

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	December 5, 2006	Consent [X]	Regular []
		Public Hearing []	
Submitted By:	Water Utilities Department		
Submitted For:	Water Utilities Department		

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Operations and Maintenance Agreement with Lion Country Safari for one wastewater treatment facility.

Summary: Lion Country Safari owns a small wastewater treatment facility. Plant operation and maintenance activities were previously contracted to the Village of Wellington. The Village has decided not to renew the contract. Lion Country Safari has requested that the Department provide operation and maintenance services for the wastewater treatment plant. Under this Agreement, the Department will operate and maintain these facilities for one (1) year, with the option of renewal for one (1) additional year, provided Lion Country Safari has committed, in writing, to connect to the County's wastewater system. Lion Country Safari will pay the Department for all direct costs plus other chemical, labor and material charges as necessary. Costs for the first year are projected to be approximately \$15,000. Charges for subsequent years will be adjusted upward by 10%, provided a Developer Agreement is executed by Lion Country Safari. Capital improvements required at the facilities are not included in this Agreement. Either party may cancel the Agreement with a 90-day written notice.

District 6 (MJ)

Background and Justification: The Water Utilities Department currently provides contract operations and maintenance services for water and wastewater treatment plants owned by Seminole Improvement District, the School Board and the Department of Airports. Lion Country Safari requests the Department provide similar services for their treatment facilities, in anticipation of connection to the County wastewater system. Under the terms of this Agreement, the Department will provide operations and maintenance services for one (1) year, with the option for a one (1) year renewal. Lion Country Safari will pay for all direct costs plus other fees at cost. Water Utilities Department staff will make scheduled routine visits for operation and maintenance purposes, provide necessary chemicals, provide testing services, and insure that the facilities meet permit requirements. Any additional services that may be requested by Lion Country Safari will be billed for direct costs plus 25% provided a Standard Developers Agreement is executed within one (1) year.

Attachments:

1. Location Map
2. Three (3) Original Agreements

Recommended By: Lisha L. Pica 11/30/06
 Department Director Date

Approved By: [Signature] 12-4-06
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>(\$15,000)</u>	<u>(\$16,500)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Operating Expenses	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>\$(15,000)</u>	<u>\$(16,500)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$(0)</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund 4000 Dept 720 Unit 4200 Object 4369

Is Item Included in Current Budget? Yes No Reporting Category N/A

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

Lion Country Safari will compensate the Department for operation and maintenance services. Estimated revenue for 2007-2008 assumes an increase of 10% each year.

C. Department Fiscal Review: debra m West

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Elizabeth Blum 12/1/06
OFMB
(Handwritten initials and date)

Dr. J. Jacob 12/1/06
Contract Development and Control
(Handwritten initials and date)

B. Legal sufficiency:

W. Q. Q. 12/4/06
Assistant County Attorney

This Contract complies with our contract review requirements.

C. Other Department Review:

Department Director

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

AGREEMENT BETWEEN PALM BEACH COUNTY AND LION COUNTRY SAFARI, INC. - FLORIDA FOR THE OPERATION AND MAINTENANCE OF WASTEWATER TREATMENT FACILITIES

This Agreement is made and entered into this 8 day of November, 2006, by and between Palm Beach County, a political subdivision of the State of Florida ("County") and Lion Country Safari, Inc. - Florida, a Florida corporation ("Owner").

WITNESSETH:

WHEREAS, Owner currently owns a wastewater treatment facility ("Facility") in Palm Beach County; and

WHEREAS, Owner desires to have County operate and maintain the Facility and to compensate County for these services; and

WHEREAS, Owner wishes to terminate use of the Facility and connect to the County wastewater system as soon as possible; and

WHEREAS, County is agreeable to operating the Facility on a short-term basis only until that time that Owner connects to the County wastewater system; and

WHEREAS, County, through its Water Utilities Department ("WUD"), agrees to operate and maintain the Facility to better serve the citizens of the County.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby covenant and agree:

1. Recitals.

The recitals set forth above are true and correct and form a part of this Agreement.

2. Effective Date/Term.

This Agreement shall become effective upon approval of both parties. The Effective Date of this Agreement shall be December 5, 2006. This Agreement shall begin on the Effective Date and shall continue for a term of one (1) year. The Agreement may be renewed for an additional one (1) year term only if Owner has committed, in writing and prior to December 5, 2007, to permanently connect to the County's wastewater system. The increased rates set forth in Section 5 below shall apply to the additional one (1) year term. Either party may cancel this Agreement during the term by providing the other party with 90 day written notice. County reserves the right to cancel this

Agreement without ninety (90) days' written notice if Owner's account becomes thirty (30) days past due.

