

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the County Executive to execute a License Agreement with the Missouri Highway & Transportation Commission to enter onto Park property for the construction of a drainage weir at the Little Blue Trace Park, at no cost to the County.

RESOLUTION #16677, July 21, 2008

INTRODUCED BY Fred Arbanas, County Legislator

WHEREAS, the Missouri Highway & Transportation Commission requests a license agreement for entry upon park property at the Little Blue Trace Park, to construct and maintain a drainage weir to provide drainage for a wetland mitigation project located on Blue Springs Lake property; and,

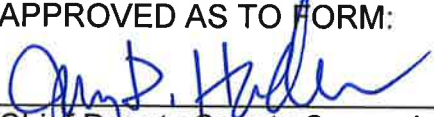
WHEREAS, the weir lies upon 0.94 acres of Little Blue Trace Park property contiguous to Blue Springs Lake; and,

WHEREAS, the Legislature acknowledges the benefits to the Jackson County community in allowing the construction and maintenance of a drainage weir for wetland mitigation; now therefore,

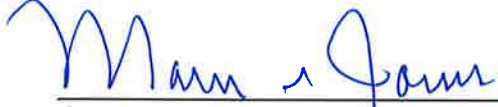
BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the County Executive be and hereby is authorized to execute the attached License Agreement with the Missouri Highway & Transportation Commission, at no cost to the County.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor
Certificate of Passage



County Counselor

I hereby certify that the attached resolution, Resolution #16677 of July 21, 2008, was duly passed on July 28, 2008 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 8

Nays 0

Abstaining 0

Absent 1

7.29.08

Date



Mary Jo Spino, Clerk of Legislature

CCO FORM: RW21
 Approved: 2/92 (TWJ)
 Revised: 1/00 (RMH)
 Modified: 03/08 (MRA)

ROUTE: 40
 COUNTY: Jackson
 PROJECT: J4P1653
 PARCEL: N/A (Wetland)

**LICENSE AGREEMENT TO ENTER UPON PROPERTY
 TO CONSTRUCT AND MAINTAIN DRAINAGE WEIR
 AND APPURTENANT FEATURES AND FIXTURES**

THIS LICENSE is issued by Jackson County Parks and Recreation (hereinafter, "Owner") to the Missouri Highways and Transportation Commission (hereinafter, "Commission").

WHEREAS, the Owner holds fee simple title in the following described parcel of land, along with other land in Jackson County, State of Missouri, to wit:

A 0.94 acre tract of land in the NE ¼ of the NW ¼ of Section 33, Township 49N, Range 31W, as referenced on Sheet 3 of the engineering plans for Commission Project Number J4P1653 along Route 40, in Jackson County, Missouri,

which is dedicated for outdoor recreational and park use, and hereinafter described as "the Park Tract;" and

WHEREAS, the Commission desires to enter upon the Park Tract to construct and maintain a drainage weir and appurtenant features and fixtures upon it, which will provide drainage for "Cell 4" of the wetland mitigation bank being constructed as part of the Commission's Project No. J4P1563, in conjunction with the U.S. Army Corps of Engineers, Kansas City District (hereinafter, "Corps").

NOW, THEREFORE, in consideration of the promises, covenants and representations in this Agreement, the parties agree as follows:

(1) LICENSE GRANTED: The Owner hereby grants the Missouri Highways and Transportation Commission, its subordinate Missouri Department of Transportation (MoDOT), plus their officers, employees, contractors, subcontractors, agents, assigns and successors, plus the authorized representatives of the Corps, a non-exclusive, irrevocable right of entry onto the above-described Park Tract, to construct and maintain a drainage weir and appurtenant features and fixtures. Once this drainage weir is constructed, this non-exclusive, irrevocable right of entry shall remain in full force and effect so that MoDOT and the Corps may inspect, maintain and repair that weir, its features and fixtures.

