

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

[illegible]

Department:

Submitted By: Administration

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Golf Tournament Agreement with Trump International Golf Club, L.C. and the Wellington Regional Health & Education Foundation, Inc. for a one day charitable golf tournament to be held on October 18, 2006.

Summary: The Development Site Lease Agreement with the Trump International Golf Club, L.C. (Trump), approved September 3, 1996 (R-96-1277D), allows use of the golf course during the months of May through October for the County to host either a single two-day or two one-day charitable golf tournament(s). The Golf Tournament Agreement provides for the Trump International Golf Club to be available exclusively for the tournament to be held on October 18, 2006. Proceeds from the golf tournament will benefit the Boys and Girls Club of Wellington. Countywide (LMB)

Background and Policy Issues: On August 22, 2000, the Board directed the Department to establish a rotating schedule designating when each Commission District would select a charity to benefit from the charity golf tournament allowed to be held at Trump International golf Club. Due to active hurricane season last year, this golf tournament is a carry-over from the 2005 rotation schedule, in which it was Commissioner Masilotti's turn on the rotation schedule.

Attachments:

1. Agreement

Recommended by:

Department Director

Date _____

Approved By:

Assistant County Administrator

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	- 0 -				
# ADDITIONAL FTE					
POSITIONS (Cumulative					


Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Dept _____ Unit _____ Object _____
 Program _____


B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Budget and/or Contract Dev. and Control Comments:


 OFMB/Budget


 Contract Development and Control

B. Legal Sufficiency:

Anna Beck
Assistant County Attorney 7/6/06

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

TRUMP INTERNATIONAL GOLF CLUB GOLF TOURNAMENT AGREEMENT

This Golf Tournament Agreement, made and entered into this _____ day of _____, 20____, by and among **TRUMP INTERNATIONAL GOLF CLUB, L.C.**, a Florida limited liability company ("Trump"); **PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida ("County" or "Sponsor"); and **WELLINGTON REGIONAL HEALTH & EDUCATION FOUNDATION, INC.**, a Florida not for profit corporation (hereinafter collectively referred to as "Charity").

RECITALS:

- A. Trump is the owner of that private, eighteen hole, championship golf course, and related facilities, located in Palm Beach County, Florida, and known as TRUMP INTERNATIONAL GOLF CLUB (the "Club").
- B. Pursuant to that Development Site Lease Agreement between Trump and the County dated September 3, 1996, as amended (the "Lease"), the County has the right to use the Club on one consecutive Saturday and Sunday of each year, between May 1 and October 31, to host one, two-day or two, one-day charitable golf tournaments sponsored by the County's Department of Airports.
- C. Notwithstanding the provision of the Lease set forth above relating to the use of the Club on a Saturday and/or Sunday, Trump has authorized the use of the Club by the Charity on Wednesday, October 18, 2006.
- D. The County has designated the charitable organization to be benefited by the tournament described herein, and Trump has approved such designation.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, Trump, the County and Charity hereby agree as follows.

1. The Tournament.

- a. The tournament shall be designated "The Wellington Regional Health & Education Foundation, Inc. and the Wellington Chapter of the Boys and Girls Club Tournament at Trump International Golf Club," (or another name approved by Trump) and shall be held at the Club on Wednesday, October 18, 2006 (the "Tournament Date"). On the Tournament Date, the Club shall be reserved exclusively for the Tournament, and the golf course, golf carts, practice range and the clubhouse shall be made available to the Tournament participants. The County shall sponsor the Tournament and the Charity shall be responsible for the payment of all fees and charges set forth herein below. The Charity shall be the sole benefited charities of the Tournament, and all proceeds of the Tournament

shall be utilized by the Charity only within Palm Beach County. The Tournament shall consist of a maximum of one hundred twenty (120) players.

- b. Pursuant to the Lease, Trump has elected to co-sponsor the Tournament with the County, and, accordingly, all advertising, invitations and similar materials shall include the names "Trump International Golf Club, L.C."; and/or "Donald J. Trump" (or variation thereof approved by Trump) as a co-sponsor of the Tournament

2. **Fees and Charges.** Neither the County nor the Charity shall be required to pay any rent, greens fees or cart fees for the use of the Club facilities. However, the Charity shall be responsible for the payment of all costs and expenses associated with the Tournament including, without limitation, the following:

- a. A golf fee of \$150.00 per person, including gratuity, which includes greens fees, golf operation fee, caddy fee, cart fee, unlimited use of practice facility and golf scorecards.
- b. A food and beverage fee of \$100.00 per player, which includes a continental breakfast, buffet dinner and two refreshments stations.
- c. Trump believes that it can provide golf-related merchandise for Tournament participant prizes or gift at competitive prices and thereby, reduce the Charity's expenses. The Club shall be entitled to bid on the price of any items brought onto the Club premises. If the Club is unable to meet the price offered by a competitive vendor, the Charity shall be permitted to purchase the applicable merchandise from such vendor. Any merchandise brought onto the Club premises but not offered to the Club for competitive bidding shall be charged a surcharge in an amount equal to twenty percent (20%) above the Club's costs.

