FL 33063

INDEMNITOR: Leder Hillsboro, LLC
Attn: Sean Leder
4755 Technology Way, Suite 203
Boca Raton, FL 33431-3338

With a copy to: Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
Attn: William 8. Mason, Esq.
200 E. Las Olas Blvd., Suite 2100
Ft. Lauderdale, Florida 33301

Any party hereto may change the address to which notices shall be sent by written notice of such new or changed address given to the other party.

- 7.3 **Florida Law and Venue.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida. If any action, suit or proceeding is instituted as a result of any matter or thing affecting this Agreement, the parties hereby designate state courts of Broward County, Florida, as the proper jurisdiction and the exclusive venue in which same is to be instituted.

- 7.4 **Headings.** The Paragraph headings contained herein are for reference purposes only and shall not in any way affect the meaning and interpretation of this Agreement.
- 7.5 **Binding Effect.** This Agreement shall be legally binding upon and shall operate for the benefit of the parties hereto, their respective heirs, personal and legal representatives, transferees, successors and assigns.
- 7.6 **Assignment.** Neither this Agreement nor any interest/obligation herein shall be assigned, transferred, or encumbered without the written consent of the other parties hereto, and any attempt to transfer or assign any interest in this Agreement without the written consent of the other parties shall be void.
- 7.7 **Entire Agreement.** This Agreement contains the entire agreement of the parties hereto with respect to the subject matter addressed herein, and all prior understandings and agreements, whether written or oral, between and among the parties hereto relating to the subject matter of this Agreement are merged in this Agreement. Each party specifically acknowledges, represents and warrants that they have not been induced to sign this Agreement by any belief that the other will waive or modify the provisions of this Agreement in the future.
- 7.8 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- 7.9 **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- 7.10 **Materiality and Waiver of Breach.** The parties agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for consideration as provided herein, that each is substantial and important to the formation of this Agreement, and that each is, therefore, a material term hereof. A party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

- 7.11 **Joint Preparation.** This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against any one (1) party.
- 7.12 **Counterparts.** This Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one agreement.
- 7.13 **Representation of Authority.** Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full and legal authority.

IN WITNESS WHEREOF, this Agreement is entered into and is effective on the date indicated above.

WITNESSES:

Signed, sealed and delivered
In the presence of:

[Handwritten Signature]
Witness Signature

Liana A. Pardo
Print Name

[Handwritten Signature]
Witness Signature

Tanelle Myrie
Print Name

INDEMNITOR

Leder Hillsboro, LLC
a Florida limited liability company

By: *[Handwritten Signature]*
Sean M. Leder, Manager

(SEAL)

NOTARY CERTIFICATE

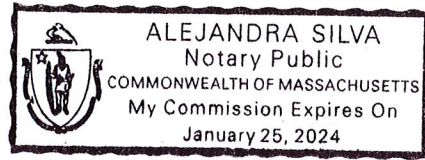
~~Commonwealth of Massachusetts~~
~~STATE OF FLORIDA~~
~~COUNTY OF BROWARD~~ *Dukes County*

The foregoing instrument was acknowledged before me this 27th day of July, 2018, by Sean M. Leder, as Manager of Leder Hillsboro, LLC, a Florida limited liability company, on behalf of the limited liability company. He is personally known to me or who has produced Florida Driver's license as identification.

My Commission Expires: 01/25/24

[Handwritten Signature]
Notary Signature

Alejandra Silva
Typed, Printed or Stamped Name of Notary



ACCEPTANCE

CITY does hereby accept the foregoing Agreement as a condition of entering into the Utility Permits as a Permittee, this _____ day of _____, _____.

