

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: **August 21, 2007**

Consent
 Ordinance

Regular
 Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: **A) approve** Termination Agreement for Interlocal Agreement and Lease Agreement (R2000-0560) with the City of Palm Beach Gardens (City) for the development and operation of the 82 acres of County-owned land known as Palm Beach Gardens District Park; and **B) authorize** staff to include the park as a future project in the County Parks and Recreation Department's 10 Year Capital improvement Program to be developed and operated as a district park with active recreation facilities on the property.

Summary: On July 11, 2006, Staff submitted an agenda item (7F1) recommending the termination of the County's Interlocal and Lease Agreement with the City of Palm Beach Gardens for the development and operation of the 82 acres of County-owned land known as Palm Beach Gardens District Park (R2000-0560). In response, the Board directed staff to schedule a workshop to discuss the potential impact of this decision on the Parks and Recreation Department's future capital program. At the January 23, 2007, BCC Workshop, the Department presented an overview of its 10 Year Capital Improvement Program, and after discussion, the Board directed staff to move forward with the termination agreement and to place the project at the end of the Department's 10 Year Capital Improvement Program. District 1 (AH)

Background and Justification: On April 18, 2000, the City and County executed an Interlocal Agreement and Lease Agreement (R2000-0560) requiring the County to acquire an 82 acre parcel in Palm Beach Gardens, and for the City to design, construct and operate it as a district park within 5 years of the County closing on the property. The County acquired the land in May 2000, and subsequently the City was unable to fulfill its obligation to fund development of the park within the required 5 year period due to a failed park bond initiative. After several attempts to extend and/or amend the agreement failed, staff developed a termination agreement that was executed by the City on December 16, 2005. After presentation of the Department's future capital improvement program at the January 23, 2007, BCC Workshop, the Board agreed to move forward with the termination agreement, and add the park at the end of the 10 year project list.

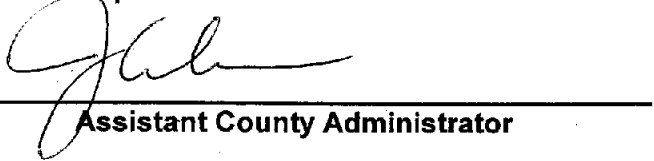
The estimated cost to develop a district park including 7 lighted athletic fields is \$17 million and maintenance is projected to cost \$280,000 per year. This project is included in the later years of the Department's 10 Year Capital Improvement Program (2007-2016) and future development is subject to the availability of funds and the City of Palm Beach Gardens' development approval of a district park with active recreation facilities on the property. Should the City fail to approve plans for an active recreational district park, then staff will return to the Board with recommendations for disposition of the property and use of the proceeds for other needed park projects.

Attachments:

1. November 3, 2005, County Administrator Termination Letter
2. December 16, 2005, City of Palm Beach Gardens Letter
3. Termination Agreement
4. Interlocal Agreement R2000-0560
5. July 11, 2006, Agenda Item 7F1
6. January 23, 2007, Workshop Item

Recommended by: 
Department Director

8-7-07
Date

Approved by: 
Assistant County Administrator

8/13/07
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>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<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>-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 _____ Program _____

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

Termination of this Agreement will not result in any immediate fiscal impact to Palm Beach County. This project is not in the current five-year capital program and future development is estimated at \$17 million with an annual operating expense of \$280,000.

C. Departmental Fiscal Review: ckopelakis

III. REVIEW COMMENTS

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

Jim Oul 8-9-07
 OFMB 8/9/07

Armin J. Jaconis 8/10/07
 Contract Development and Control

B. Legal Sufficiency:

This item complies with current County policies.

Anne Delmont 8/13/07
 Assistant County Attorney

C. Other Department Review:

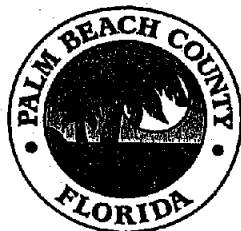
 Department Director

REVISED 10/95
 ADM FORM 01

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

Print copy

ATTACHMENT 1



County Administration

P.O. Box 1989
West Palm Beach, FL 33402-1989
(561) 355-2030
FAX: (561) 355-3982
www.pbcgov.com



**Palm Beach County
Board of County
Commissioners**

Tony Masilotti, Chairman

Addie L. Greene, Vice Chairperson

Karen T. Marcus

Jeff Koons

Warren H. Newell

Mary McCarty

Burt Aaronson

County Administrator

Robert Weisman

November 3, 2005

**Certified Mail/
Return Receipt Requested**

Ron Ferris, City Manager
City of Palm Beach Gardens
City Hall: 10500 N. Military Trail
Palm Beach Gardens, FL 33410

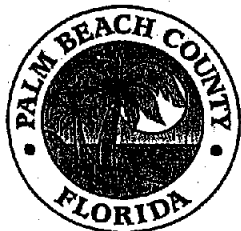
**Re: Gardens District Park - Interlocal and Lease Between
Palm Beach County and Palm Beach Gardens**

Dear Ron:

As you are aware, the City of Palm Beach Gardens failed to comply with its obligations relating to the development and operation of a district park upon the 82-acre property the County leased to the City in 2000. The City proposed various alternatives for the property which were unacceptable to the County. In light of the foregoing, the Board of County Commissioners decided at its November 2, 2005 meeting that it would like to exercise its rights under the Interlocal and Lease to terminate the same.

Pursuant to the terms of such documents, the City is entitled to written notice of the City's non-compliance in the performance of its obligations under the Interlocal and Lease and 90 days within which to cure such non-compliance. Please allow this letter to constitute such notice. Please be further advised that in the event the City fails to fully comply with the Interlocal and Lease within 90 days of receipt of this letter, this letter shall constitute the County's termination of the Interlocal and Lease.

"An Equal Opportunity
Affirmative Action Employer"



Ron Ferris, City Manager
November 3, 2005
Page 2

Given the impossibility of the City satisfying its obligations within such 90-day period, I believe that it would be in both the City's and County's best interest to cooperate to terminate the Interlocal and Lease. Accordingly, I have enclosed a termination agreement for execution by the City. Please let me know whether it is acceptable to you and whether you will present it to your Board and if so, when.

We regret that the City was unable to obtain the financing necessary to construct and operate the park. We look forward to working with you in the future regarding the property.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Weisman", is written over a horizontal line.

Robert Weisman
County Administrator
RW:ecb

cc: Palm Beach County Board of County Commissioners
Mayor Eric Jablin, City of Palm Beach Gardens
Director of Parks and Recreation, Palm Beach Gardens (By Certified Mail/RRR)
Watterson, Hyland & Kett, P.A., PBG Attorney (By Certified Mail/RRR)
Jean Creamer, Assistant County Administrator
Dennis Eshleman, Director, Parks & Recreation
Howard Falcon, Assistant County Attorney



CITY OF PALM BEACH GARDENS

10500 N. MILITARY TRAIL PALM BEACH GARDENS, FLORIDA 33410-4698

RECEIVED

DEC 22 2005

ATTACHMENT 2

December 16, 2005

County Administration
P.O. Box 1989
West Palm Beach, Fl 33402
Attn: Tony Masilotti

Dear Mr. Masilotti:

Enclosed please find two (2) originals of the proposed termination agreement with Palm Beach County relating to the District Park Interlocal Agreement and Lease, executed by our City Council and approved on December 15, 2005 as part of Resolution 172, 2005.

Upon completion, please return one (1) fully executed copy to my office.

If you have any questions, please do not hesitate to contact my office (561) 799-4195.

Sincerely,

A handwritten signature in cursive script that reads "Ray Ellis".

Ray Ellis
Deputy City Clerk

Enclosure

TERMINATION AGREEMENT

THIS IS A TERMINATION AGREEMENT made and entered into _____, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County"), and PALM BEACH GARDENS, a Florida municipal corporation ("City").

WHEREAS, County and City entered into an Interlocal Agreement and Lease Agreement, both dated April 18, 2000 (R2000-0560), relating to the development of a district park on 82 acres owned by County within the City of Palm Beach Gardens (collectively, the "Agreements"), copies of which Agreements are attached hereto as Exhibit "A";

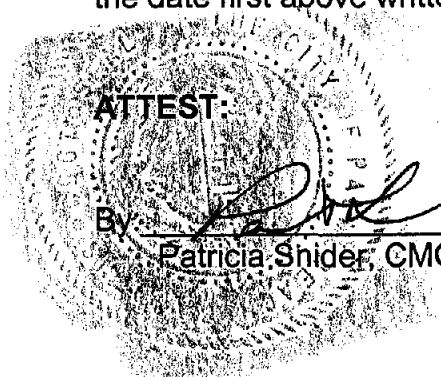
WHEREAS, the parties have agreed to terminate the Agreements.

NOW, THEREFORE, in consideration of TEN AND NO/100'S (\$10.00) DOLLARS, in lawful money in hand paid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. County and City hereby terminate, cancel, and extinguish the Agreements, and do hereby mutually release the other party from any claims or causes of action which might have arisen from such Agreements. City hereby releases, relinquishes, and quitclaims to County any and all right, title, and interest of City in and to the real property described in the Agreements.
3. A copy of this Termination Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

(The remainder of this page left intentionally blank)

IN WITNESS WHEREOF, the parties have duly executed this instrument as of the date first above written.



ATTEST:

By: *Patricia Shider*
Patricia Shider, CMC, City Clerk

CITY OF PALM BEACH GARDENS

By: *Joseph R. Russo*
Joseph R. Russo, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: *Christine P. Tatum*
Christine P. Tatum, City Attorney

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

By: _____
Deputy Clerk

PALM BEACH COUNTY, FLORIDA
By its Board of County Commissioners

By: *Tony Maslotti*
~~Chairman~~
Commissioner Addie L. Greene, Chairperson

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: *[Signature]*
County Attorney

APPROVED AS TO FORM AND CONTENT

By: *[Signature]*
Department Director

Date Prepared: November 8, 2005

RESOLUTION 172, 2005

1
2
3
4 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM**
5 **BEACH GARDENS, FLORIDA AUTHORIZING THE MAYOR AND**
6 **CITY CLERK TO EXECUTE A TERMINATION AGREEMENT WITH**
7 **PALM BEACH COUNTY RELATING TO THE DISTRICT PARK**
8 **INTERLOCAL AGREEMENT AND LEASE; AND PROVIDING AN**
9 **EFFECTIVE DATE.**

10
11
12 **WHEREAS**, on April 18, 2000, the City and the County entered into an Interlocal
13 Agreement and Lease Agreement (hereinafter referred to as the Agreements) relating
14 to the construction and operation of a District Park on an 82-acre parcel located in the
15 City; and

16
17 **WHEREAS**, funding for the City's obligation pursuant to those Agreements was
18 submitted to the voters of the City as part of the 2003 Parks and Recreation Bond
19 Referendum; and

20
21 **WHEREAS**, the Bond Referendum was not approved by the Palm Beach
22 Gardens voters; and

23
24 **WHEREAS**, the parties have unsuccessfully attempted to reach agreement on
25 alternatives for the park site; and

26
27 **WHEREAS**, on November 2, 2005, the Board of County Commissioners of Palm
28 Beach County voted to exercise its rights under the Agreements to terminate the same;
29 and

30
31 **WHEREAS**, the City and the County have agreed that it would be in the best
32 interest of the residents of the City and Palm Beach County to enter into a formal
33 Termination Agreement; and

34
35 **WHEREAS**, such Termination Agreement has been prepared and a copy is
36 attached hereto.

