

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 17, 2009

☒ 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 approve: Use Agreement with South Florida Water Management District for temporary parking at Lake Lytal Park from November 17, 2009, through November 16, 2010.

Summary: This agreement will allow South Florida Water Management District (SFWMD) to temporarily utilize up to 75 parking spaces at Lake Lytal Park while construction of a new generator building is taking place at its nearby administrative headquarters complex. Use will be limited to employees and visitors for the parking of personal automobiles between the hours of 7:00 a.m. and 5:00 p.m. excluding weekends and County holidays. It is anticipated that the temporary parking will only be needed by SFWMD for six months or less, however, the Agreement is written for one year in case of construction delays. When construction of the generator building is complete, the Agreement allows for the termination of use. District 2 (AH)

Background and Justification: SFWMD's administrative headquarters is located adjacent to Lake Lytal Park. In the past, they have requested and been permitted to use parking spaces located in Lake Lytal Park as temporary parking for employees and visitors while other construction projects were occurring on their campus. This agreement formalizes procedures for requesting and allowing the use of Lake Lytal Park property for temporary parking during times and days when the parking spaces are not being used. The County will assume neither responsibility or liability for the SFWMD vehicles parked in Lake Lytal Park.

Attachment: Use Agreement

Recommended by: _____

Department Director

10/27/09
Date

Approved by: _____

Assistant County Administrator

11/9/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
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)	<u>0</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Is Item Included in Current Budget? Yes No
Budget Account No.: Fund Department Unit
Object Revenue Source Program

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

There is no fiscal impact associated with this item.

C. Departmental Fiscal Review: ckopelakis

III. REVIEW COMMENTS

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

 11/3/09
OFMB 10/29/09 CN 10/29/09
SP 11/1/09

 11/5/09
Contract Development and Control
E. Jones 11/5/09

B. Legal Sufficiency:

This Contract complies with our
contract review requirements.

Anne Helgert 11/6/09
Assistant County Attorney

C. Other Department Review:

Department Director

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

G:\jwildner\SFMD Parking Agreement

USE AGREEMENT BETWEEN PALM BEACH COUNTY AND THE SOUTH FLORIDA WATER
MANAGEMENT DISTRICT FOR TEMPORARY PARKING AT LAKE LYTAL PARK

THIS AGREEMENT, MADE THIS _____ day of _____, 2009, by and between SOUTH FLORIDA
WATER MANAGEMENT DISTRICT, hereafter referred to as "SFWMD" and Palm Beach County, a political
subdivision of the State of Florida, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the SFWMD is planning the construction of a new Generator Building Project on SFWMD
Headquarters property, legally described in Exhibit "A" that will cause the temporary displacement of
approximately 75 employee parking spaces, and

WHEREAS, the County is the owner of a parcel of land adjoining the SFWMD Headquarters known as
Lake Lytal Park, legally described in Exhibit "B" (hereinafter "Park"); and

WHEREAS, the SFWMD desires to use the Park Property for temporary employee parking as depicted
on the sketch attached as Exhibit "C" and made part hereof; and

WHEREAS, the COUNTY is supportive of the SFWMD request to utilize the Park for temporary parking
for 75 SFWMD employees during times of the day and week that do not conflict with the public's use of
the Park and its facilities.

NOW, THEREFORE, In consideration of the mutual covenants and conditions contained herein, and
other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the
parties hereby agree as follows:

1. The above recitals are true and correct and incorporated herein by reference.
2. COUNTY hereby grants SFWMD permission to reserve 75 parking spaces in the Park
between the hours of 7 a.m. and 5 p.m. except weekends and County holidays for 12
months from the date of execution of this Agreement for the exclusive use of parking for its
employees in the locations shown on Exhibit "C", including the right of entry, ingress and
egress to the Park during other hours of Park operation. Parking spaces will be on a first
come first served basis.
3. SFWMD's use of the Park as set forth in paragraph 2 above shall be subject to the following
terms and conditions:

- a. SFWMD shall notify the County Parks and Recreation Department, in writing, at least 72 hours prior to commencing use of the 75 reserved parking spaces.
 - b. Upon completion of the SFWMD Generator Building Project, the Parks and Recreation Department Director or his designee, at their discretion, may direct the SFWMD to leave the Park in its then current condition or restore it to its original condition.
 - c. SFWMD shall not use the Park in any manner which, in the opinion of County, may tend to interfere with County's use of the Park or may tend to cause a hazardous condition to exist. SFWMD shall not cause or permit any waste of the Park and shall keep the parking area depicted in Exhibit "C" clean and clear so as to prevent it from becoming unsightly and remove any and all litter on a daily basis. SFWMD shall not construct or erect any permanent or temporary building, structure, fixture, fence, shelter, attachment or other improvement upon the Park property.
4. SFWMD shall, at its sole cost and expense, comply with any and all ordinances, laws, statues and regulation promulgated by all county, municipal, state, federal or other applicable governmental authority, now in force, or by which may hereafter be in force, which pertain to any minor site improvements and operation of the temporary parking areas under the terms of this Agreement.
5. SFWMD or County may terminate this Agreement at any time upon thirty (30) days written notice to the other party. Notwithstanding anything contained herein, in the event that SFWMD violates any of the terms and conditions of this Agreement, the Exhibits and /or Attachments, County may, at its option, require SFWMD to cease use of the Park upon reasonable notice under the circumstances.
6. SFWMD shall, to the extent permitted by law, indemnify and hold harmless County from any and all claims for damages or injury, whether to persons or property, including but not limited to, causes of action, suites, litigation costs , attorney fees, property damage, hazardous waste, or contamination clean-up costs, and any and all expenses whatsoever, in connection with, arising out of, or in any manner attributable to , the use of the Park by SFWMD, and its agents, employees, contractors, licenses and invites. This indemnification provision shall survive the expiration or earlier termination of this Use Agreement.
7. Prior to execution of their Agreement by the County, SFWMD shall provide either a certificate evidencing insurance coverage's as required herein or a statement of self insurance for the SFWMD's Risk Manager. SFWMD shall, during the term of this Agreement

and any extension hereof, maintain in full force and effect, self insured or commercial general liability insurance, including contractual liability, in the amounts specified in Section 768.28, Florida Statutes, to specifically cover all exposures associated with the terms and conditions of this Agreement. All policies shall contain a clause providing the County with at least thirty (30) days prior notice in the event of cancelation, non-renewal, or material adverse change in coverage. Compliance with the foregoing requirements shall not relieve SFWMD of its liability and obligations under this Agreement.

8. SFWMD hereby acknowledges that County is the owner of fee simple title to the Park described herein and agrees never to claim any interest or estate of any kind by virtue of this Agreement. County reserves the right to enter the Park parking area at any time for any purpose.
9. SFWMD shall deliver the Park in as good a condition as existed prior to the date of commencement hereof upon expiration, revocation or termination of this Agreement. SFWMD shall remove all personal property placed by it on the Park and shall repair and restore and save County harmless from all damage caused by such removal. If such property is not so removed by SFWMD, then County shall have the right to take possession of and appropriate to itself, without any payment or offset hereof, any property of SFWMD. County shall have the right to make such removal at SFWMD's sole cost and expense, the amount of which, SFWMD agrees to pay to County upon written demand.
10. SFWMD expressly covenants and agrees that the Park shall not be subject to any encumbrances by any mortgage or lien, nor shall County be laible to satisfy any indebtedness that may result from SFWMD's operation incurred by SFWMD in any manner whatsoever.
11. SFWMD may not, without prior written consent of County, transfer, assign, sublet, enter into any agreement or mortgage or hypothecate this Agreement.
12. If SFWMD remains in possession of the Park, or any part thereof, after any termination of this Agreement, no tenancy or interest in the Park shall result there from, but such holding over shall be an unlawful detainer and all such parties shall be subject to immediate eviction and removal and shall upon written demand pay to County the cost of any such eviction and removal as may be incurred by County.

13. This Agreement constitutes the entire agreement between the parties relative to the parking hereby granted, and any agreement or representation which is not expressly set forth herein and covered hereby must be in writing and executed by SFWMD and County. Waiver by County of any breach of the same or any other term or provision hereof shall not be deemed a waiver of subsequent breach of the same or any other term or provision hereof.

14. This Agreement is governed and interpreted pursuant to the laws of the State of Florida. All legal matters arising out of, or in connection with this Agreement shall be subject to a court of competent jurisdiction within the State of Florida, in Palm Beach County. If any provision or part of this Agreement is unlawful, void or unenforceable, that part will be deemed severable and shall not impair or affect the validity and enforceability of any of the remaining provisions.

15. Any notice given pursuant to the terms of this Agreement shall be in writing and hand delivered or sent by U.S. mail. All notices shall be addressed to the following:

As to the County:
Director
Palm Beach County
Parks and Recreation Department
2700 Sixth Avenue South
Lake Worth, FL 33461

As to the SFWMD:

South Florida Water Management District
Procurement Department
3301 Gun Club Road
West Palm Beach, FL 33406

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

ATTEST:

COUNTY:

SHARON R. BOCK
CLERK AND COMPTOLLER

PALM BEACH COUNTY,
A political subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____
~~John F. Koons~~, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: Dennis Eshleman
Dennis Eshleman, Director
Parks & Recreation Dept.