3. Scheduled Operation of Facilities.

A. County will provide required visits to the Facility with a certified operator, six (6) days per week, to consist of five (5) half-hour weekday visits and one visit per weekend. This schedule may change to cover the increased activities on the weekend.

B. County will: maintain accurate and complete records on the Facility operation and laboratory data as required by the Florida Department of Environmental Protection (FDEP) permit # FLA013736 and/or Palm Beach County Health Department; submit and fulfill all operating report requirements; and send copies to Owner.

C. For purposes of this Agreement, the Facility shall only include the wastewater treatment facility as depicted in **Attachment "A"**, which is attached hereto and incorporated herein. The Facility does not include any lift stations located on Owner's property, and County shall have no responsibility for the operation and maintenance of any of said lift stations.

D. County will conduct periodic inspections of the Facility to identify operational malfunctions; however, it will be Owner's responsibility to maintain and inspect the plant for structural integrity. County will notify Owner of necessary repairs, and if authorized by Owner, at Owner's expense, County may initiate correction actions. County is under no duty to initiate corrective actions or capital improvements to the Facility.

E. County will advise Owner of any action necessary for full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, both state and federal. Owner will be responsible for fines from regulatory agencies from items that are not corrected by Owner.

F. County will perform monthly compliance sampling for required parameters for wastewater quality analysis. Sampling will be scheduled by County through an approved laboratory. The monthly compliance sampling by County is included in the monthly service fee. However, any laboratory costs incurred in testing the monthly samples are not included in the monthly service fee. County shall bill Owner directly for laboratory services.

G. County will coordinate lab activities and establish sampling procedures and test schedules.

H. County will perform field testing for dissolved oxygen, settleable solids, chlorine residual, pH, and flow calculations as required. This field testing is included in the monthly service fee.

I. Sludge hauling will be coordinated by County and paid for by Owner.

J. County shall supply Owner with copies of all sampling schedules and test results in a timely manner.

K. County will perform all services as provided for in this Agreement, and with the cooperation of Owner, comply with Owner's operating and other permits and authorities and licenses as it relates to the Lion Country Safari Wastewater Treatment Plant.

4. Emergency Services

A. County will respond with qualified personnel to emergency calls as required and if requested by Owner. Emergency calls will be defined as any presence at the site which occurs at times other than at the normal site visits. Emergency services are not included in the monthly service fee, and shall be billed in accordance with **Attachment "B"**, plus a twenty-five percent (25%) surcharge.

B. County will install emergency call notification signage at the Facility. County will provide twenty-four (24) hour answering service for the toll-free emergency notification number and twenty-four (24) hour on-call maintenance capability with on-staff utility mechanics, operators, tradesmen, and electricians.

5. Fees for Services.

Owner agrees to pay County for the satisfactory performance of the above-referenced service in accordance with the following:

A. For the services set forth in Section 3 above, Owner shall pay to County, One Thousand Two Hundred Fifty Dollars (\$1,250.00) per month which is due by the 10th day of each month. This payment shall not include the services set forth in Section 3 which require additional payment from Owner to County. If, as set forth in Section 2 above, Owner has committed to permanently connect to the County's wastewater system prior to December 5, 2007, and County agrees to extend this Agreement for an additional year, then the fees set forth in this section shall increase 10% for the additional year and each additional year thereafter.

B. For all additional services, prior to commencing work, Owner shall be provided with a written cost estimate of work which will not be exceeded without Owner's consent. Owner will be billed at the rates established in **Attachment "B"**, plus a twenty-five percent (25%) surcharge. If, as set forth in Section 2 above, Owner has committed to permanently connect to the County's wastewater system prior to December 5, 2007, and County agrees to extend this Agreement for an additional year, then the fees set forth in **Attachment "B"** shall increase 10% for the additional year and each additional year thereafter.

6. Default.

The occurrence of any of the following shall be a default of this Agreement:

A. The failure by Owner to pay any fee, charge, or invoice to County within thirty (30) days of the day upon which such fee, charge, or invoice becomes due.

B. The failure by County to perform its agreed upon services under this Agreement, if such failure is not cured within thirty (30) days of receipt of written notice from Owner specifying the nature of the default. If such default cannot reasonably be cured within the thirty (30) day period, and County is diligently pursuing a cure of the default, the default period shall be extended to such time as the default could be reasonable cured.