37
38
39 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
40 **OF PALM BEACH GARDENS, FLORIDA that:**

41
42 **SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

43
44 **SECTION 2.** The City Council hereby approves the Termination Agreement with
45 Palm Beach County relating to the Agreements for the District Park and hereby
46 authorizes the Mayor and City Clerk to execute such Termination Agreement.

Date Prepared: November 8, 2005
Resolution 172, 2005

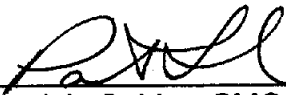
SECTION 3. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 15th day of December, 2005.

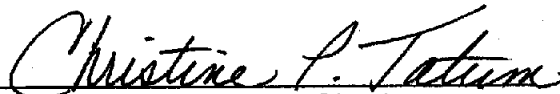
CITY OF PALM BEACH GARDENS, FLORIDA

BY: 
Joseph R. Russo, Mayor


ATTEST:

BY: 
Patricia Snider, CMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
Christine P. Tatum, City Attorney

I, RAY BULLIS Clerk of the City of Palm
Beach Gardens do hereby certify that this is a true copy
as taken from the Official records of the City of Palm
Beach Gardens.


City Clerk Deputy Clerk

VOTE:

AYE NAY ABSENT

MAYOR RUSSO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VICE MAYOR JABLIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COUNCILMEMBER LEVY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COUNCILMEMBER VALECHE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COUNCILMEMBER BARNETT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



R2000 0560

APR 18 2000

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY
AND THE CITY OF PALM BEACH GARDENS FOR THE CONSTRUCTION AND
FUNDING OF GARDENS DISTRICT PARK**

THIS INTERLOCAL AGREEMENT is made and entered into April 17, 2000 by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County", and PALM BEACH GARDENS, a Florida municipal corporation, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, pursuant to an Option Agreement dated September 3, 1998 by and between City and The John D. and Catherine T. MacArthur Foundation (the "District Park Option"), the original of which is attached hereto as Exhibit "A", City has the option to purchase an approximately 82 acre parcel of property located in Palm Beach Gardens, Florida, more specifically described in the attached Exhibit "B" (the "District Park Property"); and

WHEREAS, pursuant to a Lease Purchase Agreement dated September 3, 1998 by and between City and The John D. and Catherine T. MacArthur Foundation (the "Lease Purchase Agreement"), a copy of which is attached hereto as Exhibit "C", City has contracted to purchase an approximately 33 acre parcel of property (the "Lease Purchase Property") located contiguous to the District Park Property; and

WHEREAS, Communities Finance Company, a Delaware corporation ("CFC") and wholly owned subsidiary of Watermark Communities, Inc. a Delaware corporation ("WCI"), is the current owner of the District Park Property and the Lease Purchase Property, title to which is held subject to the District Park Option and Lease Purchase Agreement; and

WHEREAS, City and CFC have amended the District Park Option and Lease Purchase Agreement pursuant to an Amendment to Lease Purchase Agreement and Amendment to Option Agreement, a copy of which is attached hereto as Exhibit "D" (the "Amendment"); and

WHEREAS, County and City wish to enter into an agreement to facilitate development of the District Park Property and Lease Purchase Property for park purposes for the use and benefit of the residents of Palm Beach County; and

WHEREAS, City has asked County to financially participate in the development of

the District Park Property by purchasing such parcel and leasing it to City for development as a district park serving the residents of Palm Beach County, which park project, as more specifically described hereinafter, shall be referred to herein as the "Project"; and

WHEREAS, City desires to design, construct, operate and maintain the Project; and

WHEREAS, closing on the Lease Purchase Property is a condition precedent to entitlement to exercise the District Park Option; and

WHEREAS, on March 9, 1999, a bond referendum was passed by the voters of Palm Beach County for the issuance of general obligation bonds for the purpose of financing the acquisition, construction, and/or improvements to certain recreation and cultural facilities, in the principal amount of \$25 Million; and

WHEREAS, on July 27, 1999, County approved a recreation and cultural facilities project list and proposed funding allocations for the \$25 Million Recreation and Cultural Facilities Bond; and

WHEREAS, the Project represents one such recreation/cultural project enumerated in the \$25 Million Recreation and Cultural Facilities Bond; and

WHEREAS, the Project shall be open to and benefit all residents of Palm Beach County; and

WHEREAS, Section 163.01, Florida Statutes, permits public agencies to enter into Interlocal Agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, both parties desire to increase the recreational and cultural opportunities for residents of Palm Beach County and to enter into this Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

ARTICLE 1: GENERAL

Section 1.01 The foregoing recitals are true and correct and are incorporated herein as if fully set forth.

Section 1.02 The purpose of this Interlocal Agreement is to provide a mechanism for the County and City to cooperate in the development of the Project and thereby enhance

recreational and cultural opportunities for use by the public. The term of this Interlocal Agreement shall commence upon the date of execution of this Interlocal Agreement by the parties hereto and shall expire upon the expiration or earlier termination of the Lease to be entered into between the parties simultaneously herewith.

Section 1.03 By these presents, City does hereby grant, bargain, sell, transfer and assign unto County all of City's right title and interest in the District Park Option as amended by the Amendment. This is an absolute assignment. City hereby represents and warrants that the Option and Lease Purchase Agreement are current, valid, binding upon CFC and in full force and effect and that City is not in default thereunder and there exists no condition which would prevent or impair the exercise by County of the District Park Option or the City's closing upon the Lease Purchase Property.

Section 1.04 City represents and warrants that City has budgeted and appropriated the funding for closing upon the Lease Purchase Property.

Section 1.05 The parties acknowledge that the Amendment requires the parties close upon the purchase of the District Park Property and Lease Purchase Property prior to April 30, 2000. The parties further acknowledge that such closings are each contingent upon the other and that one closing can not occur without the other. County and City hereby agree to exercise best efforts to ensure such closings occur by April 30, 2000. The parties acknowledge and agree that the maximum the County will expend relating to the Project is \$3,500,000.00. In the event County purchases the District Park Property but does not receive the benefit of the aforementioned discount, City shall pay to County at County's closing upon its purchase of the District Park Property (the "Closing") the portion of the purchase price and Closing costs which exceeds \$3,500,000.00.

Section 1.06 Simultaneously with execution of this Interlocal Agreement, County and City shall execute and enter into a fifty (50) year lease of the District Park Property in the form attached hereto as Exhibit "E" (the "Lease"). Either party may terminate this Interlocal and the Lease in the event the Closing has not occurred by the expiration of the District Park Option.

Section 1.07 City agrees to design, construct, operate and maintain a public park upon the District Park Property in accordance with this Interlocal, the Lease and the Conceptual Master Plan attached hereto as Exhibit "F" (the Conceptual Master Plan") as the same may be modified by the final master plan approved by the parties pursuant to Section 2.01 hereof, and in accordance with all applicable federal, state and local laws, rules and regulations. City hereby warrants and represents that it has full legal authority and financial ability to design, construct, operate and maintain the Project.

Section 1.08 City shall affix a permanent plaque or marker in a prominent location at the Project indicating that the County assisted in the development of the Project by purchasing the District Park Property. Said plaque or marker shall include the County seal and a list of County Commissioners, unless otherwise directed by the County's Representative. Any

and all signs or other materials which reference the City's involvement with the Project shall likewise afford equal acknowledgment of County's involvement, participation and assistance.

Section 1.09 The parties acknowledge that the Conceptual Master Plan reflects a Community Center and Aquatic Facility as part of the Project. City desires to own the property upon which such facility is constructed. County agrees to exchange title to a portion of the District Park Property for a portion of the Lease Purchase Property in order to facilitate construction of such facility provided the parties are able to reach agreement regarding the terms of such exchange.

ARTICLE 2: DESIGN AND CONSTRUCTION

Section 2.01 A conceptual design of the Project and Phase I and II thereof are reflected in the Conceptual Master Plan. City shall prepare and deliver to County for review and written approval a final master plan for the Project approved by the City. The final master plan approved by the County shall be referred to herein as the Approved Master Plan. City shall design and construct the Project at City's sole cost and expense, in accordance with the requirements of this Interlocal, the Lease and the Approved Master Plan. City shall utilize its procurement process for all services required for the Project. Said procurement process shall be consistent with all federal, state and local laws, rules and regulations. County shall have no contractual obligation to any person retained by City with regard to the Project. Any dispute, claim, or liability that may arise as a result of City's procurement shall be the sole responsibility of City and City hereby holds the County harmless for same. Nothing contained herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes.

Section 2.02 After approval thereof by City, City shall provide a copy of the final design development plans for each phase of the project to the County's Representative for review and written approval. County's Representative shall review such plans to ensure consistency with the intent of this Interlocal Agreement, the Lease and the Approved Master Plan. County's Representative during the design and construction of the Project shall be the Director of Parks and Recreation, Palm Beach County Parks and Recreation Department, telephone no. (561) 966-6685. City's Representative shall be Director of Parks and Recreation, City of Palm Beach Gardens, telephone no. (561) 775-8270.

Section 2.03 City shall be responsible for all expenses associated with the Project other than those relating to acquisition of the District Park Property, including, without limitation those relating to architecture and engineering, site work, utilities, drainage, securing requisite permits and approvals, and physical construction of the Project. All of City's construction and improvements shall be made and performed in a good and workmanlike manner and in full compliance with applicable building codes, zoning regulations and the provisions of this Interlocal, the Lease and the Conceptual Master Plans. City shall provide County with complete "As Built" plans for each phase of the Project and any Alterations,

as such term is defined in the Lease, upon completion thereof.

Section 2.04 The parties acknowledge that the City shall be entitled to construct the Project in phases over time.

A. Phase I of the Project shall contain the following minimum improvements as depicted on the Conceptual Master Plan:

1. Program Elements including Outdoor Amphitheater, Soccer Complex, Group Picnic Area, and Upland Preserve.
2. Site Improvements including Outdoor Stage, 3 Restrooms, 3 Soccer Fields, Bleachers, Shade Structures, 2 Group Shelters, Nature Trails and Interpretive Signs.
3. Civil work, paving, grading, and drainage including 300 paved parking spaces.
4. Fencing, gates and/or other approved means of securing the Premises and controlling access to the Project.

B. Phase II of the Project shall include the balance of the Project including the following minimum improvements as depicted on the Conceptual Master Plan:

1. Program Elements including; Family Picnic Area and Court Complex.
2. Site improvements including; 8 family Picnic Shelters, Tot Lot with Shade Structure, Restroom, 6 Sand Volleyball Courts, 4 Basketball Courts, 2 Racquetball Courts, 2 Roller Hockey Courts.
3. Civil work, paving, grading and drainage including 150 paved parking spaces.
4. Fencing, gates and/or other means of securing access to the Project.

The parties acknowledge that the Approved Master Plan may differ from the Conceptual Plan and the minimum improvements set forth above. In the event of such a conflict, the Approved Master Plan shall control and this Interlocal shall be deemed amended to require construction of the minimum Phase I and Phase II improvements in accordance with the Approved Master Plan.

C. City shall construct the Project in accordance with the following schedule:

1. Commencement of construction of Phase I of the Project within three (3) years of the Closing.
2. Completion of construction of Phase I within five (5) years of the Closing.
3. Commencement of construction of Phase II of the Project within seven (7) years of the Closing.
4. Completion of construction of Phase II within ten (10) years of the Closing.