Witnesses:

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT:

John F. Koons
Jan Glenn

By: Frank Hayden, Deputy Procurement Dir.
Frank Hayden, Procurement Director sm

SFWMD PROCUREMENT APPROVED

By: _____

Date: _____

SFWMD OFFICE OF COUNSEL APPROVED

By: _____

Date: _____

County Palm Beach

SFWMD 4600001909

Page 5 of 5

Exhibit "A"

SFWMD EOC – DATA MANAGEMENT CENTER IMPROVEMENTS, PALM BEACH COUNTY, FLORIDA

Project Description

The SFWMD Emergency Operations Center (EOC) is located on the east end of Building B-1 at the District HQ in West Palm Beach, FL. The project will require the construction of a new generator building, fuel tank area, underground duct-bank connection to the existing EOC Building, and interior modifications to the existing EOC building. Included in the work is the installation of District furnished 1000KW generators, 400KW UPS modules and 12K gallon fuel tanks.

Location

The District's West Palm Beach Headquarters is located at 3301 Gun Club Road, West Palm Beach, FL 33406. .

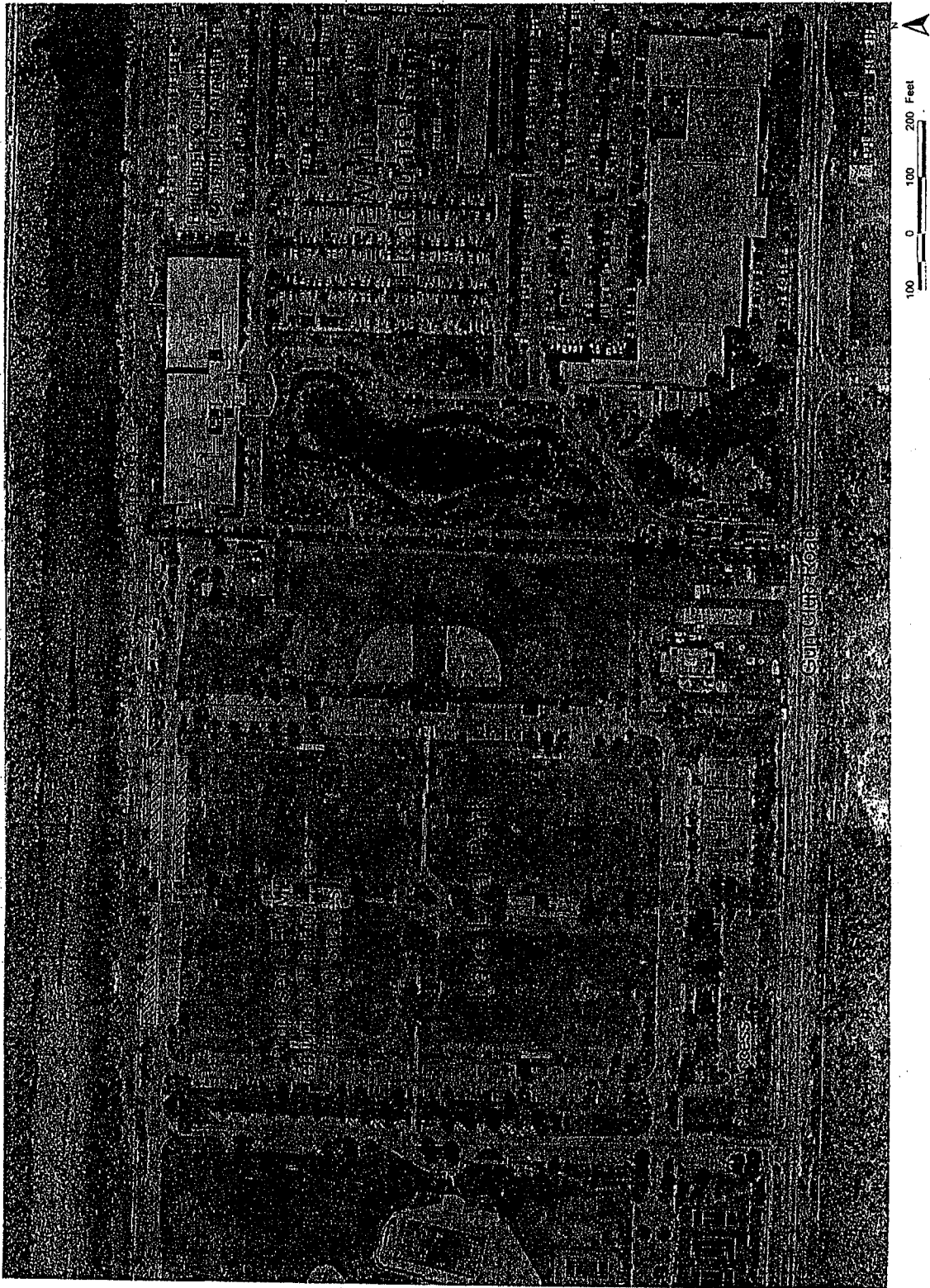
EXHIBIT 'B'

