



# CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/09

**SUBJECT:** Request use of City owned and managed lands by the Daytona Dirt Riders Assn. for the 2010 Alligator Enduro event.

**DEPARTMENT:** Public Utilities

**RECOMMENDED MOTION:** Approve use of wellfield property by the Daytona Dirt Riders for an off-road motorcycle event known as the "Alligator Enduro", authorizing the Mayor and City Manager to execute agreements and/or special use permits. Terms and conditions of the special use permits and/or agreements are contingent upon approval by the City Attorney.

**SUMMARY:**

Since the late 1980's the City has granted the use of the wellfield property to the Daytona Dirt Riders Association for an off-road motorcycle event known as the "Alligator Enduro". This event takes place during March of each year during "bike week". Access to the property is limited to weekends for a short time prior to the event for set up, through the first full week of March 2010, or the end of "bike week". Charitable donations are made to various local organizations with proceeds from the event. This year the Daytona Dirt Riders Association was once again able to make a donation to the Port Orange Police Athletic League from a portion of the proceeds of the event.

City permission will include the use of jointly owned and managed properties, in conjunction with County special use permits. The terms and conditions regarding insurance, pre-event coordination, set-up, clean up, damage restoration and other specifics are included in the agreements/permits and are consistent with previous years.

**ATTACHMENTS:**  Ordinance  Resolution  Budget Resolution

Other  Support Documents/Contracts Available for Review in Manager's Office

<b>DEPARTMENT HEAD</b>	Michael Ulrich	<i>[Signature]</i>	Date 10/9/09
<b>FINANCE DEPARTMENT</b>	N/A	Approved as to Budget Requirements	Date N/A
<b>CITY ATTORNEY</b>	<i>[Signature]</i>	Approved as to Form and Legality	Date 10/12/09
<b>CITY MANAGER</b>	<i>[Signature]</i>	Approved Agenda Item For:	Date 10/20/09

**COUNCIL ACTION:**  Approved as Recommended  Disapproved  Tabled Indefinitely  
 Continued to Date Certain  Approved with Modification:

- e. Cleanup, repair, replacement and restoration of the property during and after event.
- f. Other purposes necessary and incidental to such activities and operations.

2. The property owned by the City which the Association may enter and use for the Alligator Enduro is located west of Tomoka Farms Road and east of Interstate 4, in Volusia County, Florida, as depicted in Exhibit "A".

3. a. This Agreement shall be effective during the period from January 24, 2010, through March 7, 2010, unless terminated in accordance with the provisions specified herein.

b. Either party may terminate this Agreement upon giving ten (10) days prior written notice to the other party.

c. The City may terminate this Agreement upon giving five (5) days prior written notice to the Association if the Association fails to comply with any of the provisions specified herein, the property is not utilized for the purposes described herein, or there is a change in the ownership of the property.

d. Upon expiration or termination of this Agreement, the Association shall, at its sole cost and expense, remove the registration area, start/finish line, portable toilets, concession stand, and any equipment, supplies or materials from the property. The Association shall, at its sole cost and expense, clean and remove all garbage, trash and refuse from the property and restore the property to a condition equal to that existing at the time the Association entered said property. The existing condition shall be documented by the Association videotaping portions of the property to be used for the off-road motorcycle event and delivering the videotape to the City no later than five (5) days prior to the event.

4. The permission granted by this Agreement is given to the Association as an accommodation to the Association without any monetary consideration. The Association acknowledges the legal title of the City to the property described herein and agrees never to deny such title or to claim title in the Association's name.

5. The permission granted by this Agreement is personal to the Association and shall not inure to the successors or assigns of the Association. The rights, privileges and permission granted herein shall not be assignable by the Association in whole or in part.