For purposes hereof, commencement of construction shall be defined as issuance of all requisite permits for the particular phase, execution of a construction contract for such phase and commencement of demolition and/or site work. For purposes hereof, completion of construction shall mean completion of construction of the improvements in accordance with the approved plans and specifications, issuance to County by the City's engineer of record of a certificate of substantial completion, issuance of a certificate of completion, if applicable, and opening of the facility to the general public for its intended use as a public park. In the event City fails to construct the Project in accordance with the above schedule, County shall be entitled to terminate this Interlocal and the Lease.

Section 2.05 City shall not commence construction of any improvements until:

- A. County's Representative has approved the final design development plans for such improvements in writing.
- B. City has provided County a duplicate original of the construction bonds required hereunder.
- C. City has obtained all applicable building permits and approvals for all work to be performed.
- D. City has budgeted and appropriated sufficient funds to pay the cost of such improvements.

Section 2.06 City shall obtain, prior to commencing any work upon the Premises, a public construction payment and performance bond in accordance with the provisions of Florida Statute Section 255.05 in an amount equal to the total cost of construction of such work. Such bond shall name County as an additional obligee thereunder. The form of such bond and the issuer thereof shall be subject to County's prior review and approval, which shall not be unreasonably withheld.

Section 2.07 In the event that a construction lien is filed against the Premises in connection with any work performed by or on behalf of City, City shall satisfy such claim, or shall transfer same to security, within ten (10) days from the date of filing. In the event that City fails to satisfy or transfer such claim within said ten (10) day period, County may do so and thereafter charge City, and City shall promptly pay to County upon demand all costs incurred by County in connection with the satisfaction or transfer of such claim, including attorney's fees. Further, City agrees to indemnify, defend and save County harmless from and against any damage or loss incurred by County as a result of any such construction lien. Nothing contained herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes.

ARTICLE 3: FUNDING

Section 3.01. City shall budget and appropriate the funds required for construction of the

applicable phase of the Project prior to commencing construction, and shall thereafter budget and appropriate funds each year during the term of the Lease for annual operation and maintenance.

Section 3.02 Upon completion of construction of each phase of the Project, City shall provide County with a final payment affidavit and release of lien from the City's contractor and all subcontractors evidencing payment in full of all costs and expenses relating to design and construction of the Project.

ARTICLE 4: OWNERSHIP, OPERATION AND MAINTENANCE OF THE PROJECT

Section 4.01 The Project and all improvements and Alterations made by City shall be and remain the property of City during the term of the Lease. Upon expiration or earlier termination of the Lease, title to the same shall vest in accordance with the terms of the Lease.

Section 4.02 City shall operate and maintain the Project as a public park for use by the general public for the term of the Lease in accordance with the terms of this Interlocal and the Lease. City shall not alter or modify the Project without the prior written consent of County, which shall not be unreasonably withheld. Notwithstanding the foregoing, County shall be entitled to withhold consent for any request which proposes to utilize the District Park Property for other than park purposes. City shall maintain the Project in accordance with the Lease and industry standards for such facilities to prevent undue deterioration and to encourage public use. City shall be responsible for all costs, expenses, fees and charges, and liability related to the operation and maintenance of the Project. City shall not transfer management of the Project to a third party without the written consent of the County.

ARTICLE 5: USE OF THE PROJECT

City warrants that the Project shall serve a public recreational or cultural purpose and be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis as to residents of City. City shall not discriminate on the basis of race, color, sex, national origin, age, disability, religion, ancestry, marital status or sexual orientation with respect to use of the Project, nor shall City discriminate as to residency of users in establishment of its admission fees or membership criteria.

ARTICLE 6: TERMINATION FOR NON-COMPLIANCE

The County may terminate this Interlocal Agreement upon written notice to City for non-

compliance by City in the performance of any of the terms and conditions as set forth herein or in the Lease in the event City does not cure said non-compliance within ninety (90) days of receipt of written notice from the County of such non-compliance. Further, if City does not cure said non-compliance within the time frame specified above, then County shall have the right to cure such non-compliance and may require City to reimburse any funds so expended. The terms, covenants, and conditions of the Lease are incorporated herein by reference and made a part hereof. Any default under the Lease shall constitute a default hereunder. In the event of a conflict between the terms of this Interlocal and the Lease, this Interlocal shall control.

ARTICLE 7: INDEMNIFICATION

It is understood and agreed that City is a municipal corporation organized under the laws of the state of Florida and is acting in an independent capacity in the performance of its obligations hereunder and not as an agent, servant or employee of County or its Board of County Commissioners. City shall to the extent permitted by law, indemnify, defend and save harmless the County from and against any and all claims, suits, actions, damages and/or causes of action arising during the Term of this Interlocal for any personal injury, loss of life, environmental contamination, and/or damage to property sustained in or about the Project by reason, during or as a result of the use and occupancy of the Premises by the City, its agents, employees, licensees, invitees and the general public, 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 at trial or on appeal. In the event County shall be made a party to any litigation commenced against City or by City against any third party, then City 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. Notwithstanding anything herein to the contrary, City shall not be obligated to indemnify or hold harmless County for matters which are judicially determined to be attributable to the negligent or intentional acts or omissions of County. City recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the County in support hereof in accordance with the laws of the State of Florida. This section shall survive the termination of this agreement. Nothing contained herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes.

ARTICLE 8: INSURANCE

Section 8.01 Without waiving the right to sovereign immunity as provided by s.768.28 f.s., CITY reserves the right to be self-insured for General Liability and Automobile Liability

under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

Section 8.02 In the event CITY maintains third-party Commercial General Liability and Business Auto Liability, in lieu of exclusive reliance of self-insurance under s.768.28 f.s., CITY agrees to maintain said insurance policies at limits not less than \$500,000 each occurrence. CITY agrees to add the COUNTY as an "Additional Insured" with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability. 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 Parks & Recreation Department". CITY agrees the Additional Insured endorsement provides coverage on a primary basis. Claims-bill indemnification style coverage shall not be considered third-party liability for the purpose of this paragraph.

Section 8.03 CITY agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

Section 8.04 CITY agrees to maintain property insurance, which would include builder's risk insurance provide by CITY or CITY's hired contractor, while the project is in the course of construction in an amount at least equal to the estimated completed project value as well as subsequent modifications of that sum. CITY agrees to endorse COUNTY as an "Additional Insured" on the builder's risk. When construction is completed, CITY agrees to maintain all-risk property insurance for adequate limits of coverage on the building(s) and contents based on CITY's replacement cost calculation, or the highest probable maximum loss estimate for the perils of either fire, wind, or flood. CITY agrees to be fully responsible for any deductible, uncovered loss, or self-insured retention.

Section 8.05 When requested, CITY agrees to provide a statement or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above mentioned coverages.

Section 8.06 Compliance with the foregoing requirements shall not relieve CITY of its liability and obligations under this Agreement.

Section 8.07 CITY agrees its self-insurance, general liability, automobile liability, and property insurance shall be primary as respects to any coverage afforded to or maintained by COUNTY.

ARTICLE 9: FILING

A copy of this Interlocal Agreement shall be filed with the Clerk of the Circuit Court in

and for Palm Beach County.

ARTICLE 10: MISCELLANEOUS

Section 10.01. Captions. The Captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 10.02. Severability. If any term or provision of this Interlocal Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Interlocal Agreement, or the application of such term or provision, to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Interlocal Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 10.03. Entirety of Agreement. This Interlocal Agreement represents the entire understanding between the County and City, and supersedes all other negotiations, representations or agreements, either written or oral, relating to this Interlocal Agreement. None of the provisions, terms and conditions contained in this Interlocal Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

Section 10.04. Non-exclusivity of Remedies. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 10.05. Time of Essence. The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

Section 10.06. Non-Discrimination. The parties 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 in the performance of this Agreement.

Section 10.07. Construction. No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document 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, shall be held by a court of competent jurisdiction to be invalid, such shall not effect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 10.08. No Broker. The parties each warrant to the other that no real estate broker or agent has been used or consulted in connection with the transaction contemplated by this Agreement. City agrees to indemnify, defend and hold harmless County from and against any claims or demands of any such salesperson, agent, finder or broker claiming to have dealt with the City. The foregoing indemnification shall include all costs, expenses and fees, including, reasonable attorney's fees, relating to the defense of any such claim or demand at trial or appeal.

Section 10.09. Assignment. No party to this Agreement may assign this Agreement or any interest herein without the prior written consent of the other party(s), which may be granted or withheld at such other party(s) sole and absolute discretion. This provision shall be construed to include a prohibition against any assignment, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

Section 10.10. Default. In the event City fails or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in this Agreement, County shall, in addition to any other remedies provided at law or in equity, have the right of specific performance thereof to the extent permitted by law.

Section 10.11. Governing Law & 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 filed and held in a State court of competent jurisdiction located in Palm Beach County, Florida.

Section 10.12. 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.

Section 10.13. Waiver. No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party(s) waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

Section 10.14. Incorporation by References. Exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Agreement by reference.

Section 10.15 Notices. All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or Federal

Express, or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or Federal Express, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designated the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

As to the County:

Director of Parks and Recreation
Palm Beach County Parks and Recreation Department
2700 Sixth Avenue South
Lake Worth, FL 33461

With a copy to:

Director of Property and Real Estate Management
Palm Beach County
3323 Belvedere Road
Building 503
West Palm Beach, FL 33406-1548

With a copy to:

County Attorney
Palm Beach County
301 North Olive Avenue
Suite 601
West Palm Beach, FL 33401-4791

As to the City:

City Manager
City of Palm Beach Gardens
City Hall: 10500 N. Military Trail
PBG Gardens, FL 33410

With a copy to:

Director of Parks and Recreation
4404 Burns Road
Palm Beach Gardens, Florida 33410

With a copy to:

City Attorney
Watterson, Hyland & Klett, P.A.
4100 RCA Boulevard, Suite 100
Palm Beach Gardens, Florida 33410

Any party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other parties.

Section 10.16. Effective Date of Agreement. This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

Remainder of page was left blank intentionally.

IN WITNESS WHEREOF, the parties have caused this Interlocal Agreement to be executed on the day and year first above written.

ATTEST:

By: Carol Soled
Clerk

PALM BEACH GARDENS

By: [Signature]
Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
City Attorney

R2000 0560

ATTEST:
DOROTHY H. WILKEN, CLERK

By: Sinde C. Hickman
Deputy Clerk

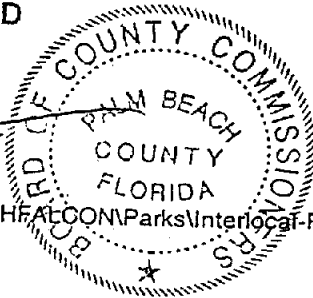
PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By: [Signature]
Vice Chair

APR 18 2000

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
County Attorney



LIST OF EXHIBITS

EXHIBIT A	District Park Option
EXHIBIT B	Legal Description of District Park Property
EXHIBIT C	Lease Purchase Agreement
EXHIBIT D	Amendment
EXHIBIT E	Lease
EXHIBIT F	Conceptual Master Plan

Exhibit "E" to Interlocal

PALM BEACH COUNTY

LEASE AGREEMENT

between

PALM BEACH COUNTY

A POLITICAL SUBDIVISION OF THE

STATE OF FLORIDA

(County)

and

THE CITY OF PALM BEACH GARDENS

A MUNICIPAL CORPORATION ORGANIZED AND EXISTING

UNDER THE LAWS OF THE STATE OF FLORIDA

(City)

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EXHIBITS

Exhibit "A" The Premises	
Exhibit "B" Conceptual Master Plan	
Exhibit "C" Concessionaire Insurance Requirements	

AGREEMENT OF LEASE

THIS LEASE made and entered into _____, by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County" and THE CITY OF PALM BEACH GARDENS, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, County and City have entered into that certain Interlocal Agreement of even date herewith relating to the purchase by County of certain real property located within the City of Palm Beach Gardens, and the development of such property by City as a district park, (the "Interlocal"); and

WHEREAS, pursuant to the Interlocal, the parties have agreed that upon closing of County's acquisition of such property (the "Closing"), City shall lease such property from County and design, construct, operate and maintain a public park upon such property, in accordance with the terms of the Interlocal (the "Project").