3. **Food and Beverage.**

- a. The Sponsor or the Charity shall be permitted to provide a breakfast and a luncheon at the Club through a catering service approved by Trump in advance, at the sole expense of the Charity. The Sponsor or the Charity shall advise all Tournament participants of the name of the food and beverage catering service.
- b. Non-alcoholic beverages may be provided by Sponsor or Charity, at its expense, only at the clubhouse and at the restrooms on the golf course. No alcoholic beverages may be served anywhere on the Club premises, other than at luncheon. No beverage carts shall be permitted. If alcohol is to be served, prior to the Tournament Date the Charity shall provide the Club with written proof of liquor liability insurance (\$1 million minimum coverage) naming Trump International golf Club, L.C. and the County, as additional insureds. No alcoholic beverages may be served to anyone under the age of twenty-one (21).

4. **Rescheduling.** Trump may modify this Agreement to reschedule the Tournament to a date acceptable to the parties, at any time prior to the Tournament Date due to acts of God, danger to players, guests or employees of for any other cause beyond the control of Trump. Any payments made by Sponsor or Charity shall be applied to the rescheduled Tournament Date.

5. **Release/Indemnity.** As a material inducement to permit the Tournament to be held at the Club, the County and the Charity each hereby release Trump International Golf Club, L.C., and all members, agents, officers, employees, affiliates, partners, co-venturers, successors and assigns of the foregoing (collectively, the "Club Affiliates"), from all costs, expenses, liabilities, obligations and damages resulting from or arising out of the Agreement and the staging of the Tournament, other than Trump's specific contractual obligations as set forth in this Agreement. In addition, the Charity hereby releases the County, its officers, employees and agents (collectively, the "County Affiliates") from all costs, expenses, liabilities, obligations and damages resulting from or arising out of the Agreement and the staging of the Tournament, other than the County's specific contractual obligations as set forth in this Agreement. Further, the Charity does hereby agree to indemnify, defend (with legal counsel satisfactory to the indemnified party) and save the Club Affiliates, and each of them, and the County Affiliates, and each of them, harmless from and against all claims, damages, liabilities, costs, and expenses, including attorneys' fees and costs, resulting from or arising out of claims asserted by any third party in connection with this Agreement or the staging of the Tournament at the Club including, without limitation, claims and liabilities associated with personal injury to Tournament participants and spectators and claims and liabilities arising from use and/or operation of golf carts furnished by the Club, whether or not such liability, loss or expense occurs by reason of damage to property (including golf carts) or injury to persons (including death resulting therefrom) and whether or not such damage or injury occurs as the result of negligence of the Club, its employees or agents or of any other party or person. The Charity shall be responsible for any and all liability and damages caused directly or indirectly by any Tournament participants, guests, family members, invitees, licensees, employees, independent contractors or other agents associated with the Tournament, including without limitation, damages occurring during the specified time of the Tournament, or set up and/or tear down time. To the extent permitted by law, the County shall be responsible for any and all liability and damages resulting from the acts or omissions of any County employees, independent contractors or other agents retained by the County in connection with the Tournament. Nothing in this paragraph shall be construed as an agreement by the County to indemnify Trump or as a waiver of sovereign immunity.

6. **Insurance.** No later than ten (10) days prior to the Tournament Date, the Charity shall provide Trump's legal counsel with a certificate of liability insurance coverage, naming Trump International Golf Club, L.C., and the County, each as an additional insured. The certificate shall evidence liability insurance coverage in an amount, and underwritten by an insurer, satisfactory to the Club at its sole discretion. The additional insured endorsements required hereunder for the benefit of the County shall read: "Palm Beach County Board of County Commissioners, a political subdivision of the State of Florida, and its officers, employees and agents, c/o County Administration, 301 North Olive Avenue, 11th Floor, West Palm Beach Florida 33401."

7. **Loss of Property.** Trump shall not be responsible for damages or loss of any merchandise or articles left at the Club prior to, during or following the Tournament, and the Charity does hereby agree to indemnify, defend and save the Club Affiliates harmless from any such claims made by any of the Tournament participants, guests, invitees, licensees, family members, employees, independent contractors or other agents.

