

REQUESTED COMMISSION ACTION:

Consent     Ordinance     Resolution     Consideration     Workshop     Initiative

SHORT TITLE

OR MOTION: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND KRZYSZTOF POPRAWSKI AND MARIA POPRAWSKI ; PROVIDING AN EFFECTIVE DATE: (no cost at this time).

Summary of Purpose and Why:

The Utilities Department is partnering with Broward County to provide documentation of nuisance tidal flooding as part of their monitoring of local climate indicators. This area, 3200 block of Canal Drive, regularly floods during king tides. The smart level sensor will provide for real time tracking of water level in the canal.



Accomplishing this item supports achieving initiative "8.1 Prepare for long term impacts of ocean rise" identified in the City's: Superior Capacity Strategy

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Utilities Department
- (2) Primary staff contact: A. Randolph Brown / Alessandra Delfico Ext 7044 / 4144
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Utilities	<u>3/17/16</u>	APPROVE	
Purchasing	<u>3/22/16</u>	APPROVE	
City Attorney	<u>3/23/16</u>	APPROVE ✓	
Finance	<u>3/24/16</u>	APPROVE	
Budget		APPROVE	

Advisory Board  
 Development Services Director  
 City Manager

ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	Workshop
1st Reading	1st Reading	Results:	Results:
_____	_____	_____	_____
2nd Reading	_____	_____	_____
_____	_____	_____	_____





**City Attorney's Communication #2016-632**

March 15, 2016

**TO:** Alessandra Delfico, P.E., Utilities Dept.

**FROM:** Jill R. Mesojedec, FRP, Paralegal

**VIA:** Mark E. Berman, City Attorney 

**RE:** Resolution and Revocable License Agreement – Krzysztof and Maria Poprawski

As requested in your memorandum dated March 11, 2016, Utilities Memorandum No. 16-58, the above-referenced Agreement has been prepared and is attached at this time along with the appropriate Resolution captioned as follows:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND KRZYSZTOF POPRAWSKI AND MARIA POPRAWSKI; PROVIDING AN EFFECTIVE DATE.**

Please feel free to contact me if I may be of further assistance.

  
\_\_\_\_\_  
JILL R. MESOJEDEC

/jrm  
l:cor/util/2016-632

Attachments

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND KRZYSZTOF POPRAWSKI AND MARIA POPRAWSKI; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a Revocable License Agreement between the City of Pompano Beach, and Krzysztof Poprawski and Maria Poprawski, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Revocable License Agreement between the City of Pompano Beach and Krzysztof Poprawski and Maria Poprawski.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

# REVOCABLE LICENSE AGREEMENT

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**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by  
and between:

**KRZYSZTOF POPRAWSKI and MARIA POPRAWSKI**, a  
married couple and Co-Trustees of the Revocable Living Trust  
dated May 29, 2004, hereinafter referred to as "LICENSOR,"

and

**CITY OF POMPANO BEACH**, a municipal corporation of the  
State of Florida, hereinafter referred to as "CITY."

## WITNESSETH:

**WHEREAS**, CITY desires to obtain from LICENSOR a license to use certain  
LICENSOR's property for the purpose of installing a smart level sensor on the southernmost pile  
of the dock located at Canal Drive, Parcel ID # 484330030051.

**WHEREAS**, inasmuch as the use of said LICENSOR's property by CITY for this  
restricted purpose will not interfere with the rights enjoyed by LICENSOR and will be without  
cost to the CITY as the installation will benefit LICENSOR and the public in an effort to  
document tidal flooding in the adjacent canal.

**NOW, THEREFORE**, in consideration of the foregoing and mutual covenants and  
conditions hereinafter contained, it is agreed by the parties hereto as follows:

1. LICENSOR hereby grants to CITY and CITY hereby accepts from LICENSOR a  
non-exclusive revocable license to use a portion of LICENSOR's dock located at the

southernmost pile to mount a small level sensor for the purpose of recording the level of water in the canal in an effort to document tidal flooding as depicted in the aerial photo attached hereto and designated as Exhibit "A" ("License Area") and incorporated in this License Agreement. All work of installation, maintenance, monitoring and clean-up related to the Project Improvements shall be done by CITY and LICENSOR's property shall be restored or repaired to a condition equal to or better than that existing prior to commencement of installation of said Project Improvements.