WHEREAS, the Project will be of substantial benefit to the residents of Palm Beach County; and

WHEREAS, County and City desire to enter into a fifty 50 year Lease of such property for the purposes hereinafter described.

NOW THEREFORE, in consideration of the rents, covenants and agreements hereinafter reserved and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I BASIC LEASE PROVISIONS

Section 1.01 Premises.

In consideration of the rents, covenants and agreements hereafter reserved and contained on the part of the City to be observed and performed, the County demises and leases to City, and City rents from County the approximately 82 acres of land legally described in Exhibit "A" attached hereto and made a part hereof (the "Premises"). The parties acknowledge that the Conceptual Master Plan attached hereto reflects a Community Center and Aquatic Facility as part of the Project. City desires to own the property upon which such facility is constructed. County agrees to consider a future request by City to exchange title to a portion of the Premises for a portion of the Lease Purchase Property, as such term is defined in the Interlocal, in order to facilitate

construction of such facility.

Section 1.02 Length of Term and Commencement Date.

This Lease shall be effective upon the Effective Date as defined hereinafter. The term of this Lease shall commence upon the Closing of County's purchase of the Premises (the "Commencement Date"), and shall extend for a period of fifty (50) years thereafter (the "Term"), unless sooner terminated pursuant to the provisions of this Lease or the Interlocal. The term of this Lease may be modified or extended with the mutual consent of the parties.

Section 1.03 Interlocal Agreement.

This Lease is made and entered into pursuant to the terms of the Interlocal, the terms, covenants, and conditions of which are incorporated herein by reference and made a part hereof. Any failure to fulfill the terms, covenants and conditions of the Interlocal Agreement shall constitute a default hereunder and any default under this Lease shall constitute a default under the Interlocal. In the event of a conflict between the terms of the Interlocal and this Lease, the Interlocal shall control.

**ARTICLE II
RENT**

Section 2.01 Annual Rent.

City shall pay County an annual net Rent of One (\$1.00) Dollar (the "Annual Rent"), payable without notice on the Commencement Date and each subsequent anniversary thereof. Annual Rent shall be made payable to the Palm Beach County Board of County Commissioners and shall be delivered to the Palm Beach County Parks and Recreation Department, Administrative Services Division, 2700 6th Avenue South, Lake Worth, Florida 33461. This Lease shall be what is commonly referred to as "triple net" to County, it being understood by the parties that County shall receive the rent payable hereunder free and clear of any and all impositions, taxes, liens, charges, and expense of any nature whatsoever relating to ownership or operation of the Premises, including without limitation those relating to taxes, if any, insurance, repair, maintenance, use, care, or operation.

Section 2.02 Assessments and Personal Property Taxes.

City shall pay before delinquency all ad valorem taxes, assessments, whether general or special, and all other personal property taxes and assessments of any kind or nature which may be levied by any governmental authority against the Premises, and/or City's personal property located on the Premises. In the event this Lease or City's use of the Premises renders the Premise subject to ad valorem real property taxes or similar impositions imposed by any governmental entity, City shall be responsible for and shall pay the same before delinquency.

Section 2.03 Additional Rent.

Any and all sums of money or charges required to be paid by City under this Lease other than Annual Rent shall be considered "Additional Rent," whether or not the same is

specifically so designated and County shall have the same rights to enforce due and timely payment by City of all Additional Rent as are available to County with regards to Annual Rent.

ARTICLE III CONDITION OF LEASED PREMISES, ALTERATIONS

Section 3.01 . Acceptance of Premises by City.

City certifies that City has inspected the Premises and accepts same "As Is", in its existing condition together with any defects, latent or patent, if any, subject to all matters of record. City further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Premises, including, without limitation, the physical condition of the Premises, any improvements or equipment located therein, or the suitability thereof for City's intended use thereof. No repair work, alterations, or remodeling of the Premises is required to be done by County as a condition of this Lease.

Section 3.02 Construction of Project.

City shall design and construct the Project at City's sole cost and expense, in accordance with the requirements of this Lease, the Interlocal and the Conceptual Master Plan attached hereto as Exhibit "B". All of City's construction and improvements shall be made and performed in a good and workmanlike manner and in full compliance with applicable building codes and zoning regulations and shall be diligently performed to completion. City shall obtain, prior to commencing any work upon the Premises, a public construction payment and performance bond in accordance with the provisions of Florida Statute Section 255.05 in an amount equal to the total cost of construction of such work. Such bond shall name County as an additional obligee thereunder. The form of such bond and the issuer thereof shall be subject to County's prior review and approval, which shall not be unreasonably withheld.

Section 3.03 Alterations.

After completion of the Project and issuance of a certificate of completion therefore, City shall not make any improvements, additions, modifications or alterations to the Premises costing in excess of \$100,000 (hereinafter collectively referred to as "Alterations"), without the prior written consent of County in each instance. City shall submit detailed plans and specifications for all such Alterations to County for County's written approval prior to commencing work on same. City agrees and acknowledges that all work performed to the Premises, whether pursuant to this Section or otherwise, shall be performed and accomplished solely for the benefit of City, and not for the benefit of County, such work being nevertheless subject to each and every provision of this Lease and the Interlocal. All work done by City shall be done in a good and workmanlike manner and shall be diligently prosecuted to completion strictly in accordance with the approved plans and specifications therefor. Upon giving its approval for any work or Alterations, County may specify whether the Alteration is to be removed by City, at City's sole cost and expense, upon the termination or expiration of this Lease.

**ARTICLE IV
CONDUCT OF BUSINESS AND USE OF PREMISES BY CITY**

Section 4.01 Use of Premises.

City shall use and occupy the Premises solely and exclusively for a public park as specified in this Lease, the Interlocal and the Conceptual Master Plan. City shall not use, permit, or suffer the use of the Premises for any other purpose whatsoever without the prior written consent of County, which consent may be granted or withheld in County's sole discretion.

Section 4.02 Waste or Nuisance.

City shall not commit or suffer to be committed any waste upon the Premises, commit or permit the maintenance or commission of any nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect County's fee interest in the Premises or which results in an unsightly condition. All refuse is to be removed from the Premises at City's sole cost and expense and City will keep such refuse in proper fireproof containers on the interior of the Premises until removed. Lessee will keep the access to the Premises, the parking areas and other contiguous areas to the Premises free and clear of obstruction. City, at its sole cost and expense, will keep the Premises free of rodents and other vermin.

Section 4.03 Governmental Regulations.

City shall, at City's sole cost and expense, comply with all ordinances, laws, statutes and regulations promulgated thereunder of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to City or its use of the Premises, or the Premises generally. City shall not use, maintain, store or dispose of any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents on the Premises or any adjacent land in any manner not permitted by law. City shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from City's failure to perform its obligations in this Section. Nothing contained herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes.

Section 4.04 Non-Discrimination.

City shall assure and certify that it will comply with the Title IV of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, sexual orientation or disability with respect to any activity occurring on the Premises or under this Agreement.

Section 4.05 Surrender of Premises.

Upon termination or expiration of this Lease, City shall, if so directed by County, remove, at its sole cost and expense, City's personal property, removable fixtures, equipment and Alterations from the Premises, and shall surrender the Premises to the County in good condition and repair. Alternatively, County may elect to have title to any

or all improvements or Alterations vest in County as of such expiration or termination.

Section 4.06 Concessions.

City may sublease concession space on the Premises to youth league non-profit organizations for sale of food and/or merchandise. Any such sublease or license shall incorporate the terms of this Lease by reference and include the insurance requirements contained in the attached Exhibit "C" as the same may be amended from time to time by County in its reasonable discretion. City shall be entitled to retain the proceeds generated by such subleases. Such subleases shall not release City from any of its obligations under this Lease. Further, City shall comply with and City shall be obligated to ensure that such sublessees comply with the terms of this Lease and all applicable federal, state, and county laws, rules, regulations and ordinances pertaining to the foregoing including, without limitation, the sale of retail goods, food and beverages and the collection and remittance of sales tax as applicable.

Section 4.07 Special Events.

City shall be entitled to grant short term licenses reserving the park's picnic facilities for use by groups. Any such special events license shall incorporate the terms of this Lease by reference. City shall be entitled to retain the proceeds generated by such licenses. Such licenses shall not release City from any of its obligations under this Lease. Further, City shall be obligated to ensure that such licensees comply with the terms of this Lease and all applicable federal, state, and county laws, rules and ordinances.

**ARTICLE V
REPAIRS AND MAINTENANCE OF PREMISES**

Section 5.01 Responsibility of County and City.

County shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Premises. City shall keep and maintain all portions of the Premises, and all improvements and Alterations constructed on or about the Premises, in good condition and repair, at City's sole cost and expense.

Section 5.02 County's Right to Inspect.

County or County's agents shall have the right, upon reasonable prior notice to City (except that no notice need be given in case of emergency) to enter the Premises for the purpose of inspection of the Premises and the improvements located thereon. Any such entrance into the Premises shall be conducted by County in a manner calculated to minimize interference with or disruption of City's operations within the Premises.

**ARTICLE VI
UTILITIES**

City shall be solely responsible for all costs and expenses relating to providing utility service to the Premises and shall pay directly to the utility company or the provider of such service all charges and assessments for any utility services provided including, without limitation, water, sewer, gas, electricity, trash collection and removal or any other utility

used or consumed on the Premises. In no event shall County be liable for an interruption or failure in the supply of any such utility to the Premises.

ARTICLE VII INSURANCE

Without waiving the right to sovereign immunity as provided by s.768.28 f.s., CITY reserves the right to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event CITY maintains third-party Commercial General Liability and Business Auto Liability, in lieu of exclusive reliance of self-insurance under s.768.28 f.s., CITY agrees to maintain said insurance policies at limits not less than \$500,000 each occurrence. CITY agrees to add the COUNTY as an "Additional Insured" with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability. 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 Parks & Recreation Department." CITY agrees the Additional Insured endorsement provides coverage on a primary basis. Claims-bill indemnification style coverage shall not be considered third-party liability for the purpose of this paragraph.

CITY agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

CITY agrees to maintain property insurance, which would include builder's risk insurance provide by CITY or CITY's hired contractor, while the project is in the course of construction in an amount at least equal to the estimated completed project value as well as subsequent modifications of that sum. CITY agrees to endorse COUNTY as an "Additional Insured" on the builder's risk. When construction is completed, CITY agrees to maintain all-risk property insurance for adequate limits of coverage on the building(s) and contents based on CITY's replacement cost calculation, or the highest probable maximum loss estimate for the perils of either fire, wind, or flood. CITY agrees to be fully responsible for any deductible, uncovered loss, or self-insured retention.

When requested, CITY agrees to provide a statement or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve CITY of its liability and obligations under this Agreement.

CITY agrees its self-insurance, general liability, automobile liability, and property insurance shall be primary as respects to any coverage afforded to or maintained by COUNTY.