6. The Association and the Association's members, officers, employees, agents, invitees and participants shall exercise the rights, privileges and permission granted herein at the Association's own risk. The Association or any member, officer, employee, agent, guest, invitee or participant of the Association shall not claim any damages from the City for any injuries or damages in connection with or on account of the exercise of any rights, privileges or permission, the condition of the property, any means of ingress to or egress from the property, or the use of the property by the Association or the Association's members, officers, employees, agents, guests, invitees and participants. The Association shall indemnify and hold harmless the City, its officers, employees and agents, from and against all claims, damages, injuries, losses and expenses, including reasonable attorneys' fees and costs, arising out of, resulting from, or in any way connected with the condition of the property, any means of ingress to or egress from the property, the use of the property by the Association or the Association's members, officers, employees, agents, guests, invitees and participants the permission granted by this Agreement, or the failure on the part of the Association to comply with any of the provisions specified herein. The City shall not be liable to the Association if for any reason the Association's use of the property is hindered or disturbed.

7. a. The Association shall obtain or possess the following insurance coverages, and shall provide Certificates of Insurance to the City prior to use of the property under this Agreement to verify such coverages:

- i. Comprehensive General Liability - The Association shall provide coverage for all operations, including but not limited to Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than \$1,000,000 Combined Single Limit or its equivalent.
- ii. Property Liability - The Association shall maintain Property Damage insurance for the property during the term of this Agreement. The limits shall be not less than \$1,000,000 Combined Single Limit or its equivalent.

b. The insurance coverages shall name the City as an additional insured, and shall contain a provision which forbids any cancellation, changes or material alterations in the coverages without providing thirty (30) days prior written notice to the City.

8. Use of the property by the Association and the Association's members, officers, employees, agents, guests, invitees and participants shall not hinder, disturb or interfere with the business or operations conducted at or upon the property by or on behalf of the City, or any activities conducted at or upon the property pursuant to the Lease Agreement

with Smokey Hunt Club, Inc. The Association shall coordinate use of the property with the City, Smokey Hunt Club, Inc. and any other lessees, contractors or agents relating to schedule, access and other activities listed in paragraph 1 of this Agreement.

9. The Association shall obtain and possess all licenses and permits, and shall comply with all federal, state and local laws, rules and regulatory codes applicable to use of the property.

10. The Association shall pay all costs and expenses associated with use of the property, including but not limited to the following:

- a. Expenditures for delivery, installation, construction, repair, replacement, maintenance and removal of any equipment, supplies or materials;
- b. Costs and expenses incurred in videotaping the property;
- c. Expenses, fees and charges for delivery, erection, maintenance and removal of registration area, start/finish line, portable toilets and concession stand;
- d. Costs, fees and charges for cleanup, repair, replacement and restoration of the property;
- e. Taxes, assessments, duties, levies, fees and charges imposed or assessed by any governmental agency or authority;
- f. Payments for indemnification, claims, damages, injuries, losses and insurance coverages;
- g. Costs, fees and charges for repair and replacement of any equipment provided by the City; and
- h. Fees and charges for licenses and permits and compliance with laws, rules and regulatory codes.

11. The Association shall employ pre-event planning and protective measures during the event, including but not limited to the following:

- a. Provide to the City, a GPS route map course at least 72 hours before commencement of the event. GPS map shall include proposed checkpoints and gas stop areas.
- b. Participate in pre-event course review with City representatives. Make any and all course and procedural revisions as instructed by the City in order to ensure the safest possible operation of the event.
- c. Require all motorcycles be equipped, throughout the duration of the event, with a U.S. Forestry approved spark arrestor.
- d. Notify all riders, crews, spectators, volunteers, and all other event related participants that smoking is prohibited on the day of the event and throughout the entire term of this agreement.
- e. Provide to the City for coordination purposes, a list of all authorized Association representatives and event personnel prior to commencement of the event.
- f. Enforce all rules as set forth herein throughout the remainder of the event.

12. All notices required to be given by either party shall be in writing, addressed to the other party as follows, and delivered by certified mail, telegram or in person:

- a. Association: President  
Daytona Dirt Riders Association  
Post Office Box 250959  
Holly Hill, Florida 32125
- b. City: City Manager  
City of Port Orange  
1000 City Center Circle  
Port Orange, Florida 32129

13. This Agreement constitutes the entire agreement between the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter of this Agreement. This Agreement may be amended or modified only by an instrument of equal formality signed by the respective parties.

# EXHIBIT - A