2. This license shall continue from day to day commencing on the date of execution hereof by all parties until such time as either party gives notice of termination as provided for herein.

3. CITY agrees to pay LICENSOR as compensation for this license the sum of One (\$1.00) Dollar per annum. Receipt of the first payment of One (\$1.00) Dollar is hereby acknowledged.

4. This license may be terminated by LICENSOR at any time, upon giving thirty (90) days' written notice to CITY by mail as further provided herein. Upon termination, CITY agrees to remove, at its sole expense, the smart level sensor on the southernmost pile of the dock and shall restore the pile to its former condition or better as determined in the sole discretion of the Public Works Administrator.

5. CITY specifically agrees that it will use the LICENSOR's dock pursuant to this license only for the purpose of installing, maintaining and monitoring the Project Improvements as depicted in the attached Exhibit "A." Further, that it will not suffer or permit the premises or any part thereof to be used for any other purpose without the express consent of LICENSOR. LICENSOR specifically agrees that it will not cause any damage to CITY's smart level sensor

and agrees to contact the CITY if there is a temporary need to remove the sensor. In that event, CITY shall remove the sensor, not LICENSOR, and CITY will re-install sensor when the work is completed which required the need for the sensor to be temporarily removed.

6. CITY is not permitted to assign, transfer, convey or otherwise dispose of this license to any other person or corporation without the prior written consent of LICENSOR. In the event of an attempt to assign, transfer, convey or otherwise dispose of this license to any person not specifically a party to this Agreement, then this license shall be null and void and terminated without notice to CITY.

7. Any notice required under the terms of this License Agreement must be in writing and must be sent by certified mail to the address of the party to whom the notice is to be given.

Addresses of the parties are as follows:

**FOR CITY:** Dennis W. Beach, City Manager  
City of Pompano Beach  
Post Office Box 1300  
Pompano Beach, Florida 33061-1300

**FOR LICENSOR:** Krzysztof Poprawski and Maria Poprawski  
4041 N. Ocean Blvd.  
Fort Lauderdale, FL 33308

8. This License Agreement shall be construed in accordance with the laws of the State of Florida. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this License Agreement, or the application of the remainder of the provisions, shall not be affected. Rather, this License Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this License Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Revocable

License is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this License, unless otherwise expressly provided. All terms and words used in this License Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender, as the context requires.

9. This License Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

10. Nothing contained in this License Agreement is intended to serve as a waiver of sovereign immunity by the LICENSOR as provided for in Fla. Stat. 768.28.

11. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this License Agreement. None of the parties intend to directly or substantially benefit a third party by this License Agreement. The parties agree that there are no third party beneficiaries to this License Agreement and that no third party shall be entitled to assert a claim against any of the parties based on this License Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this License Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

13. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this License has been their joint effort.

14. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this License and, therefore, is a material term hereof. Any party's failure to enforce any provision of this License shall not be deemed a waiver of such provision or modification of this License. A waiver of any breach of a provision of this License shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this License.

15. This License Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this License Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

16. Neither party shall be obligated to perform any duty, requirement or obligation under this License Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds alone on the part of CITY be deemed Force Majeure.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties to this License Agreement have set their hands and seals on the day and year first above written.

"CITY":

Witnesses:

CITY OF POMPANO BEACH

\_\_\_\_\_

By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
DENNIS W. BEACH, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND,  
CITY CLERK

(SEAL)

Approved by:

\_\_\_\_\_  
MARK E. BERMAN,  
CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

:jrm  
L:agr/utility/2016-627

**"LICENSOR":**

Witnesses:

**KRZYSZTOF POPRAWSKI & MARIA POPRAWSKI, a married couple and Co-Trustees of the Revocable Living Trust dated May 29, 2004**

Michael Taylor  
Kerone Grant

By: Krzysztof Poprawski

Print Name: KRZYSZTOF POPRAWSKI

By: Maria Poprawski

Print Name: MARIA POPRAWSKI  
(SEAL)

