

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

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

Is Item Included in Current Budget? Yes _____ No _____
 Budget Account No: Fund _____ Department _____ Unit _____ Object _____
 Reporting Category _____

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

No fiscal impact.

C. Departmental Fiscal Review: CM Sumner

III. REVIEW COMMENTS

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

Elizabeth Glaeser
 11/30/06 OFMB
 11/30/06
 11-30-06
 11-30-06

John J. Jacobson
 12/1/06 Contract Dev. and Control 12/1/06

B. Legal Sufficiency: Anna Burke 12-1-06
 Assistant County Attorney

C. Other Department Review:

 Department Director

RESOLUTION NO. R-2006-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; APPROVING A STANDARD FORM ACCESS AGREEMENT; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE THE STANDARD FORM ACCESS AGREEMENT ON BEHALF OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, by and through its Department of Airports, owns and operates the North County General Aviation Airport, Palm Beach County Glades Airport, Palm Beach County Park Airport and Palm Beach International Airport; and

WHEREAS, the Department of Airports receives requests to inspect properties managed by the Department of Airports from time to time in connection with the leasing or sale of such properties; and

WHEREAS, the delegation to the County Administrator or his designee of the authority to execute the standard form agreements eliminate delays caused by requiring such items to be brought before the Board of County Commissioners for approval and would therefore be consistent with the goal of the Board of County Commissioners to streamline the agenda process; and

WHEREAS, the Board of County Commissioners desires to authorize the County Administrator or his designee to execute a standard form Access Agreement on behalf of the Board of County Commissioners.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are true and correct and are incorporated herein.
2. The Board of County Commissioners hereby: (i) approves the standard form Access Agreement, attached hereto and incorporated herein as Attachment "A" (the "Access Agreement"); and (ii) authorizes the County Administrator or his designee to execute, on behalf of the Board of County Commissioners, the Access Agreement.
3. The County Administrator or his designee is hereby authorized to execute, on behalf of the Board of County Commissioners, Access Agreements that include non-material changes. For purposes of this Resolution, "non-material changes" mean changes that do not modify the substantive obligations of the parties. The County Administrator or his designee may modify the insurance requirements contained in the Access Agreement from time to time upon the advice of the Risk Management Department to require additional policies of insurance and/or to increase the coverage limits of any required policies.
4. It is the intention of the Board of County Commissioners that this delegation of signature authority is strictly limited to the parameters set forth herein. In the event there is any deviation from the approved standard terms and conditions of the Access Agreement, which would constitute discretion of the County Administrator or his designee relative thereto, then the approval

of the Board of County Commissioners shall be required. The County Administrator's designee hereunder shall include the Director of the Department of Airports.

5. If any section, sentence, clause, phrase, or word of this Resolution is held invalid or unconstitutional by a Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

6. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

COMMISSIONER KAREN T. MARCUS	-
COMMISSIONER JOHN F. KOONS	-
COMMISSIONER WARREN H. NEWELL	-
COMMISSIONER MARY MCCARTY	-
COMMISSIONER BURT AARONSON	-
COMMISSIONER	-
COMMISSIONER ADDIE L. GREENE	-

Then the Chair thereupon declared the resolution duly passed and adopted this ____ day of _____, 20__.

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

Sharon R. Bock, Clerk & Comptroller, Palm Beach County

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: *Rana Berke*
County Attorney

**ATTACHMENT "A"
ACCESS AGREEMENT**

ACCESS AGREEMENT

THIS ACCESS AGREEMENT is made and entered into as of _____, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County"), and _____, having its office and principal place of business at _____ ("Licensee").

WITNESSETH:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. **Term.** The term of this Agreement shall commence at time on date _____, 20____, and expire at time on date _____, 20____, unless terminated earlier in accordance with the provisions of this Agreement (the "Term").

2. **Right of Entry.** During the Term, Licensee and its duly authorized agents and employees shall have the right to enter upon the property located at:

_____ (the "Property") and for sole the purposes of surveying, soundings, drillings, appraisals, environmental assessments and examinations (the "Inspections") in order to evaluate the condition of the Property. All Inspections shall be performed by people or entities properly licensed in the respective areas or matters tested. Licensee shall perform or cause the Inspections to be performed in the least intrusive manner possible at its sole cost and expense and in a manner which minimizes the impact upon County's use of the Property. Licensee shall be solely responsible for, and shall, at its sole cost and expense, promptly repair any damage resulting from Licensee's exercise of the rights granted hereby, and restore any improvements or landscaping now existing or constructed within the Property to the condition it was in prior to such damage, using materials of like kind and quality. Licensee shall deliver to County complete copies of all reports or similar items evidencing the results of the Inspections. Licensee acknowledges and agrees that the rights granted by this Agreement are and shall be strictly limited to the right to perform the Inspections, and that Licensee may not utilize the Property for any other purpose whatsoever. Licensee shall promptly cause any lien imposed against the Property as a result of Licensee's exercise of the rights granted hereby to be discharged or transferred to bond. Licensee's obligations under this paragraph shall survive the termination or expiration of this Agreement until satisfied.