LAKE LY TAL PARK LEGAL DESCRIPTION


The West 315 feet of Tract 4, Block 1, and all of Tract 1, Block 2, PALM BEACH PLANTATIONS, Plat No. 1, according to Plat Book 10, Page 20, Public Records Of Palm Beach County, LESS the following parcel more particularly described as beginning at a point, which is the intersection of the East line of the West 315 feet of Tract 4, Block 1, with the North right of way line of Gun Club Road, thence West along said right of way line a distance of 275 feet, thence North at right angles to same; a distance of 260 feet, thence East at right angles to the preceding course, a distance of 275 feet, thence South along the East line of the West 315 feet of Tract 4, Block 1, to the Point of Beginning; containing 24.83 acres, more or less.

EXHIBIT 'C'

TEMPORARY EMPLOYEE PARKING AREA SKETCH



MEMORANDUM

TO: Jacki McGorty, District Clerk
FROM: Carol Ann Wehle, Executive Director 
DATE: July 24, 2006
SUBJECT: Designation of Authority – Procurement
CODE SECTION: Section 101-47, District Policy Code

In accordance with the following provision of District Policy and Procedure Code, the Executive Director may designate staff members with the authority to execute powers, duties or functions delegated to the Executive Director by the Governing Board:

101-21 General Delegation

The Governing Board ordains that, except as may be otherwise provided in this Code, any power, duty or function contained in the Code shall be implemented by the Executive Director. *The Executive Director, without being relieved of the responsibility, has the authority to execute the power, duty or function delegated in this Code and develop procedures and other methods to implement the policies contained in the Code through such employees or Departments as the Executive Director shall designate.* [emphasis supplied]

Pursuant to that authority, I hereby designate Sandra Close Turnquest, Deputy Executive Director, with the following authority delegated to me by the Governing Board in the District Policy Code section cited above:

- The authority to execute all procurement, revenue, zero-dollar transactions, and terminations except those items that specifically require Governing Board approval.
- The authority to execute all contracts and agreements authorized by the Governing Board.
- The authority to terminate, in writing, existing contracts with prior concurrence of the Office of Counsel.

The designee may, without being relieved of responsibility, further sub-designate the authority granted in this memorandum.

This memorandum supersedes and replaces any designation dated before the date of this memorandum.

c: Ken Ammon
George Horne
Chip Merriam
Tom Olliff
Sandra Close Turnquest
John Williams
Sheryl Wood

MEMORANDUM

TO: Carrie Hill, Assistant Deputy Executive Director, Corporate Resources

FROM: Sandra Close Turnquest, Deputy Executive Director, Corporate Resources

DATE: July 24, 2006

SUBJECT: Designation of Authority – Procurement
CODE SECTION: Section 101-47, District Policy Code

I, Sandra Close Turnquest, Deputy Executive Director of Corporate Resources at the South Florida Water Management District, in accordance with the authority granted to me by the Executive Director, designate to Carrie Hill, Assistant Deputy Executive Director of Corporate Resources, the following: 1) the authority to execute all procurement, revenue, and zero-dollar transactions, terminations, and other authority, except those items that specifically require Governing Board approval, 2) after Governing Board approval, the authority to execute all contracts and agreements authorized by the Governing Board, and 3) the authority to terminate, in writing, existing contracts with prior concurrence of the Office of Counsel.

You are authorized, without being relieved of responsibility, to further sub-designate the authority granted in this memorandum.

c: Jacqueline McGorty, District Clerk

MEMORANDUM

TO: Frank Hayden, Director of Procurement

FROM: Carrie Hill, Assistant Deputy Executive Director, Corporate Resources

DATE: July 20, 2006 *Carrie Hill*

SUBJECT: Designation of Authority – Procurement
CODE SECTION: Section 101-47, District Policy Code

I, Carrie Hill, Assistant Deputy Executive Director of Corporate Resources at the South Florida Water Management District, in accordance with the authority granted to me by the Deputy Executive Director, designate to Frank Hayden, Director of Procurement, the following: 1) the authority to execute all procurement, revenue, and zero-dollar transactions, terminations, and other authority, except those items that specifically require Governing Board approval, 2) after Governing Board approval, the authority to execute all contracts and agreements authorized by the Governing Board, and 3) the authority to terminate, in writing, existing contracts with prior concurrence of the Office of Counsel.

You are authorized, without being relieved of responsibility, to further sub-designate the authority granted in this memorandum.

c: Jacqueline McGorty, District Clerk