ARTICLE VIII INDEMNIFICATION

It is understood and agreed that City is merely a Tenant of County and is an independent contractor and is not an agent, servant or employee of County or its Board of County Commissioners. City shall to the extent permitted by law, indemnify, defend and save harmless the County from and against any and all claims, suits, actions, damages and/or causes of action arising during the Term of this Lease including without limitation those arising as a result of City's use and occupancy of the Premises, any personal injury, loss of life, environmental contamination, and/or damage to property sustained in or about the Premises by reason, during or as a result of the use and occupancy of the Premises by the City, its agents, employees, licensees, invitees and the general public, and from and against any orders, judgements, 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 at trial or on appeal. In the event County shall be made a party to any litigation commenced against City or by City against any third party, then City 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. Notwithstanding anything herein to the contrary, City shall not be obligated to indemnify or hold harmless County for matters which are judicially determined to be attributable to the negligent or intentional acts or omissions of County. City recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the County in support hereof in accordance with the laws of the State of Florida. This section shall survive the termination of this agreement. Nothing contained herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes.

ARTICLE IX DESTRUCTION OF PREMISES

Section 9.01 Damage or Destruction by Fire, War or Act of God.

In the event the Premises shall be destroyed or damaged or injured by fire or other casualty during the Term of this Lease, City shall restore the Premises to the same or better condition than that which existed prior to such casualty. City shall commence such restoration within a reasonable time after such casualty but in no event later than one hundred and eighty (180) days of such casualty. City shall thereafter diligently pursue such restoration to completion.

ARTICLE X ASSIGNMENT AND SUBLETTING

Section 10.01 Consent Required.

Except as otherwise provided herein regarding concessions and licenses, City may not assign, mortgage, pledge or encumber this Lease in whole or in part, nor sublet or rent all or any portion of the Premises nor grant any easements affecting the Premises, without prior written consent of County, which may be granted or withheld at County's absolute discretion. This provision shall be construed to include a prohibition against any assignment, mortgage, pledge, encumbrance, or sublease, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

**ARTICLE XI
DEFAULT OF CITY**

Section 11.01 Events of Default.

The occurrence of any one or more of the following shall constitute an Event of Default by City under this Lease: (i) City's default under the Interlocal; (ii) City's failure to pay any sum due hereunder within thirty (30) days after the same shall become due; (iii) City's failure to perform or observe any of the agreements, covenants or conditions contained in the Lease on City's part to be performed or observed if such failure continues for more than sixty (60) days after notice from County unless the same is of such a nature that it can not reasonably be cured within such a time period, in which event City shall be entitled to a reasonable period under the circumstances; or (iv) City's vacating or abandoning the Premises. If any Event of Default occurs, then at any time thereafter while the Event of Default continues, County shall have the right to give City notice that County intends to terminate this Lease upon a specified date not less than thirty (30) days after the date notice is received by City, and this Lease shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Lease. If, however, the default is cured within the thirty (30) day period and the County is so notified, this Lease will continue.

**ARTICLE XII
ANNUAL BUDGETARY FUNDING/CANCELLATION**

This Agreement and all obligations of County hereunder are subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners.

**ARTICLE XIII
QUIET ENJOYMENT**

Section 13.01 County's Covenant.

Upon payment by the City of the Rent and other charges herein provided, and upon the observance and performance of all the covenants, terms and conditions on City's part to be observed and performed, City shall peaceably and quietly hold and enjoy the Premises for the Term hereby demised without hindrance or interruption by County or any other person or persons lawfully or equitably claiming by, through or under the County,

subject, nevertheless, to the terms and conditions of this Lease.

ARTICLE XIV MISCELLANEOUS

Section 14.01 Entire Agreement.

This Lease, the Interlocal, and any Exhibits attached thereto, constitute all agreements, conditions and understandings between County and City concerning the Premises. All representations, either oral or written, shall be deemed to be merged into this Lease, and the Interlocal. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Lease shall be binding upon County or City unless reduced to writing and signed by them.

Section 14.02 Notices.

Any consents, approvals and permissions by the County shall be effective and valid only if in writing, and any notice by either party to the other shall be in writing and shall be deemed to be duly given only if mailed prepaid by certified mail return receipt requested, addressed:

(a) If to the County at:

Property and Real Estate Management Division
3323 Belvedere Road, Building 503
West Palm Beach, FL 33406-1548

with a copy to:

Palm Beach County
Parks and Recreation Department
2700 6th Avenue, South
Lake Worth, FL 33461

(b) If to the City at:

City Manager
City of Palm Beach Gardens
City Hall: 10500 N. Military Trail
PBG Gardens, FL 33410

With a copy to:

Director of Parks and Recreation

4404 Burns Road
Palm Beach Gardens, Florida 33410

With a copy to:

City Attorney
Watterson, Hyland & Klett, P.A.
4100 RCA Boulevard, Suite 100
Palm Beach Gardens, Florida 33410

Either party hereto may change the address for service of notices required or permitted hereunder upon ten (10) days prior written notice. All notices given hereunder shall be effective and deemed to have been duly given only upon receipt by the party to which notice is being given, said receipt being deemed to have occurred upon such date as the postal authorities shall show the notice to have been delivered, refused, or undeliverable, as evidenced by the return receipt.

Section 14.03 Severability.

If any term of this Lease or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 14.04 Broker's Commission.

Each of the parties represents and warrants to the other that they have not dealt with any real estate salesperson, agent, finder or broker in connection with this Lease.

Section 14.05 Recording.

City shall not record this Lease, or any memorandum or short form thereof, without the written consent and joinder of County.

Section 14.06 Waiver of Jury Trial.

The parties hereto waive trial by jury in connection with proceedings or counter claims, brought by either of the parties hereto against the other, in connection with this Lease.

Section 14.07 Governing Law and Venue.

This Lease shall be governed by and interpreted according to the laws of the State of Florida and venue shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

Section 14.08 Radon.

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

Section 14.09 Time of Essence.

Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

Section 14.10 Waiver, Accord and Satisfaction.

The waiver by County of any default of any term, condition or covenant herein contained shall not be a waiver of such term, condition or covenant, or any subsequent default of the same or any other term, condition or covenant herein contained. The consent or approval by County to or of any act by City requiring County's consent or approval shall not be deemed to waive or render unnecessary County's consent to or approval of any subsequent similar act by City.

Section 14.11 Non-exclusivity of Remedies.

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 14.12 Construction.

No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document 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 be 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.

Section 14.13 Incorporation by References.

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

Section 14.14 Effective Date of Agreement.

This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written.

ATTEST:

PALM BEACH GARDENS

By: _____
Clerk

By: _____
Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
City Attorney

ATTEST:
DOROTHY H. WILKEN, CLERK

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

LISTS OF EXHIBITS

<u>Description</u>	<u>Exhibits</u>
The Premises	Exhibit "A"
Conceptual Master Plan	Exhibit "B"
Concessionaire Insurance Requirements	Exhibit "C"

EXHIBIT "A" to Lease

The Premises

**EXHIBIT A
TO THE LEASE**

LEGAL DESCRIPTION:

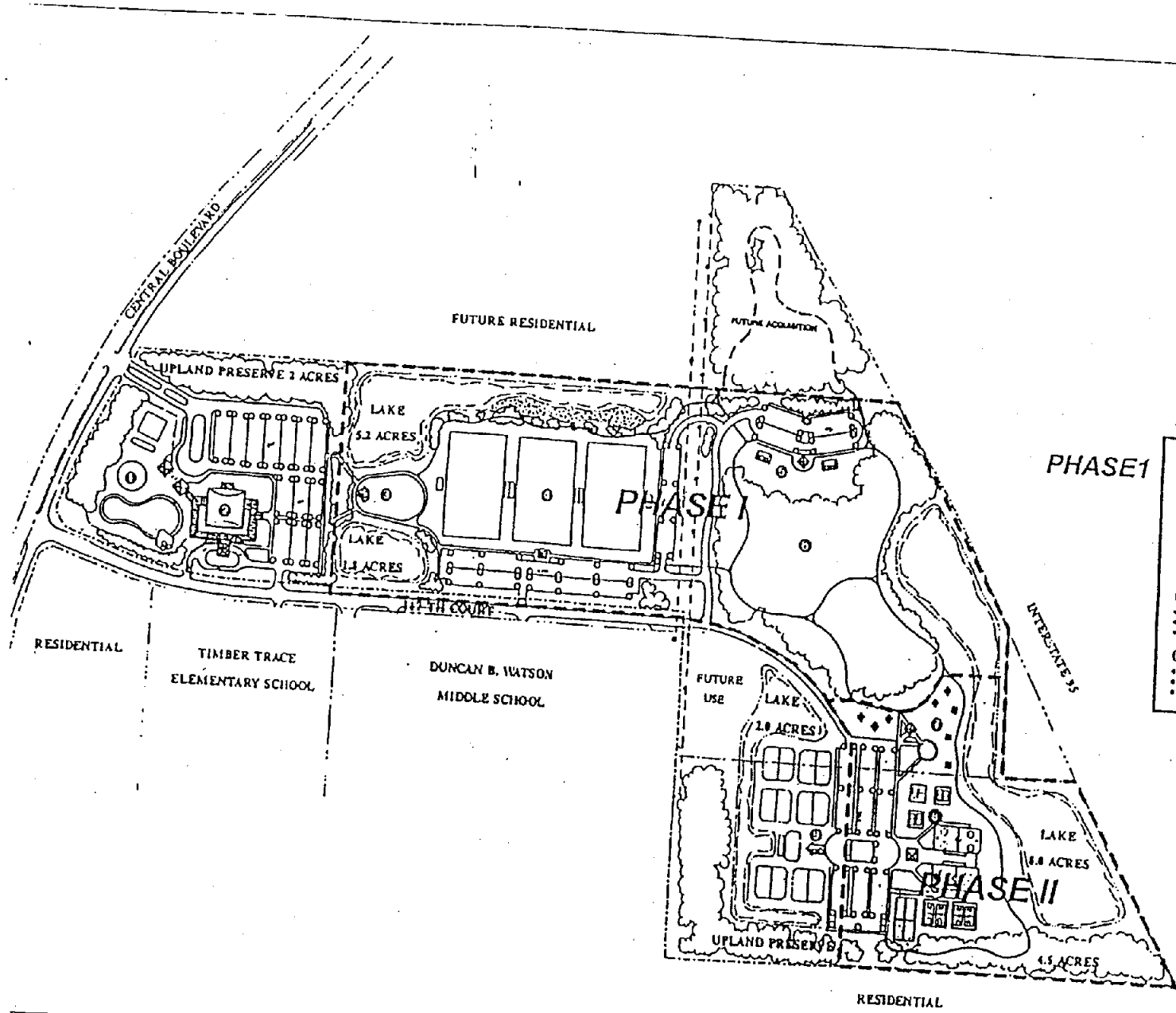
A PARCEL OF LAND LYING IN SECTIONS 1 AND 2, TOWNSHIP 42 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 1; THENCE NORTH 01°52'52" EAST, ALONG THE WEST LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 732.77 FEET; THENCE SOUTH 88°07'08" EAST, DEPARTING SAID WEST LINE, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°52'52" EAST, A DISTANCE OF 541.55 FEET; THENCE NORTH 88°21'18" WEST, ALONG, IN PART, THE NORTH LINE OF 117TH COURT, AS DESCRIBED IN OFFICIAL RECORD BOOK 6496, PAGE 325, OF THE PUBLIC RECORDS OF SAID COUNTY, A DISTANCE OF 1758.02 FEET TO A POINT ON A CURVE, FROM WHICH A RADIAL LINE BEARS NORTH 01°38'42" EAST; THENCE NORTHWESTERLY, ALONG SAID NORTH LINE, ON A CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 1460.00 FEET, THROUGH A CENTRAL ANGLE OF 17°24'33" AND AN ARC DISTANCE OF 443.62 FEET TO THE POINT OF TANGENCY; THENCE NORTH 70°54'39" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 274.84 FEET; THENCE NORTH 25°17'46" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 57.08 FEET TO A POINT ON THE EAST LINE OF CENTRAL BOULEVARD, AS DESCRIBED IN OFFICIAL RECORD BOOK 5104, PAGE 945, OF THE PUBLIC RECORDS OF SAID COUNTY, BEING A POINT ON A CURVE, FROM WHICH A RADIAL LINE BEARS SOUTH 69°41'01" EAST; THENCE NORTHEASTERLY, ALONG SAID EAST LINE, ON A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 3759.72 FEET, THROUGH A CENTRAL ANGLE OF 10°48'18" AND AN ARC DISTANCE OF 709.02 FEET; THENCE SOUTH 88°21'18" EAST, A DISTANCE OF 2993.88 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO.9 (PER FDOT (1-95) RIGHT-OF-WAY MAP SECTION NO. 93220-2474); THENCE SOUTH 30°31'49" EAST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 529.73 FEET; THENCE SOUTH 26°31'49" EAST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 433.18 FEET; THENCE SOUTH 01°48'15" WEST, DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 554.22 FEET; THENCE NORTH 88°31'01" WEST, A DISTANCE OF 1287.09 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,563,382 SQUARE FEET OR 81.804 ACRES, MORE OR LESS.