8. **Attendance.** The County or the Charity shall advise Trump in writing, no later than seventy – two (72) hours prior to the Tournament Date, of the anticipated number of attendees of the Tournament.

9. **Security/Traffic Control.** If the club should determine that the size or nature of the Tournament warrants the hiring of additional security or traffic personnel, Trump shall provide such personnel and the Charity shall reimburse Trump for this expense. Trump shall notify the Charity as soon as reasonably possible following a determination that additional security or traffic personnel will be necessary.

10. **Refusal of Service.** Trump, in its sole discretion, may exclude or eject any and all objectionable persons from the Tournament and the Club premises, without liability to such person or to the Sponsor or the Charity.

11. **Attire.** All participants must wear appropriate golf attire, including nonmetal-spiked shoes. Arrangements can be made to change metal spikes to soft spikes for a fee of \$10.00 per pair. However, it is suggested that participants have nonmetal soft spiked shoes prior to the Tournament, as time will be limited to change the spikes on the Tournament Date.

12. **Force Majeure.** This Agreement is contingent upon the ability of Trump to perform the services described herein, and is subject to labor disputes, weather conditions or other causes beyond its control. In any event, Trump shall not be liable beyond the amount paid for the use of the Club facilities as provided herein.

13. **Rain Policy.** In the event that rain, or any potentially dangerous condition (such as lightning), occurs during the Tournament, the following policy shall apply:

- a. After one-half (1/2) of the Tournament participants have completed nine holes of play, the Tournament shall be considered played and completed.
- b. If fewer than one-half (1/2) of the Tournament participants have completed nine holes of play, and the Club superintendent determines that the golf course is unplayable, the Tournament will be rescheduled to a mutually acceptable date.

14. **No Assignment.** Neither the Sponsor nor the Charity may assign this Agreement, or any of their respective rights or obligations hereunder, without the prior written consent of Trump, which may be withheld in Trump's sole and absolute discretion. Any attempted assignment in violation of this provision shall be null and void.

15. **Advertising.** All advertising, including invitation proofs, must be submitted to Trump for approval prior to printing or distribution. Trump may withhold its approval of such materials in its sole and absolute discretion. Neither the Sponsor nor the Charity shall use the Trump International Golf Club logo (the "logo") (i.e., either the crest or the words "Trump International Golf Club" in stylized type) in any advertising, brochures or for any other purpose without the prior written consent of Trump. Any photographs provided by Trump shall be used only for the limited purpose of advertising the Tournament and shall not be published or distributed by Sponsor or the Charity for any other purpose whatsoever. All materials bearing the Logo and/or photographs of the Club shall be tastefully presented, and neither the Sponsor nor Foundation shall do anything, which might adversely affect the good name, integrity and reputation of Trump.

16. **No Photography.** No photography shall be permitted during the Tournament without the prior written consent of Trump, which may be withheld in Trump's sole and absolute discretion.

17. **Non-profit Organizations.** No later than ten (10) day prior to the Tournament Date, the Charity must submit to Trump proof of the Charity's tax-exempt status, Section 501 c (3) of the Internal Revenue Code and State of Florida Consumer Exemption Certificates. The Charity must comply with all laws and regulations governing charitable solicitations.

18. **Audit.** The Charity shall maintain adequate books and records of any distributions made by the Charity of the proceeds of the Tournament for at least three (3) years from the effective date of this Agreement. The County shall have the right to audit and examine all such books and records during normal business hours. The Charities shall arrange for all such books and records to be brought to a location convenient to the auditors for the County upon request.

19. **Notices.**

If to Trump:

Mr. Bill O'Connor, Managing Director
Trump International Golf Club
3505 Summit Blvd.
West Palm Beach, FL 33406

If to the County:

Brad Merriman, Assistant County Administrator
301 N. Olive Avenue, 11th Floor
West Palm Beach, Florida 33401

With a copy to:

Laura Beebe, Assistant County Attorney
Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401

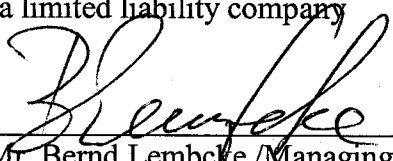
If to the Charities:

Wellington Regional Health & Education Foundation, Inc.
10101 Forest Hill Blvd.
West Palm Beach, FL 33414