STATE OF FLORIDA

COUNTY OF BROWARD

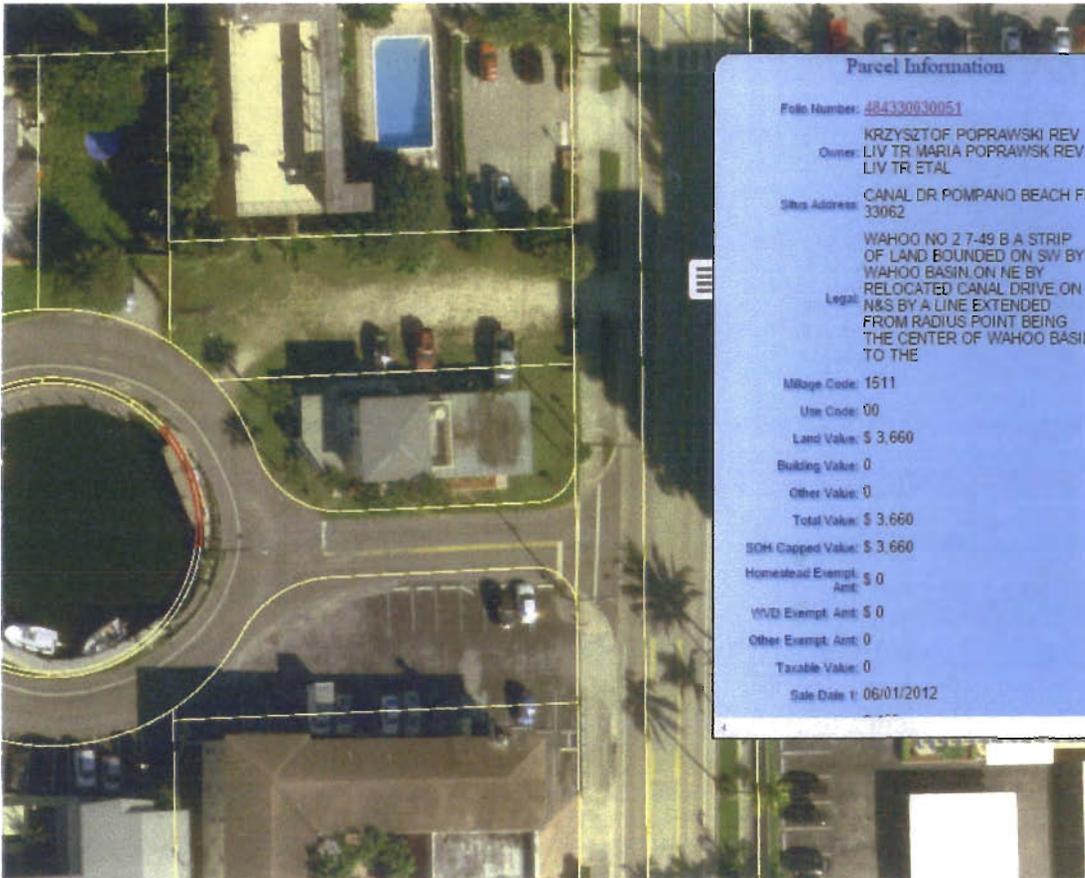
The foregoing instrument was acknowledged before me this 11 day of March, 2016, by Krzysztof Poprawski and Maria Poprawski as Co-Trustees of the Revocable Living Trust dated May 29, 2004. He/she is personally known to me or who has produced Driver License (type of identification) as identification.

NOTARY'S SEAL:

[Signature]  
NOTARY PUBLIC, STATE OF FLORIDA  
Kerone Grant  
(Name of Acknowledger Typed, Printed or Stamped)  
FF046C94  
Commission Number



EXHIBIT A



Parcel Information

Folio Number: 484330030051

Owner: KRZYSZTOF POPRAWSKI REV  
LIV TR MARIA POPRAWSK REV  
LIV TR ETAL

Site Address: CANAL DR POMPANO BEACH FL  
33062

Legal: WAHOO NO 2 7-49 B A STRIP  
OF LAND BOUNDED ON SW BY  
WAHOO BASIN ON NE BY  
RELOCATED CANAL DRIVE ON  
N&S BY A LINE EXTENDED  
FROM RADIUS POINT BEING  
THE CENTER OF WAHOO BASIN  
TO THE