3. **Condition of Property.** Licensee acknowledges and agrees that County shall have no liability whatsoever relating to the condition of the Property and Licensee hereby knowingly enters the Property in its "As Is" condition. Licensee shall indemnify, defend and save harmless the County from and against any and all claims, suits, actions, damages, and/or causes of action arising as a result of Licensee, its agents, employees, licensees and invitees' entry onto the Property for any personal injury, loss of life and/or damage to property sustained by reason of or as a result of the use, occupancy and testing by Licensee, its agents, employees, licensees, invitees, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney's fees, expenses and liabilities incurred in and about the defense of any such claim. In the event that County shall be made a party to any litigation commenced against Licensee or by Licensee against any third party, then Licensee shall protect and hold County harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. Licensee's obligations under this paragraph shall survive the termination or expiration of this Agreement.

4. **Insurance.** During the Term, Licensee shall maintain, and shall require its contractors and subcontractors to maintain, and keep in full force and effect General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) general aggregate, bodily injury and property damage liability coverage; Business Automobile Liability at a limit of liability not less than One Million Dollars (\$1,000,000) each occurrence for all owned, non-owned and hired automobiles; and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for Premises/Operations, Contractual Liability, Independent Contractors Contractual Liability, and Broad Form Property Damage Liability coverages. Coverage shall be

provided on a primary basis. The General Liability policy shall name County as an Additional Insured. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Airports, Access Agreement". Such insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by County. A Certificate of Insurance evidencing such insurance coverage shall be provided to County prior to entry upon the Property by Licensee and/or Licensee's contractors and subcontractors pursuant to this Agreement. Such Certificate shall require at least thirty (30) days prior notice of cancellation or non-renewal. In no event shall the limits of said insurance policies be considered as limiting the liability of Licensee and/or its contractors and subcontractors under this Agreement.

5. Notices. All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail, a nationally-recognized overnight mail delivery service or personal delivery to the following:

If to County:

Palm Beach County Department of Airports
ATTN: Director
846, Palm Beach International Airport
West Palm Beach, Florida 33406-1491

With a copy to:

Palm Beach County Attorney's Office
ATTN: Airport Attorney
301 North Olive Ave., Suite 601
West Palm Beach, FL 33401

If to Licensee:

Either party may from time to time change the address or addresses to which notices under this Agreement shall be given to such party upon three (3) days prior written notice. The effective date of any notice shall be: (i) the date of delivery if such notice is delivered by personal delivery; (ii) three (3) business days after the date deposited in the United States mail if such notice is delivered by mail; or (iii) the next business day after the date deposited in overnight mail if such notice is delivered by a nationally-recognized overnight mail delivery service.

6. No Recording. This Agreement shall not be recorded in the Public Records of Palm Beach County. In the event Licensee records this Agreement, this Agreement shall automatically terminate and become null and void upon the date of recordation.

7. License. The parties acknowledge and agree that nothing in this Agreement shall be construed as granting Licensee any title, interest or estate in the Property. Notwithstanding any provision of this Agreement to the contrary, the rights granted to Licensee hereunder amount only to a license to enter the Property for the purposes set forth herein, which is expressly revocable by County for any reason whatsoever upon written notice to Licensee.

8. Termination. Either party may terminate this Agreement upon written notice to the other party, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations that expressly survive the termination or expiration of this Agreement.

9. Venue. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

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

11. Construction/Severability. No party shall be considered the author of this Agreement since the parties have participated in extensive negotiations and drafting and redrafting of this document so as to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

12. Entire Agreement. This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof. No amendment shall be effective unless the same is in writing and signed by all parties.

13. Effective Date. This Agreement shall become effective upon execution by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

WITNESSES:

PALM BEACH COUNTY:

By: _____
Signature

By: _____
County Administrator or Designee

Print Name

By: _____
Signature

Print Name

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

By: _____
County Attorney

Signed in the presence of:

(Signature of Witness)

By: _____
(Signature)

(Print Name of Witness)

(Print Signatory's Name)

(Signature of Witness)

Its: _____

(Print Name of Witness)

(seal)