EXHIBIT "B" to Lease

Conceptul Master Plan



PROGRAM ELEMENTS

- PHASE II**
- ① **Aqua Park**
 - 33 foot Lap Pool
 - Interactive Play Pool
 - Lazy River
 - Water Slides
 - Shade structures
 - Restrooms/Cafeteria
 - Parking - 210 spaces
 - ② **Community/Recreation Center**
 - Auditorium
 - Meeting rooms
 - Stage
 - Gymnasium
 - Exercise Room
 - Kitchen
 - Parking - 100 spaces
 - ③ **Outdoor Amphitheater**
 - Covered Stage
 - Restrooms
 - Overhead parking - 150 outdoor spaces
 - ④ **Soccer Complex**
 - 1 Field - 117 x 60'
 - Restrooms
 - Shade structure
 - Storage structures
 - Parking - 250 spaces
 - ⑤ **Group Picnic Area**
 - 2 - 24 x 60' Shade Pavilions
 - Restrooms
 - Parking - 90 spaces
 - ⑥ **Upland Nature Preserve**
 - 40-45 acres plus Barrow
 - Nature trails
 - Self-guiding interpretive signs
- PHASE I**
- ⑦ **Family Picnic Area**
 - 1 - 15' x 15' picnic shelter
 - Associated picnic tables
 - Table with shade structure
 - Parking - 60 spaces
 - ⑧ **Court Complex**
 - 4 Sand Volleyball
 - 4 Basketball Courts
 - 2 Basketball
 - 2 Badminton Courts
 - 2 Shuffle Hockey Rinks
 - Shade structure
 - Restrooms
 - Parking - 150 spaces
 - ⑨ **Tennis Center**
 - 4 regulation Courts*
 - 4 regulation Courts
 - 1 Covered Court w/ grandstand
 - 2 "practice walls"
 - Shade structure
 - Tennis Center Pathway*
 - Pro Shop*
 - Parking - 60 spaces*
 - Parking - 60 spaces
 - * Existing on site

EXHIBIT "C" to Lease

Concessionaire Insurance Requirements

City shall require all concessionaires to maintain Commercial General Liability with limits of liability not less than \$1,000,000, and to endorse both the County and City to the policy as an Additional Insured. City shall obtain and, when requested by the County, furnish copies of certificates of insurance evidencing such coverage for the concessionaire. Compliance with this requirement shall not relieve City's duty to comply with Article VII of this Lease regarding insurance.

EXHIBIT F
(Interlocal)

CONCEPTUAL MASTER PLAN

Att. 5

7F-1

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: July 11, 2006

Consent

Regular

Ordinance

Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: **A) approve** Termination Agreement for Interlocal Agreement and Lease Agreement (R2000-0560) with the City of Palm Beach Gardens (City) for the development and operation of the 82 acres of County-owned land known as Palm Beach Gardens District Park; and **B) authorize** staff to proceed with site plan approvals for a County developed and operated district park with active recreation facilities on the property.

Summary: On April 18, 2000, the City and County executed an Interlocal Agreement and Lease Agreement (R2000-0560) that required the County to acquire an 82 acre parcel and the City to design, construct and operate a district park within five (5) years of the County closing on the property. The County acquired the land in May 2000, and subsequently the City was unable to fulfill its obligation to fund development of the park within the required five (5) year period. Several meetings with City officials to try and extend and/or amend the agreement were unsuccessful. As a result, staff developed a termination agreement that was executed by the City on December 16, 2005, and now recommends Board approval. Staff also requests Board authorization to proceed with the site plan approval from the City of Palm Beach Gardens for a county developed and operated active district park to include at a minimum seven (7) lighted athletic fields. The cost to acquire site plan approval is estimated at approximately \$100,000 and would be requested in the 2006/07 budget. The development cost for this project is estimated at \$17,000,000 and is not included in our current Five Year Plan. The cost to operate and maintain this district park is projected at \$350,000 per year.
(District 1 (HF))

Background and Policy Issues: In 2000, the County acquired an 82 acre parcel in the City of Palm Beach Gardens for a future district park to be developed and operated by the City per Interlocal Agreement R2000-0560. The County acquired the land for district park purposes with \$3,129,003 from the County's \$25 Million Recreational and Cultural General Obligation Bond that was approved by voters countywide in March 1999. Under the terms of the Agreement, the City had until May 2005 to develop Phase 1 of the district park that included active recreational facilities to serve the needs of North County residents.

In 2003, a City General Obligation Bond referendum that included development funds for the park was defeated by Palm Beach Gardens residents, leaving the City unable to fulfill its obligations to develop a district park. An attempt by the City to use the property for only passive park purposes was

(continued on Page 3)

Attachments:

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	\$ 0	100,000	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	100,000	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current Budget?	Yes	No	<input checked="" type="checkbox"/>		
Budget Account No.:	Fund	Depart	Unit		
	Object	Program			

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

Termination of this Agreement will not result in any immediate fiscal impact to Palm Beach County. This project is not in the current Five Year Plan and future development is estimated at \$17 million with an annual operating expense of \$350,000. The cost of site plan approval is estimated at \$100,000 and would be requested in the 2006/07 budget.

C. Departmental Fiscal Review:

en will map

III. REVIEW COMMENTS:

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

Funding for the \$100,000 is in the proposed 2007 Zone 1 Impact Fees budget as "District Park G."

[Signature] 6/27/06
mg
 OFMB 6/22/06 CN/06/20/06

[Signature] 6/29/06
 Contract Dev. and Control

B. Legal Sufficiency:

[Signature] 6/30/06
 Assistant County Attorney

6/28/06 This Termination Agreement complies with our review requirements.

C. Other Department Review:

 Department Director

Background and Policy Issues: (continued from Page 1)

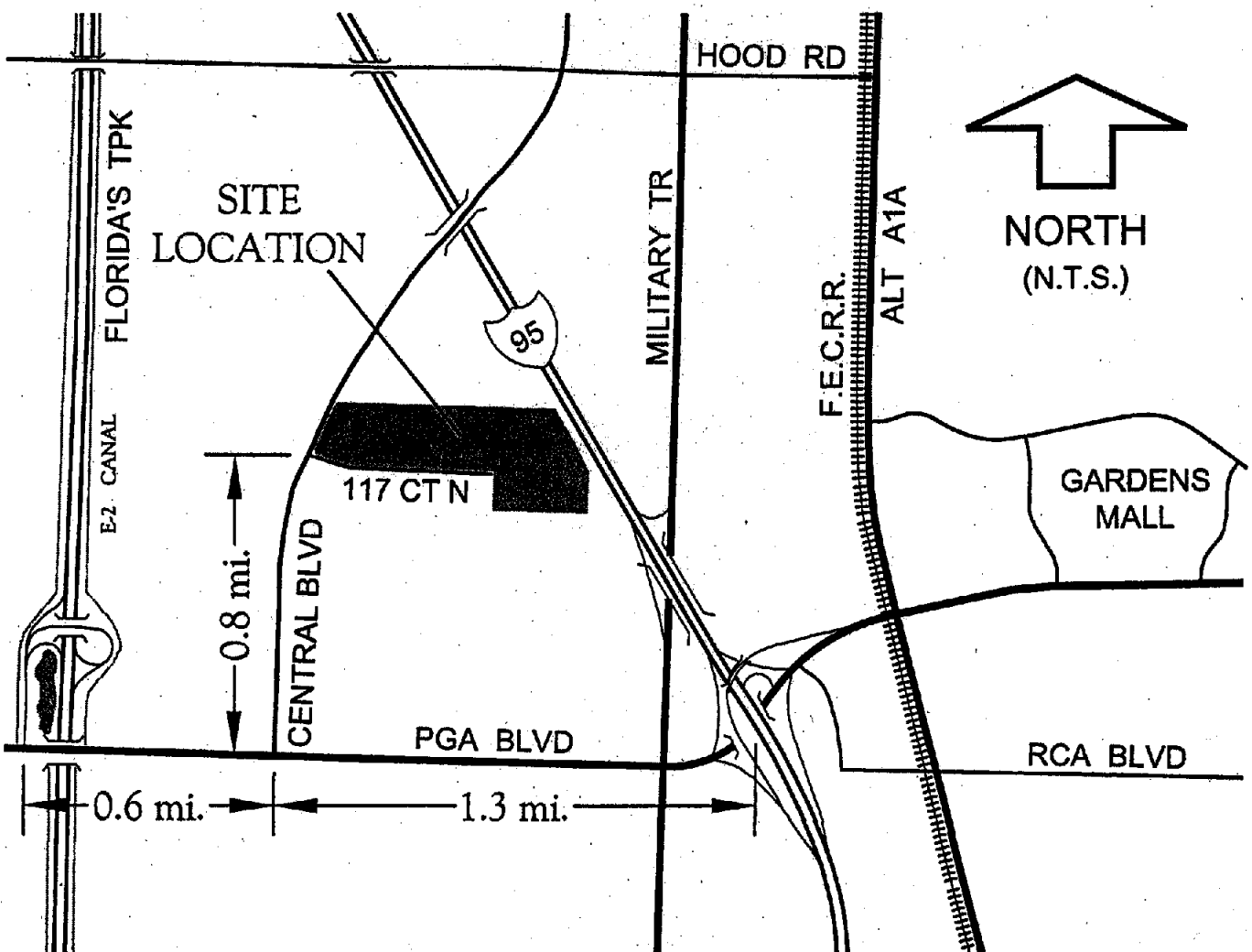
unacceptable to the County since it ignored the larger active recreational needs in the area for which the property was purchased. Subsequent correspondence and meetings between City and County officials failed to produce a mutually acceptable time extension or amendment to Agreement. Staff now agrees that it is in the best interest of City and County residents to terminate the Interlocal Agreement and Lease Agreement.

