

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: August 18, 2009       Consent       Regular  
    Public Hearing

Department:            Administration  
 Submitted By:        Administration

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve:

- A) a Joinder to a Sublease Agreement between the Florida Atlantic University Board of Trustees and Max Planck Florida Corporation contingent upon approval of the Joinder to Sublease Agreement by the State of Florida; and
- B) a Sublease Consent and Agreement between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, The Florida Atlantic University Board of Trustees, Max Planck Florida Corporation and Palm Beach County, contingent upon approval of the Consent and Agreement by the State of Florida.

**Summary:** This Sublease provides for the sublease of a portion of the FAU John D. MacArthur Campus to Max Planck for the construction of its permanent Florida facilities. The County is given limited rights to assume the sublease after Max Planck commences vertical construction of their permanent facilities in the event Max Planck is in material default of the Grant Agreement. The County's rights to assume the sublease end upon the earlier of July 21, 2023, which is the end of the term of the County's Grant Agreement with Max Planck, or the termination of the Grant Agreement due to a default by the County. The Sublease premises may only be used as a not-for-profit biomedical research institution and campus research, training and education, and certain related uses, in conjunction with the operation of a public university by FAU. The use restriction would continue to apply even if the sublease is assumed by the County, which will limit the ability of the County to further sublease or assign its interest in the Sublease. The FAU Board of Trustees approved the Sublease on July 22, 2008. Max Planck Institute approved the Sublease on July 20, 2009. The execution of the FAU Sublease is a condition to the disbursement of Grant Funds. The Sublease Consent and Agreement contains the State's consent to the Sublease and gives Max Planck and the County non-disturbance rights in the event of a default by FAU under the master lease between the State and FAU. Countywide/District 1 (JM & HF)

**Background and Policy Issues:** The County approved a Grant Agreement with Max Planck on July 22, 2008. The Grant Agreement requires Max Planck to enter in to a Sublease with FAU for the sublease of property on the FAU John D. MacArthur Campus for the construction of its permanent Florida facilities.

- Attachment:**
1. Joinder to Sublease Agreement
  2. Sublease Consent and Agreement

<b>Recommended By:</b> _____	_____
Department Director	Date
<b>Approved By:</b> <i>Sharon B. Boyer</i>	8-3-09
Assistant County Administrator	Date

**II. FISCAL IMPACT ANALYSIS**

A. Five Year Summary of Fiscal Impact:

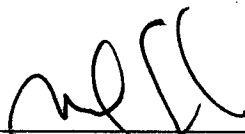
Fiscal Years	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included In Current Budget?	Yes _____	No _____			
Budget Account No.:	Fund _____	Department _____	Unit _____	Object _____	
Reporting Category:	_____				


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

C. Departmental Fiscal Review:

**III. REVIEW COMMENTS**

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

  
 OFMB 8/10/09  
(initials) 8/14/9

  
 Contract Dev. and Control  
 These documents comply with our review requirements. At the time of our review, the documents were not executed.

B. Legal Sufficiency:

  
 Assistant County Attorney 8/12/09

C. Other Department Review:

\_\_\_\_\_  
 Department Director

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