Milage Code: 1511

Use Code: 00

Land Value: \$ 3,660

Building Value: 0

Other Value: 0

Total Value: \$ 3,660

SOM Capped Value: \$ 3,660

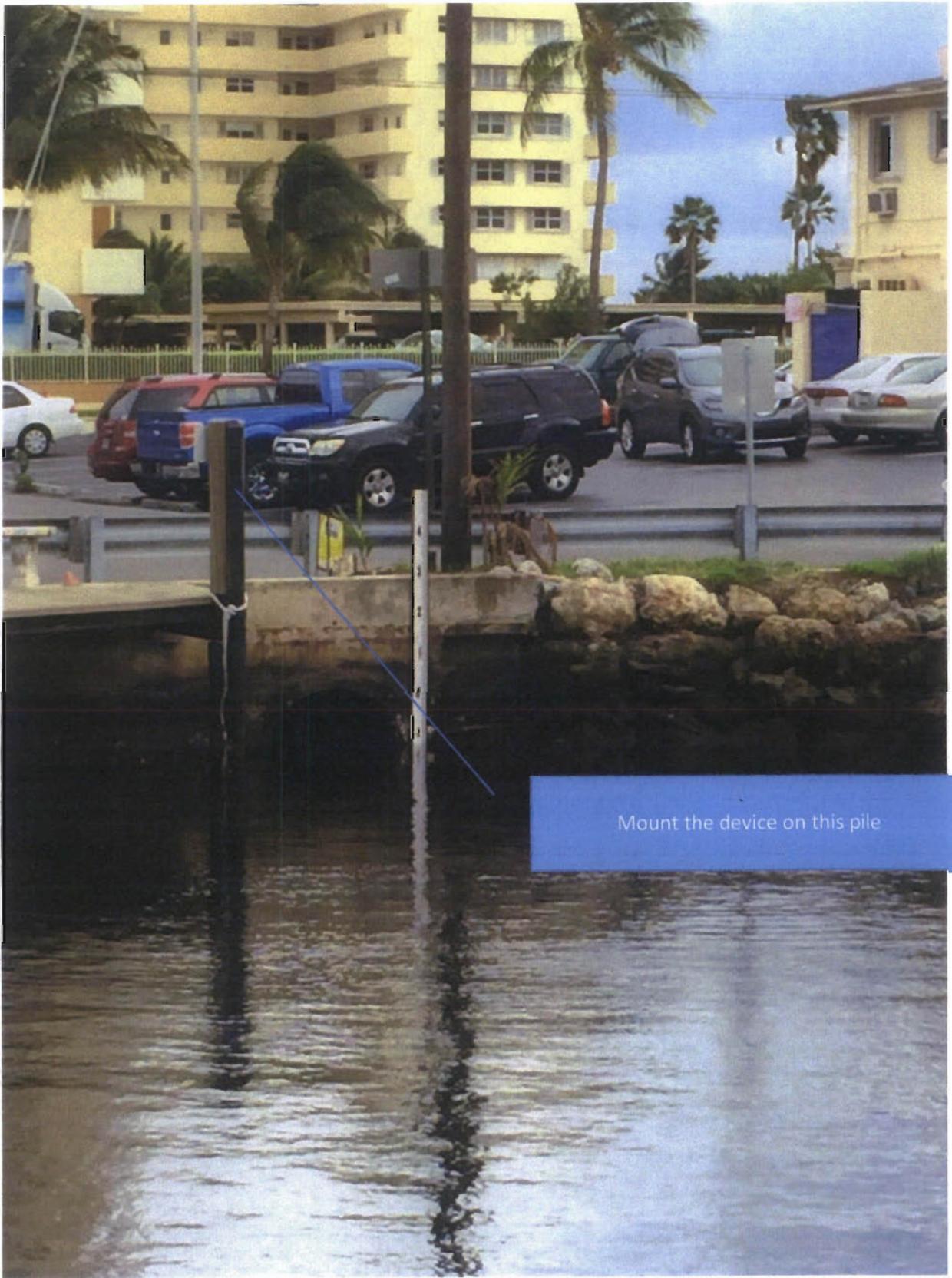
Homeslead Exempt. Amt: \$ 0

WVD Exempt. Amt: \$ 0

Other Exempt. Amt: 0

Taxable Value: 0

Sale Date: 06/01/2012



Mount the device on this pile