The 82 acre park property still represents the most centrally located and best available site to provide active recreational facilities needed to serve growth related needs in the North County area. Therefore, staff recommends the County proceed on its own with site plan approvals through the City of Palm Beach Gardens for a County developed and operated active district park. The projected cost for development of a district park is \$17 million with annual operating expenses estimated at \$350,000. This project is not currently in the Department's Five Year Capital Improvement Program, so development would not occur until some future date subject to the availability of funds.

Should the City fail to approve plans for the district park, then staff will return to the Board with recommendations for disposition of the property and use of the proceeds for other needed park projects in the North County area.

ATTACHMENT 5

PALM BEACH GARDENS
DISTRICT PARK
LOCATION MAP



054.6

Agenda Item #:

2:00 PM

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
WORKSHOP SUMMARY

Discussed with
Direction

Meeting Date: January 23, 2007

Department: Parks and Recreation

I. EXECUTIVE BRIEF

A. **Title:** Overview of Parks and Recreation Department 10 Year Capital Program.

B. **Summary:** On July 11, 2006, the Board discussed the proposed termination of the County's Interlocal and Lease Agreement with the City of Palm Beach Gardens for the development and operation of the 82 acres of County-owned land known as Palm Beach Gardens District Park. It was the consensus of the Board that consideration of this agreement should be postponed until a workshop could be held to review countywide park service levels and to determine what impact developing this property as a County park will have on the Department's Capital Program.

District 1 (AH)

C. **Background and Policy Issues:** In order to determine the best course of action regarding the future plans for the Palm Beach Gardens District Park property, the Board directed staff to schedule a workshop to discuss its potential impact on Park and Recreation Department's capital program. Paramount to this discussion is a basic understanding of the role of County parks in providing public recreation, current and projected levels of service, capital program and future funding sources, and other multi-agency approaches to maximize public access to recreational resources. In response to this direction, staff has conducted a long term analysis of County park needs based on the existing supply, projected population growth, adopted levels of service, and other identified areas of concern such as boating access.

The Palm Beach County Parks and Recreation Department provides a wide array of parks and recreational facilities that serve both the incorporated and unincorporated area residents of Palm Beach County. As one of several main providers of parks and recreational facilities the County's role is to provide the larger destination oriented regional, district and beach parks that meet countywide recreational needs. The Department's main focus is providing these three park classifications that have established levels of service in the County's Comprehensive Plan, Recreation and Open Space Element. Countywide park impact fees have also been implemented for these three park classifications and have been used since 1989 to help maintain growth related LOS needs.

Regional, district and beach parks comprise over 96% of the County's 8,550 acres of parkland. The remaining 4% of county parkland is devoted to community level parks classified as either community or neighborhood parks. Municipal parks on the other hand traditionally focus more on meeting the community and neighborhood park needs.

(CONTINUED ON PAGE 3)

D. **Attachments:**

1. 10 Year Capital Improvement Program (2007-2016)

2. Agenda Item 7E.1: July 11, 2006

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	\$ 0	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____		No _____		
Budget Account No.:	Fund _____	Depart _____	Unit _____		
	Object _____	Program _____			

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

There is no fiscal impact associated with this item.

C. Departmental Fiscal Review:

im idar m aty

III. REVIEW COMMENTS:

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

Jan Out 1-18-07
OFMB

10/1/07

N/A
Contract Dev. and Control

B. Legal Sufficiency:

Anne Delant 1/18/07
Assistant County Attorney

C. Other Department Review:

Department Director

C. Background and Policy Issues: (CONTINUED FROM PAGE 1)

With the exception of Municipal Golf Courses, 92 % of the remaining 832 acres of municipal parks fall within these two classifications. At the other end of the spectrum there are several hundred thousand acres of state, federal, and county owned conservation areas, preserves and waterways including over 28,000 acres of preserves acquired by DERM. This vast acreage of natural resource lands in government ownership also provides a variety of recreational opportunities that are mostly passive in nature.

The need for additional County parks and recreational facilities is largely driven by the desire to maintain current levels of service as the County's population continues to grow. While countywide population is projected to continue to grow by 500,000 over the next 20 years, over 40 percent of the increase is projected in the Glades area. Based upon the County's build-out LOS of 5 acres of parks per thousand population, adequate acreage has been acquired to satisfy countywide district, beach, and regional park needs over the next ten years although only 54% of this total acreage is developed. There is, therefore, an immediate need to continue development of additional regional park acres in both the North and South County areas, and district park acres in the Central County area to maintain established LOS over this period. In regards to developed beach parks there is a need to develop Milani Beach Park in South County and to expand parking where possible at existing beach parks in the North County. In addition to those county parks with established LOS, there are also significant identified needs for waterfront boater access, specialized recreation facilities, community and neighborhood level parks, and continued recreation assistance to municipal, school board and non-profit groups.

Since 1989, over \$286 million has been allocated under the Department's capital improvement program, for the most part to maintain established countywide park levels of service and specialized recreational needs. Over the last five years development costs have escalated and to keep pace capital funding for parks has increased on average from \$17.7 million to \$24.5 million per year. It is estimated that capital funding levels will need to average \$22 million per year over the next 10 years in order to maintain established County park LOS goals and to meet other important park and recreational needs.

Attached is a proposed 10 Year Capital Improvement Program (2007-2016) with \$220 million of park projects that addresses three main areas of concern: 1.) Maintaining countywide park LOS (\$140 Million); 2.) Addressing specialized recreational needs (\$58 Million); and, 3.) Meeting local level park needs (\$22 Million). To accomplish this plan projected revenues from the following funding sources will be needed through the year 2016:

Park Impact Fees - Over the next ten years park impact fees are projected to generate \$71 million. These funds can only be used to meet level of service needs for regional, district and beach parks. Park impact fees are only expected to cover half the \$140 million cost of maintaining countywide park LOS.

Grants - Over the past five years grants have contributed on average \$2 million per year to the Parks and Recreation Department's capital improvement program. We expect to maintain this level of funding over the next 10 years which will generate \$20 Million from this source. Grants have been instrumental in funding special recreation and renewal projects but do little to maintain countywide park LOS.

Ad valorem taxes - Our current level of annual capital funding from Ad valorem tax dollars is \$2.7 million. We are proposing annual capital funding allocations of \$3 million per year to generate \$30 million from this source over the next 10 years. These funds will be used primarily for local level needs including Recreation Assistance Program grants, CCRT neighborhood parks, and community park improvements but do little to maintain countywide park LOS.

G.O. and Revenue Bond Issues - In the last 10 years the County has approved \$150 million in park related bonds of which 60% or \$82 million has gone to the Department's capital projects. If we maintain this funding level and continue to share funds with municipal and other recreation providers, future bond issues of \$150 million will be needed to generate the net \$100 million identified in the 10 Year Capital Improvement Program.

In summary, termination of the Palm Beach Gardens District Park lease and developing it as a County park facility is expected to cost \$17 million. North zone park impact fees would partially fund the project but probably not amount to more than 50% of the total project cost. In order to complete the project a Bond Issue or other funding source would be needed. The projected need for the park is at least 5 to 10 years out depending upon

**PARKS AND RECREATION DEPARTMENT
10 YEAR CAPITAL IMPROVEMENT PROGRAM
(2007-2016)**

PROPOSED EXPENDITURES

<u>PROJECTS TO MAINTAIN COUNTYWIDE PARK LOS</u>	<u>10 YEAR TOTAL</u>
Zone 1 (North)	\$45,000,000
Palm Beach Gardens District G	17,000,000
County Pines District Park "F" Phase 3	2,000,000
Jupiter Farms Park Improvements Phase 3	2,000,000
Loggerhead Park Improvements	1,000,000
Ocean Cay	1,000,000
Riverbend/Reese Grove Park Phase 3	22,000,000
Zone 2 (Central)	\$53,000,000
County Pines District Park "F" Recreation Center/Gym	6,000,000
Lantana District Park "I" Phase II	16,000,000
John Prince Park Improvements Phase IV	5,000,000
Okecheelee Park North & South Improvements	8,000,000
Sansbury Way Park Design & Development	18,000,000
Zone 3 (South)	\$42,000,000
Aqua Crest Pool Improvements	3,000,000
Morikami Park Improvements Phase III	6,000,000
South County Regional Park Parcel A	15,000,000
Fogg Property District H	18,000,000
COUNTYWIDE PARK LOS TOTAL	\$140,000,000
<u>PROJECTS TO ADDRESS SPECIALIZED RECREATIONAL NEEDS</u>	<u>10 YEAR TOTAL</u>
Therapeutic Recreation Complex Phase II	\$3,000,000
Public Shooting Range	\$3,000,000
Boater Access Projects:	<u>\$52,000,000</u>
1. Bert Winters Park Boat Ramp & Marina Expansion	9,000,000
2. Burt Reynolds Park Improvements	9,000,000
3. Phil Foster Marina	14,000,000
4. Dubois Park Marina	2,000,000
5. Waterway Park	3,000,000
6. Municipal Marina/Boat Ramps	15,000,000
SPECIALIZED RECREATIONAL PROJECT TOTAL	\$58,000,000
<u>PROJECTS TO ADDRESS LOCAL LEVEL PARK NEEDS</u>	<u>10 YEAR TOTAL</u>
Neighborhood CCRT Park & Community Park	\$8,000,000
Recreation Assistance Program (Ad Valorem)	<u>\$14,000,000</u>
LOCAL LEVEL PARK PROJECT TOTAL	\$22,000,000

7F-1

Agenda Item #:
PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: July 11, 2006

Consent
 Ordinance

Regular
 Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: A) approve Termination Agreement for Interlocal Agreement and Lease Agreement (R2000-0560) with the City of Palm Beach Gardens (City) for the development and operation of the 82 acres of County-owned land known as Palm Beach Gardens District Park; and B) authorize staff to proceed with site plan approvals for a County developed and operated district park with active recreation facilities on the property.

Summary: On April 18, 2000, the City and County executed an Interlocal Agreement and Lease Agreement (R2000-0560) that required the County to acquire an 82 acre parcel and the City to design, construct and operate a district park within five (5) years of the County closing on the property. The County acquired the land in May 2000, and subsequently the City was unable to fulfill its obligation to fund development of the park within the required five (5) year period. Several meetings with City officials to try and extend and/or amend the agreement were unsuccessful. As a result, staff developed a termination agreement that was executed by the City on December 16, 2005, and now recommends Board approval. Staff also requests Board authorization to proceed with the site plan approval from the City of Palm Beach Gardens for a county developed and operated active district park to include at a minimum seven (7) lighted athletic fields. The cost to acquire site plan approval is estimated at approximately \$100,000 and would be requested in the 2006/07 budget. The development cost for this project is estimated at \$17,000,000 and is not included in our current Five Year Plan. The cost to operate and maintain this district park is projected at \$350,000 per year.
(District 1 (HF))

Background and Policy Issues: In 2000, the County acquired an 82 acre parcel in the City of Palm Beach Gardens for a future district park to be developed and operated by the City per Interlocal Agreement R2000-0560. The County acquired the land for district park purposes with \$3,129,003 from the County's \$25 Million Recreational and Cultural General Obligation Bond that was approved by voters countywide in March 1999. Under the terms of the Agreement, the City had until May 2005 to develop Phase 1 of the district park that included active recreational facilities to serve the needs of North County residents.

