

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: December 18, 2007 ☒ Consent ☐ Workshop ☐ Regular
 Department ☐ Workshop ☐ Public Hearing

Submitted For: FIRE RESCUE

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: a License Agreement with the Town of Jupiter relating to Fire-Rescue training and structure burn which was revised to extend the training period.

Summary: Pursuant to Countywide PPM CW-O-051, one (1) standard County agreement that has been executed by the County Administrator, or his designee (the Fire Rescue Administrator) is being submitted as a receive and file agenda item for the Clerk's Office to note and receive. This agreement provides for fire-rescue training exercises on a particular parcel of property for the period September 1, 2007 through and including November 10, 2007. On November 5, 2007, the agreement was revised to extend the training period through December 5, 2007.

Countywide (SB)

Background and Policy Issues:

On October 22, 2002, the Board adopted Resolution Number R2002-1936 authorizing the County Administrator, or his designee (the Fire Rescue Administrator) to execute standard license agreements with property owners relating to Fire-Rescue training. Countywide PPM CW-O-51 requires the initiating Department to submit the fully executed standard agreement as a Receive and File agenda item for the Clerk's Office to note and receive said item(s).

Attachments:

1. License Agreement, as revised, Relating to Fire-Rescue Training and Structure Burn with the Town of Jupiter

Recommended By: [Signature] 11-28-07
Deputy Chief Date

Approved By: Herman Duce 11-28-07
Fire-Rescue Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

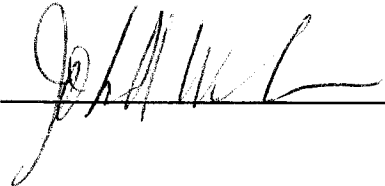
Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Dept _____ Unit _____ Object _____

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

There is no fiscal impact associated with the receipt and file of this agreement.

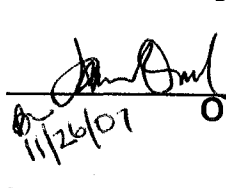
C. Departmental Fiscal Review:

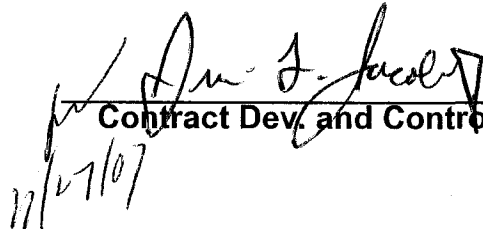
_____

III. REVIEW COMMENTS

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

The training provided at this facility is included in Fire Rescue's overall training budget.

 11/27/07
OFMB 11/26/07
11/16

 11/27/07
Contract Dev. and Control

B. Legal Sufficiency:

 12-4-07
Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

**LICENSE AGREEMENT BETWEEN THE TOWN OF JUPITER AND PALM BEACH
COUNTY
RELATING TO FIRE-RESCUE TRAINING AND STRUCTURE BURN**

This Agreement is made the 24 day of ~~SEPTEMBER~~ 2007, between the Town of Jupiter, a Florida municipal corporation, (hereinafter "Owner") and Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter the "County").

WHEREAS, the County desires to conduct fire-rescue training exercises on a particular parcel of property owned by Owner, including the burning of any structures thereon, and Owner desires that the County conduct fire-rescue training exercises on said property, including the burning of any structures thereon;

NOW THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth and the benefits hereby acknowledged as mutually accruing unto each party, the parties hereby agree as follows:

SECTION I: OWNER'S REPRESENTATIONS

Owner represents, certifies and warrants to the County that the following facts are true and will remain true from the time of execution of this Agreement through the end of the training period authorized under this Agreement:

Owner is the sole legal owner of the parcel of property described below, located in Palm Beach County, Florida, and any and all structures and improvements situated thereon. Said structures and improvements shall be referred to hereinafter singularly and collectively as the "Structure". Said parcel of property and the Structure shall be referred to hereinafter collectively as the "Property".

Parcel Identification Number or Legal Description of Property: 30-43-40-31-07-000-0020

Property Street Address: 18089 Ocean Blvd, Jupiter, FL

Type of Structure(s) and Visual Description: Two (2) Residential Structures

Owner is vested with fee simple title to the Property and has the authority to grant this consent and authorization to conduct fire-rescue training on the Property including the destruction of the Structure by burning. Title to the Property has been examined on Owner's behalf and there are no outstanding mortgages, liens or other encumbrances upon the Property. No other persons or entities have any interest in the Property. If the Property was acquired by Owner through eminent domain powers, then Owner represents that a valid order of taking was entered by a court of competent jurisdiction, that the period for rehearing or appeal of such order has expired, and that there is no motion, appeal, rehearing or other legal action pending regarding the order of taking or title to the Property.

All utility services have been disconnected, including but not limited to gas, electric, water, telephone and cable. Owner has notified the County in writing of any and all dangerous conditions or substances on or about the Property, including but not limited to any structural damage and the existence of asbestos, fuel or other potentially injurious or hazardous materials or substances. The Property,

including the Structure, is not insured for property damage.