CITY OF COCONUT CREEK, FLORIDA

ATTEST:

Leslie Wallace May, City Clerk

Mary C. Blasi, City Manager

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

Terrill C. Pyburn, City Attorney

Exhibit "A"

Utility Permit(s)

SEE ATTACHED

EXHIBIT "A"



Environmental Protection and Growth Management Department
ENVIRONMENTAL ENGINEERING AND PERMITTING DIVISION
1 North University Drive, Mailbox 201, Plantation, Florida 33324 * 954-519-1483 * FAX 954-519-1412

LICENSE FOR INSTALLATION OF WASTEWATER
COLLECTION/TRANSMISSION SYSTEM

APPLICANT: Leder Hillsboro company, Ltd
Attention: Mr. Sean Leder, Manager
4755 Technology Way, Suite 203
Boca Raton, FL 33431
EPGMD LICENSE NO.: WW-62529
EXPIRATION DATE: 07/19/2023
DEP ID NO.: BCN #051336-1222
SEC-TWP-RNG: 05-48-42
PROJECT: Leder Hillsboro

This license is issued under the provisions of Chapter 27 of the Broward County Code of Ordinances, hereinafter called the Code. The above named-applicant, hereinafter called licensee, is hereby authorized to perform the work shown on the approved drawing(s), plans, documents, and specifications submitted by applicant and made a part hereof and described specifically below. Commencement of construction under this license shall be deemed acceptance of all conditions specified in the license. License conditions shall also be deemed to be accepted if they are not objected to in writing and received by EPGMD within fourteen days of receipt of the license by the applicant.

The issuance of this license is a final agency determination. A person with a substantial interest may file a petition to request review of, or to intervene in a review of, a final administrative determination within 10 days of issuance of the license, subject to the provisions of Section 27-14 of the Code.

Your Notification/Application for Constructing a Domestic Wastewater Collection/Transmission System has been evaluated. This General or Individual Permit is hereby issued pursuant to the provisions of Chapter 403, Florida Statutes (F.S.), and Chapters 62-4 and 62-604, Florida Administrative Code (F.A.C.).

GRAVITY SEWER: No Gravity Sewer Main (1 Manhole)

SUBJECT TO GENERAL CONDITIONS #1- #11 and SPECIFIC CONDITIONS # 1 - # 3.

In accordance with: Plans, Sheets 01 thru 03, and 16 thru 21 of 26 (Received 07/09/2018). Keith & Associates, Inc. Project #: 09675.00. None Attached.

Located at: 4171 W HILLSBORO BLVD, Coconut Creek, FL 33073

Serving: 2,316 SF Pet Lodge Office and 113,640 SF Self-Storage Facility (Existing Sewer Main Modification).

Issued this 20th day of July, 2018.

Environmental Protection and Growth Management Department
Prepared by Yvel Rocher, P.E.

[Signature]
Yvel Rocher, P.E., Licensed Engineer
Domestic Wastewater Program

ec: FDEP/WPB
Asif Ali, PDMD Front Desk
Osama Elshami, P.E., Director of Utilities & Engineering, City of Coconut Creek Utilities and Engineering
Rolando Nigaglioni, Planning and Development Manager, P.E., Broward County WWS No. Reg WWTP
Stephen D. Williams, P.E., Keith & Associates, Inc.

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth herein are accepted by the licensee and must be completed by the licensee and are enforceable by EPGMD pursuant to the Code. EPGMD will review this license periodically and may revoke or suspend the license, and initiate administrative and/or judicial action for any violation of the conditions by the licensee, its agents, employees, servants or representatives.
2. This license is valid only for the specific uses set forth in the license application and any deviation from the approved uses may constitute grounds for revocation, suspension, and/or enforcement action by EPGMD.
3. In the event the licensee is temporarily unable to comply with any of the conditions of the license or with the Code, the licensee shall notify EPGMD within eight (8) hours or as stated in the specific section of the Code. Within three (3) working days of the event, the licensee shall submit a written report to EPGMD that describes the incident, its cause, the measures being taken to correct the problem and prevent its reoccurrence, the owner's intention regarding the repair, replacement and reconstruction of destroyed facilities and a schedule of events leading toward operation with the license condition.
4. The issuance of this license does not convey any vested rights or exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, or any violation of federal, state or local laws or regulations.
5. This license must be available for inspection on the licensee's premises during the entire life of the license.
6. By accepting this license, the licensee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this licensed facility or activity, that are submitted to the County, may be used by the County as evidence in any enforcement proceeding arising under the Code, except where such use is prohibited by Section 403.111, F.S.
7. The licensee agrees to comply and shall comply with all provisions of the most current version of the Code.
8. Any new owner or operator of a licensed facility shall apply by letter for a transfer of license within thirty (30) days after sale or legal transfer. The transferor shall remain liable for performance in accordance with the license until the transferee applies for and is granted a transfer of license. The transferee shall be liable for any violation of the Code that results from the transferee's activities. The transferee shall comply with the transferor's original license conditions when the transferee has failed to obtain its own license.
9. The licensee, by acceptance of this license, specifically agrees to allow access and shall allow access to the licensed source, activity or facility at times to EPGMD personnel for the purposes of inspection and testing to determine compliance with this license and the Code.
10. This license does not constitute a waiver or approval of any other license, approval, or regulatory requirement by this or any other governmental agency that may be required.
11. Enforcement of the terms and provisions of this license shall be at the reasonable discretion of EPGMD, and any forbearance on behalf of EPGMD to exercise its rights hereunder in the event of any breach by the licensee, shall not be deemed or construed to be a waiver of EPGMD's rights hereunder.