20. **Discrimination.** Notwithstanding any provision of this Agreement to the contrary, the parties agree that no person shall, on the grounds of race, color, national origin, sexual orientation, religion or creed, sex, age, or handicap be discriminated against in the performance of this Agreement.
21. **Governing Law.** This Agreement shall be governed by, and shall be construed in accordance with, the laws of the State of Florida.
22. **Disputes.** Any dispute concerning this Agreement shall be resolved in a court of competent jurisdiction in Palm Beach County. The PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY LITIGATION RESULTING FROM OR ARISING OUT OF THIS AGREEMENT.
23. **Binding Effect.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and permitted assigns
24. **Conflict with Lease.** In the event of any conflict between the terms of this Agreement and the terms of the Lease, the terms of this Agreement shall control.
25. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties with regard to the subject matter hereof, and supersedes all prior discussions and understandings with regard to the subject matter hereof. This Agreement may be modified only by a written document executed by all parties hereto.
26. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original. All of which together shall constitute one (1) and the same instrument.
27. **Effective Date.** This Agreement shall become effective when executed by the parties hereto and approved by the Palm Beach County Board of County Commissioners.

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TRUMP INTERNATIONAL GOLF CLUB, L.C.
A Florida limited liability company

By: 
Mr. Bernd Lembcke / Managing Director

Date: _____

PALM BEACH COUNTY, FLORIDA, a political
Subdivision of the State of Florida

ATTEST:
Sharon R. Bock, Clerk &
Comptroller

By: _____
Tony Masilotti, Chairman

By: _____
Deputy Clerk

Date: _____

Approved as to form and legal sufficiency:

Approved as to terms and conditions:

By: 
Assistant County Attorney

By: _____

Wellington Regional Health & Education Foundation, Inc.
A Florida not for profit corporation

By: 

Date: 8-4-06

ACORD TM CERTIFICATE OF LIABILITY INSURANCE					
PRODUCER Hannifin & Associates Inc. 1300 Corporate Center Way 105C Wellington Florida 33414		561-795-6228		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Wellington Regional Health & Education Foundation Inc 10101 Forest Hill Blvd Wellington Fl. 33414		INSURERS AFFORDING COVERAGE		NAIC #	
		INSURER A: Scottsdale Insurance			
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
COVERAGES					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSURANCE CO.	ADDITIONAL INSURED	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. <input type="checkbox"/> LOC	CLS1192790	12/02/2005	12/02/2006
				LIMITS	
				EACH OCCURRENCE \$ 1,000,000	
				DAMAGE TO RENTED PREMISES (Per occurrence) \$ 50,000	
				MED EXP (Any one person) \$ 5,000	
				PERSONAL & ADV INJURY \$ 1,000,000	
				GENERAL AGGREGATE \$ 2,000,000	
				PRODUCTS - COMP/OP AGG \$ 1,000,000	
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO			
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$			
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below			
		OTHER			
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS Certificate holder has been named as additional insured					
CERTIFICATE HOLDER Palm Beach County Board of County Commissioners c/o County Administration 301 N. Olive Ave. 11th Floor West Palm Beach, FL 33401 fax: 798-8569			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE		

AUG-31-2006 03:17PM FROM-WOMENS IMAGING CENTER
AUG-31-2006 02:14PM FROM-WOMENS IMAGING CENTER

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CERTIFICATE
(if Corporation)

The undersigned hereby certifies that the following are true and correct statements:

1. That he is the Secretary of Wellington Regional Health and Education Foundation Corporation, a corporation organized and existing in good standing under the laws of the State of Florida, hereinafter referred to as the "Corporation", and that the following Resolutions are true and correct copies of certain Resolutions adopted by the Board of Directors of the Corporation as the 31st day of August, 2006, in accordance with the laws of the State of the state of incorporation of the Corporation, the Articles of Incorporation and the By-laws of the Corporation:

RESOLVED, that the Corporation shall enter into that certain Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation, a copy of which is attached hereto, and be it

FURTHER RESOLVED, that Kevin DiLallo, the Treasurer of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to ful fill its obligations under the Agreement.

2. That the foregoing resolutions have not been modified, amended, rescinded, revoked or otherwise changed and remain in full force and effect as of the date hereof.

3. That the Corporation is in good standing under the laws of the State of Florida or its state of incorporation if other, and has qualified, if legally required, to do business in the State of Florida and has the full power and authority to enter into such Agreement.

IN WITNESS WHEREOF, the undersigned has set his hand and affixed the Corporation Seal of the Corporation, the 31 day of August, 2006

(CORPORATE SEAL)

(Signature)

(Print signatory's name)

It's Secretary

SWORN TO AND SUBSCRIBED before me this 31st day of August 2006 by the Secretary of the aforesaid corporation, who is personally known to me OR who produced _____ as identification and who did _____ take an oath.

Notary Signature

Print Notary Name

NOTARY PUBLIC

My Commission Expires: 4/18/09

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Joan Raulinaitis, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires Apr. 18, 2009

Member, Pennsylvania Association of Notaries