SECTION II: CONSENT AND AUTHORIZATION

Owner hereby authorizes the County and its agents, employees, officers and invitees to enter upon and occupy the Property, and to conduct thereon fire-rescue training exercises, specifically including but not limited to the burning of the Structure, and any activities related or incidental to the fire-rescue training. Owner further authorizes the County to post "no trespassing" signs on the Property and to order any unauthorized persons to leave the Property. This consent and authorization shall be valid during the period of time from September 1, 2007 through and including November 10, 2007 (hereinafter referred to as the "authorized training period"). Owner further authorizes the County to inspect the Property, or to have it inspected, prior to and during the authorized training period.

Owner understands and acknowledges that it is anticipated that the Structure will be consumed in its entirety of all combustibles. Owner consents to and acknowledges the effects that said burn may have on the physical composition of the Property and the makeup of non-combustibles which are a part of, or located in, on, or in proximity to, the Structure. Owner also consents to and acknowledges that natural vegetation or growth in proximity to the Structure may be destroyed or damaged, either directly or indirectly, from the fire-rescue training exercises.

Owner understands and acknowledges that the County will expend resources in preparing for said fire-rescue training exercises and that the County, in reliance upon this Agreement, may decline to pursue other properties available for training. Owner understands and acknowledges that if it revokes its consent and authorization prior to the end of the authorized training period, then the County may pursue legal recourse to enforce this Agreement and collect damages incurred in its reliance hereon. Owner agrees to notify the County of any revocation in writing with at least five days prior notice.

SECTION III: RESPONSIBILITIES AND DUTIES

The nature, extent and timing of fire-rescue training activities to be performed on the Property by the County rests solely within the discretion of the County. The County may refuse to burn the Structure or conduct other training exercises on the Property, or may discontinue any such burn or training exercises, should the County determine that such activity cannot be conducted in a reasonably safe and appropriate manner or for any other reason. Any fire-rescue training exercises conducted by the County pursuant to this Agreement shall be conducted under appropriate supervision and in accordance with fire-rescue training industry safety standards to minimize the exposure to undue harm.

The cost of conducting the fire-rescue training exercises authorized hereunder shall be borne by the County, except that Owner shall be responsible for the cost of abating or removing any hazardous conditions and materials, including removal of asbestos, as deemed necessary or prudent pursuant to inspections performed on the Property. Owner shall be responsible for having said hazardous conditions and materials abated or removed by a qualified contractor and in accordance with any applicable laws, regulations and safety standards. Owner shall provide the County with documentation confirming the

abatement or removal of hazardous conditions and materials.

Prior to the commencement of the authorized training period, the County will provide Owner with a schedule indicating the type of training exercises to be performed and the anticipated dates for each training exercise. The County Fire-Rescue Department may alter this schedule with prior notice to Owner.

Owner shall be responsible for securing the Property, including the Structure, against entry from unauthorized persons before and during the authorized training period. Upon completion of the training activities, Owner will be fully responsible for the clean up and removal of any remaining portions of the Structure and any debris in accordance with any applicable laws and regulations and for securing and creating a safe site.

Owner acknowledges benefits received by it under this Agreement in the possible monetary savings in razing costs of the Structure and possible enhancement of fire-rescue services. The County acknowledges benefits received by it under this Agreement in the opportunity for live fire-rescue training and possible enhancement of fire-rescue services.

SECTION IV: INDEMNIFICATION

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, the County shall indemnify, defend and hold harmless the Owner against any actions, claims or damages arising out of the County's negligence in connection with this Agreement; and Owner shall indemnify, defend and hold harmless the County against any actions, claims, or damages arising out of Owner's negligence in connection with this Agreement, including but not limited to claims of mortgage and lien holders, claims relating to lack of clear title to the Property or lack of authority to authorize the burn of the Structure, claims relating to the existence of property damage insurance on the Property, and claims arising from harmful conditions on the Property. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

SECTION V: INSURANCE

The parties acknowledge that they are each insured or self-insured for their respective liabilities under this Agreement. Owner will not file any insurance claim relating to damage or destruction of the Property, including the Structure, arising out of or in any way related to the fire-rescue training exercises performed hereunder, including related inspections and structure burns.

SECTION VI: NOTICES

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by hand or by certified mail, return receipt requested, to the following:

Owner:

Town of Jupiter
210 Military Trail
Jupiter, FL 33458
Attn: Thomas J. Baird, Town Attorney

County:

Palm Beach County Fire-Rescue
50 South Military Trail, Suite 101
West Palm Beach, FL 33415
Attn: Fire-Rescue Administrator

SECTION VII: REMEDIES

This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. 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 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 VIII: SEVERABILITY

In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

SECTION IX: SURVIVABILITY

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, shall survive the execution and delivery of this Agreement and the consummation of the activities contemplated hereby.

SECTION X: ENTIRETY OF AGREEMENT

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.

SECTION XI: CONTEXT, PLURAL, GENDER:

Where the context of this document requires for clarity, the singular shall include the plural, the plural shall include the singular, and the gender shall be interchangeable.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first above written.

ATTEST:

By: Laura Chan
Signature
Laura Chan
Name

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

By: Herman Brice
Herman W. Brice, Fire-Rescue Administrator,
through Robert Weisman, County Administrator

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Sham Burrows
County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: [Signature]
Fire-Rescue

ATTEST:

By: Madeleine Favoia
Signature
Madeleine Favoia
Name and Title

TOWN OF JUPITER, FLORIDA
BY ITS TOWN COUNCIL

By: [Signature]
Karen J. Golonka, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
Town Attorney