7. Notice.

Any notice given under the provisions of this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail to:

County:	Owner:
Director	General Manager
Water Utilities Department	Lion Country Safari, Inc. - Florida
P O Box 16097	2003 Lion Country Safari Road
West Palm Beach, FL 33416-6097	Loxahatchee, FL 33470-3977

8. Contact Persons.

County:

Name: Larry Johnson

Hours: 7:30 – 4:30, Monday - Friday

Phone(s) (561) 493-6090

Owner:

Names: Harold Kramer

Robert Dalton

Hours: 8:30 – 6:00, Monday – Saturday

8:30 – 6:00, Monday – Saturday

Phones(s): (561) 793-1084, ext 180

(561) 793-1084, ext 208

9. Indemnification

Owner shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officials harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of Owner, its agents and/or employees. The provisions of this paragraph shall be absolute, irrespective of any joint, sole, or contributory fault or negligence of County. However, the provisions of this paragraph shall not apply to the grossly negligent, willful, or intentional acts or omissions of County. The provisions of this paragraph shall survive termination or expiration of this Agreement.

10. Entirety of Agreement.

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, either written or oral, with respect to matters contained herein.

11. Counterparts.

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original. All of which together shall constitute one (1) and the same instrument.

12. Captions.

The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

13. Nondiscrimination.

County and Owner agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, or sexual orientation be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

14. Joint Preparation.

The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial interpretation, be construed more severely against one of the parties than the other.

15. Waiver.

No waiver of any provision(s) of this Agreement shall be effective unless it is in writing signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.

16. Survivability.

Any provision of this Agreement which is a continuing nature or imposes an obligation which extends beyond the expiration or termination of this Agreement shall survive its expiration or termination.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties, by and through their duly authorized agents, have set their hands and seals on the date indicated above.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: Bull Beamer
Department Director

WITNESSES:

LION COUNTRY SAFARI, INC. - FLORIDA

Signature

By: [Signature]
Signature

Typed or Printed Name

Harold Kramer
Typed or Printed Name

Signature

General Manager U.P.
Title

Typed or Printed Name

{ Corporate Seal }

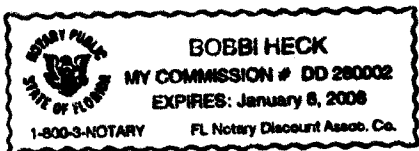
NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 10th day of November 2006 by HAROLD KRAMER. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: 1-8-2008

Bobbi Heck
Signature of Notary
BOBBI HECK
Typed, Printed, or Stamped Name of Notary



Notary Public
Serial Number: _____

ATTACHMENT "A"

Depiction of Facility

ATTACHMENT "B"

Rates for Labor/Equipment

Labor rates of 1.5 times the regular hourly rate will apply under the following circumstances:

- A. Monday thru Friday from 3:30 p.m. until 7:00 a.m.
- B. Weekends

Chemicals shall be charged at cost.

Labor Rates of 2 times the regular hourly rate will apply on holidays recognized by the County.

Materials and reimbursable expenses will be billed at actual cost.

Labor Rates:	<u>Hourly Rate</u>	<u>Time Period</u>
Plant Operator	25.00	per hour
Heavy Equipment Operator (per person)	22.00	per hour
Instrumentation/Control Technician (per person)	24.50	per hour
Maintenance Mechanic (per person)	22.00	per hour
Tradesman (per person)	22.00	per hour
Utility Electrician (per person)	22.00	per hour
Welder/Fabricator (per person)	22.00	per hour
Equipment Rates:		
2" Submersible Pump	2.00	per hour
3" Diaphragm Pump	3.00	per hour
4" Trash Pump	6.00	per hour
Auxiliary Power Generator	6.00	per hour
Bobcat	10.00	per hour
Compactor	7.00	per hour
Composite Sampler	2.00	per hour
Cutting Torch	4.00	per hour
Manhole Ventilator	3.00	per hour
MIG Welder	6.00	per hour
Portable Lateral Camera	2.00	per hour
Portable Doppler Wastewater Flow Meter	2.00	per hour
Portable Lighting	3.00	per hour
Power Cut Saw	2.00	per hour
Pressure Washer	2.00	per hour
Rubber Tired Backhoe	10.00	per hour
TV Truck	5.00	per hour
Truck — 1 Ton Flatbed	8.00	per hour
Vactor Jet Truck	20.00	per hour
Wet Tapping Machine — ¾" To 2" Diameter	2.00	per hour

The rates set forth above shall increase by 100% from the rate of the previous year, on each anniversary date of the Agreement.