SPECIFIC CONDITIONS:

1. This license is valid for construction of a sewage collection/transmission system and/or a reuse distribution system, or a WWTP modification only. All connections to the system must be approved by EPGMD prior to the issuance of a building permit.
2. Any deviation from approved plans and/or specifications affecting capacity, flow, or operation of components shall be submitted to and approved by the EPGMD before such changes are made.
3. The applicant shall be responsible for supplying as-built or record drawing(s) to EPGMD upon completion of the project. Such drawing(s) shall be signed and sealed by an Engineer registered in the State of Florida and be based on accurate records maintained by the Engineer or by a Land Surveyor currently registered in the State of Florida. Drawing(s) shall indicate locations and elevations of all pipe lines, manholes, pump stations and appurtenances installed under this project's license. Connection to the new system shall not be approved until the as-built (or record) drawing(s), certification documentation, and fees have been provided to and approved by EPGMD.

Addendum to General Permit

STATE REQUIREMENTS FOR USE OF THE GENERAL PERMIT FOR DOMESTIC WASTEWATER COLLECTION/TRANSMISSION SYSTEMS:

1. This general permit is subject to the general permit conditions of Rule 62-4.540, F.A.C., as applicable. This rule is available at the FDEP's Internet site at: <http://www.dep.state.fl.us/water/wastewater/rules.htm#domestic62-4.540,5-1-03>.
2. This general permit does not relieve the permittee of the responsibility for obtaining a dredge and fill permit where it is required. [62-604.600(6)(b)1, 11-6-03]
3. This general permit cannot be revised, except to transfer the permit. [62-604.600(6)(b)2, 11-6-03]
4. Upon completion of construction of the collection/transmission system project, and before placing the facilities into operation for any purpose other than testing for leaks or testing equipment operation, the permittee shall submit to the Broward County Environmental Protection and Growth Management Department, Environmental Engineering and Permitting Division (EEPD) Form 62-604.300(8)(b), Request for Approval to Place a Domestic Wastewater Collection/Transmission System into Operation. This form is available at the DEP's Internet site at: <http://www.dep.state.fl.us/water/wastewater/forms.htm> [62-604.700(2), 11-6-03]
5. The new or modified collection/transmission facilities shall not be placed into service until the EEPD clears the project for use. [62-604.700(3), 11-6-03]
6. Abnormal events shall be reported to the Palm Beach District Office of DEP in accordance with Rule 62-604.550, F.A.C. For unauthorized spills of wastewater in excess of 1000 gallons per incident, or where information indicates that public health or the environment may be endangered, oral reports shall also be provided to the STATE WATCH OFFICE TOLL FREE NUMBER (800) 320-0519 as soon as practical, but no later than 24 hours from the time the permittee or other designee becomes aware of the circumstances. Unauthorized releases or spills less than 1000 gallons per incident are to be reported orally to the Palm Beach District Office of DEP at (561) 681-6698 within 24 hours from the time the permittee, or other designee becomes aware of the circumstances. [62-604.550, 11-6-03]. This does not relieve the operator from the requirement of notifying EEPD at (954) 519-1499 (24 hour monitored line) within 8 hours per the Broward County Code.