In 2003, a City General Obligation Bond referendum that included development funds for the park was defeated by Palm Beach Gardens residents, leaving the City unable to fulfill its obligations to develop a district park. An attempt by the City to use the property for only passive park purposes was

(continued on Page 3)

Attachments:

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	\$ 0	100,000	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	100,000	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____	No <input checked="" type="checkbox"/>			
Budget Account No.:	Fund _____	Depart _____	Unit _____		
	Object _____	Program _____			

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

Termination of this Agreement will not result in any immediate fiscal impact to Palm Beach County. This project is not in the current Five Year Plan and future development is estimated at \$17 million with an annual operating expense of \$350,000. The cost of site plan approval is estimated at \$100,000 and would be requested in the 2006/07 budget.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS:

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

Funding for the \$100,000 is in the proposed 2007 Zone 1 Impact Fees budget as "District Park G."

[Signature] 6/27/06
 mg
 6/22/06 CN/oa/20/06
 OFMB

[Signature] 6/29/06
 Contract Dev. and Control

B. Legal Sufficiency:

[Signature] 6/30/06
 Assistant County Attorney

6/28/06 This Termination Agreement complies with our review requirements.

C. Other Department Review:

Department Director

Background and Policy Issues: (continued from Page 1)

unacceptable to the County since it ignored the larger active recreational needs in the area for which the property was purchased. Subsequent correspondence and meetings between City and County officials failed to produce a mutually acceptable time extension or amendment to Agreement. Staff now agrees that it is in the best interest of City and County residents to terminate the Interlocal Agreement and Lease Agreement.

The 82 acre park property still represents the most centrally located and best available site to provide active recreational facilities needed to serve growth related needs in the North County area. Therefore, staff recommends the County proceed on its own with site plan approvals through the City of Palm Beach Gardens for a County developed and operated active district park. The projected cost for development of a district park is \$17 million with annual operating expenses estimated at \$350,000. This project is not currently in the Department's Five Year Capital Improvement Program, so development would not occur until some future date subject to the availability of funds.

Should the City fail to approve plans for the district park, then staff will return to the Board with recommendations for disposition of the property and use of the proceeds for other needed park projects in the North County area.

PARK FACT SHEET 2006

COUNTYWIDE PARK SUMMARY

Total County Population (Oct. 2006):	1,287,987
Total Number of Park Properties:	103
Number of parks open to public:	84 (70 County Operated, 14 Leased to Municipalities)
Total Acreage:	8,550 Acres
Developed Acres:	4,822 Acres (56% Developed)
Countywide Park LOS Standard	5.12 Total Acres of Regional District, & Beach per 1,000 Residents

REGIONAL PARK SUMMARY

The largest class park in Palm Beach County, it generally exceeds two hundred (200) acres in size and also provides access to a substantial natural or manmade resource base. Regional parks primarily provide passive recreational facilities and to a lesser degree active recreational facilities where no adverse impact on the resource base results. Recreational facilities in regional parks are primarily passive or resource based in character with picnicking, camping, hiking, fishing, and boating as the main activities. Special facilities such as museums, golf courses, or water skiing facilities may also be included, as well as some of those active facilities often found in district parks.

Size Range:	200+ Acres (typical: 800 acres)
Number of Properties*:	9 (6 open to public)
Total Acreage:	5,430 Acres
Developed Acres:	2,910 Acres (54% Developed)
Countywide Park LOS Standard	4.29 Total Acres per 1,000 Residents

DISTRICT PARK SUMMARY

Those Palm Beach County facilities generally greater than forty (40) acres in size and that primarily provide active recreational facilities and, to a lesser degree, some passive recreational facilities. Recreational facilities typically include groups of lighted fields or courts suitable for scheduled athletic league activities, exercise trails and support facilities such as restrooms and concessions with bicycle and automobile parking areas and pedestrian path systems to accommodate park users. Special facilities such as recreation centers, competition pools, golf courses, and boat ramps and docks may also be included.

Size Range:	40-200 Acres (typical: 75 acres)
Number of Properties*:	30 (21 open to public)
Total Acreage:	2,267 Acres
Developed Acres:	1,338 Acres (59% Developed)
Countywide Park LOS Standard	1.38 Total Acres per 1,000 Residents

BEACH PARK SUMMARY

Park facilities, generally 2 acres or more in size that front the Atlantic Ocean or its inlets and provide public beach access. Recreational facilities include those necessary to support beach access, swimming, surfing, fishing and snorkeling as well as play areas, picnic areas, and adequate parking areas to serve those utilizing the facility.

Size Range:	2-150 Acres (typical: 12 acres)
Number of Properties*:	20 (17 open to public)
Total Acreage:	476 Acres
Developed Acres:	289 Acres (61% Developed)
Countywide Park LOS Standard	0.35 Developed Acres per 1,000 Residents

Total Miles of Beach Frontage	45.00 Miles
County Owned:	3.55 Miles
Municipal Owned:	4.47 Miles
State Owned:	1.57 Miles
Total Government Owned	9.58 Miles

COMMUNITY PARK SUMMARY

Those Palm Beach County facilities generally more than five (5) but less than forty (40) acres in size that provide active and to a lesser degree passive recreational facilities to population areas within three (3) miles or less of the facility. Recreational facilities include play areas, small groups of lighted fields or courts suitable for programmed youth activities, community centers, and bicycle and automobile parking areas and pedestrian paths to serve the facility.

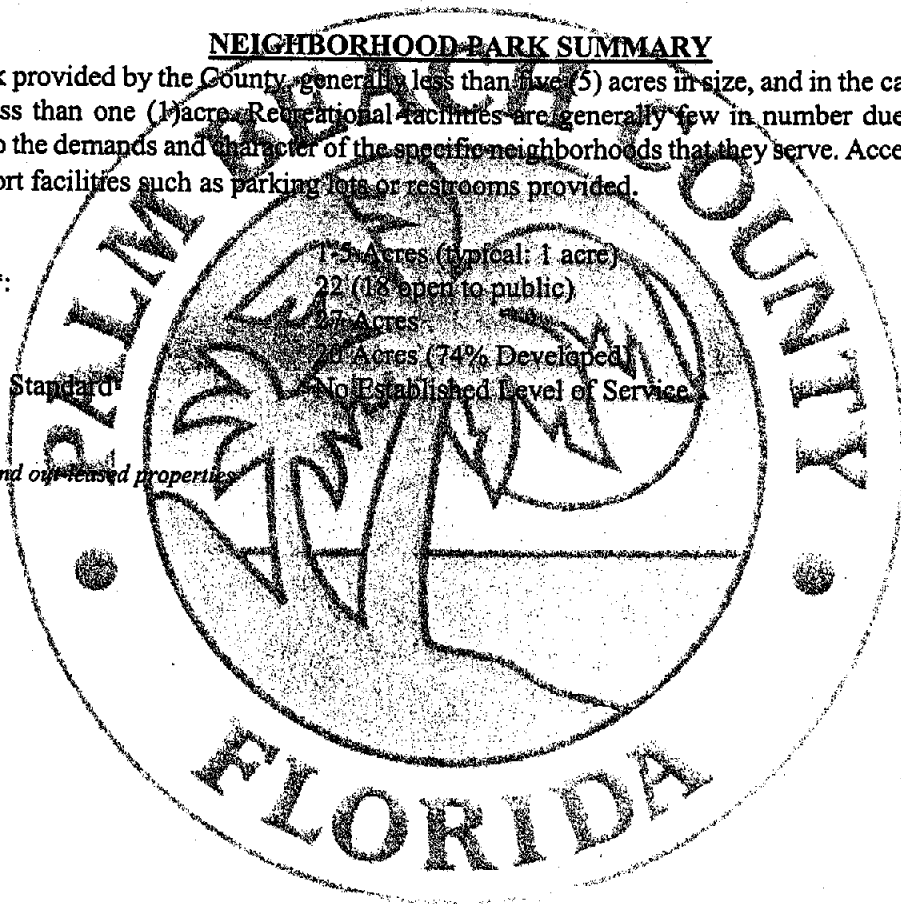
Size Range:	5-40 Acres (typical: 15 acres)
Number of Properties*:	22 (21 open to public)
Total Acreage:	350 Acres
Developed Acres:	252 Acres (72% Developed)
Countywide Park LOS Standard	No Established Level of Service

NEIGHBORHOOD PARK SUMMARY

The smallest class park provided by the County, generally less than five (5) acres in size, and in the case of County designated in-fill areas usually less than one (1) acre. Recreational facilities are generally few in number due to size constraints and developed according to the demands and character of the specific neighborhoods that they serve. Access is primarily pedestrian oriented with no support facilities such as parking lots or restrooms provided.

Size Range:	1-5 Acres (typical: 1 acre)
Number of Properties*:	22 (18 open to public)
Total Acreage:	27 Acres
Developed Acres:	20 Acres (74% Developed)
Countywide Park LOS Standard	No Established Level of Service

* Includes both in-leased and out-leased properties



**Palm Beach County
Parks and Recreation Department
In-lease & Out-lease Park Acres**

PARK CLASS AND NAME		IN-LEASE	OUT-LEASE
IN-LEASES			
Belle Glade Golf Course (Back Nine)	Palm Beach County	101.74	
Boynton Municipal Golf Course	Palm Beach County	130.00	
Freedom Park /Green Acres	Palm Beach County	51.90	
Palm Beach Gardens District Park / Palm Beach Gardens	Palm Beach County	81.70	
Patch Reef Park / Boca Raton	Palm Beach County	21.00	
Crossroads Depot/ South Bay	Palm Beach County	3.40	
OUT-LEASES			
Green Cay Wetlands	PBC Water Utilities Department		170.75
John Stretch Park	State of Florida		56.20
Loggers' Run Park	Logger's Run Homeowners Association		27.00
North County Aquatic Complex	Town Of Jupiter		4.15
Lantana Hills Golf Course	PBC Solid Waste Authority		276.00
Peanut Island Park	Port of Palm Beach & FIND		86.27
DISTRICT PARK SUB-TOTAL		409.74	620.37

REGIONAL PARKS		IN-LEASE	OUT-LEASE
OUT-LEASES			
Dyer Park	PBC Solid Waste Authority		560.38
Morikami Park	State of Florida		40.00
Palm Beach Downs	South Florida Water Management District		313.00
Riverbend/Reese Groves Property	South Florida Water Management District		400.00
REGIONAL PARK SUB-TOTALS		0.00	1313.38

BEACH PARKS		IN-LEASE	OUT-LEASE
IN-LEASES			
Anchor Park / Delray Beach	Palm Beach County	1.00	0.00
Atlantic Dunes Park / Delray Beach	Palm Beach County	2.70	0.00
Sandoway House / Delray Beach	Palm Beach County	0.36	0.00
South Beach Park / Boca Raton	Palm Beach County	6.00	0.00
OUT-LEASES			
Carlin Park	Town of Jupiter	0.00	1.00
Coral Cove Park	State of Florida	0.00	27.84
Jupiter Inlet	Jupiter Inlet District	0.00	3.43
Ocean Cay Park	State of Florida	0.00	13.44
BEACH PARK SUB-TOTAL		10.06	45.71

COMMUNITY PARKS		IN-LEASE	OUT-LEASE
IN-LEASES			
Acreage Community Park/Indian Trails Improvement Dist	Palm Beach County	54.15	0.00
Lake View Park / Delray Beach	Palm Beach County	2.63	0.00
Veterans Park / Royal Palm Beach	Palm Beach County	6.50	0.00
Miller Park / Delray Beach	Palm Beach County	9.69	0.00
COMMUNITY PARK SUB-TOTAL		72.97	0.00

TOTAL ACREAGE	492.77	1,979.46
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IN-LEASES - Property owned by P&RD and leased to others

OUT-LEASES - Property owned by others and leased to P&RD