(2) CONSIDERATION FOR THIS LICENSE: The purchase price for the license described above is one dollar (\$1.00), paid by the Commission to the Owner, the receipt of which is acknowledged, plus other valuable consideration, including but not limited to the benefit that the Park Tract will receive by the Commission's

construction and maintenance of the drainage weir, which new feature will be consistent with and complement the dedicated use and purpose of this tract.

(3) NO KNOWLEDGE OF HAZARDOUS OR TOXIC SUBSTANCES ON PROPERTY: In order to minimize health risks to persons entering the property, the Owners represent that to the best of their knowledge and belief, there is no generation, transportation, storage, treatment, disposal, release, leakage, spillage or emission of any hazardous or toxic substance or material or any aboveground or underground petroleum product contamination on the subject property during the Owner's ownership or during previous ownerships at least insofar as the Owners have observed or have been informed.

(4) DISTURBANCES:

(A) The Commission agrees to make a reasonable and good faith effort to avoid or minimize impacts to the Park Tract. Disturbances of the Park Tract by the Commission will be accomplished in the least damaging way feasible, and restored by the Commission, if practical.

(B) The Owner agrees to make a reasonable and good faith effort to avoid or minimize impacts to the drainage weir and appurtenant features and fixtures. Disturbances to the drainage weir and appurtenant features by the Owner will be accomplished in the least damaging way feasible, and restored by the Owner, if practical.

(5) DURATION OF OCCUPANCY: The Owner and Commission agree that this license shall remain in full force and effect, and shall not expire until the earlier of the following occurs:

(A) The wetland mitigation bank constructed as part of the Commission's Project No. J4P1563 ceases to remain open and active; or

(B) Twenty-five years have passed beyond the date of construction completion for the Commission's drainage weir on the Park Tract.

(6) COMMISSION REPRESENTATIVE: The Commission's District 4 Senior Right-of-Way Specialist is designated as the Commission's representative for the purpose of administering the provisions of this License. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this License.

(7) OWNER REPRESENTATIVE: The Owner's Deputy Director of Operations is designated as the Owner's representative for the purpose of administering the provisions of this License. The Owner's representative may designate by written notice other persons having the authority to act on behalf of the Owner in furtherance of the performance of this License.

(8) AMENDMENTS: Any change in this License, whether by modification or supplementation, must be accomplished by a formal License Agreement amendment signed and approved by the duly authorized representative of the Owner and the Commission.

(9) SECTION HEADINGS: All section headings contained in this License are for the convenience of reference only and are not intended to define or limit the scope of any provision of this License.

(10) LAW OF MISSOURI TO GOVERN: This License shall be construed according to the laws of the State of Missouri. The parties shall comply with all local, state and federal laws and regulations relating to the content of this License.

(11) AUTHORITY TO EXECUTE: The signers of this License warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this License Agreement.

(12) VOLUNTARY NATURE OF AGREEMENT: Each party to this License Agreement warrants and certifies that it enters into this transaction and executes this License Agreement freely and voluntarily and without being in a state of duress or under threats or coercion.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have entered into this License Agreement on the date last written below.

Executed by the Commission this 9 day of September, 2008.

Executed by the Owner this 20 day of August, 2008.

COMMISSION:

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

By Roberta Becker
Title Chief Financial Officer

OWNER:

JACKSON COUNTY PARKS AND
RECREATION

By NSa
Title **Michael D. Sanders**
JACKSON COUNTY EXECUTIVE

ATTEST:

Timothy Herten
Secretary to the Commission

By _____
Title _____

Approved as to Form:

Mich Ray Alexander
Commission Counsel

By _____
Title _____

ATTEST:

By Mary Jo Spive
Title Clerk of the County
Legislature

Approved as to Form:

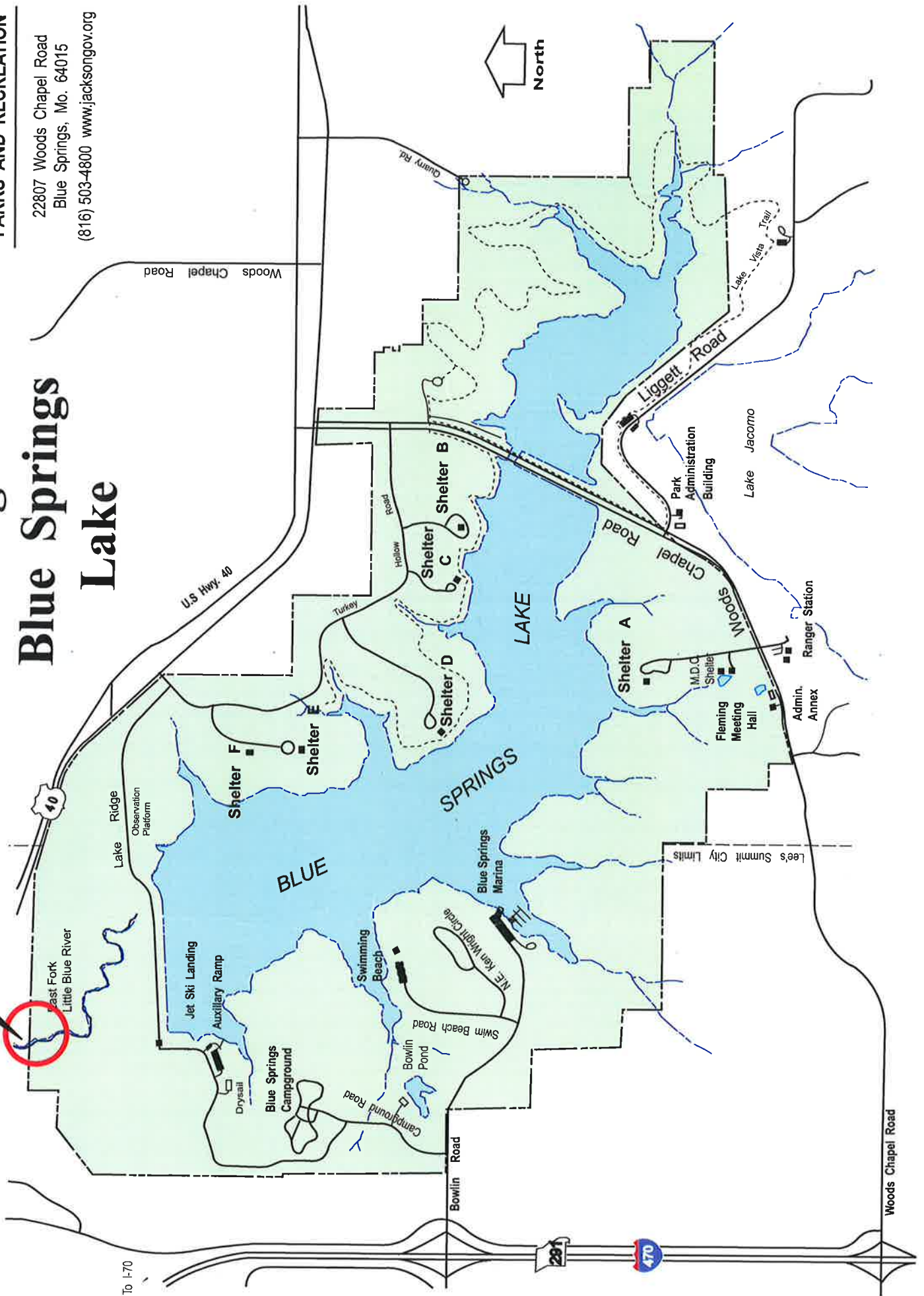
By Mark S. Jones
Title **Mark S. Jones**
JACKSON COUNTY COUNSELOR

MoDOT Wetland Project

Fleming Park Blue Springs Lake

JACKSON COUNTY
PARKS AND RECREATION

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Blue Springs, Mo. 64015
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To I-70

291

470

Woods Chapel Road