

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: November 16, 2010 [X] Consent [] Regular
[] Workshop [] Public Hearing
Department:
Submitted By: Department of Airports
Submitted For:
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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Internal Memorandum of Understanding for the Purchase and Sale of Wetland Mitigation Credits between the Parks and Recreation Department (Parks) and Department of Airports (DOA), providing for the sale of a minimum of 16 wetland mitigation credits from Parks to DOA for \$60,000 per credit.

Summary: Parks has initiated a project within Okeeheele Park South for the creation and enhancement of approximately 50 acres of wetlands. The Park's project is anticipated to result in the creation of approximately 21 wetland mitigation credits. DOA has also initiated a project at the North County General Aviation Airport to fill in certain designated wetlands for the purpose of addressing wildlife hazards that have the potential of impacting aircraft operations. Parks has agreed to sell DOA 16 mitigation credits at \$60,000 per credit for the DOA project. The MOU also provides DOA with the option to purchase additional credits as they become available at a negotiated rate. Countywide (AH)

Background and Justification: The Federal Aviation Administration recommends public use airports address wildlife hazards arising from existing wetlands, which have the potential of impacting aircraft operations, in FAA Advisory Circular 150/5200-33B, "Hazardous Wildlife Attractants near Airports. The DOA project will be funded by a combination of grant funding and passenger facility charges.

Attachments:

- 1. Memorandum of Understanding (3)

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Recommended By: [Signature] 10/15/10
Department Director Date

Approved By: [Signature] 11/1/10
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Capital Expenditures	<u>\$960,000</u>	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
External Revenues (Grants)	<u>(\$480,000)</u>	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$480,000</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____
 Budget Account No: Fund 4111 Department 121 Unit A295 Object 6505
 Reporting Category _____

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

The MOU requires DOA to pay Parks for a total of 16 mitigation credits for \$60,000 per credit. It is anticipated that DOA will purchase all 16 credits in fiscal year 2011. The purchase of additional credits will be subject to negotiation between the Departments. State grant funding, at a 50% participation level, is programmed for wetland mitigation credits; Passenger Facility Charge revenues will be used for the remaining 50% funding.

C. Departmental Fiscal Review: CM Sumner

III. REVIEW COMMENTS

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

[Signature]
 OFMB VA
 10/26/10

[Signature] 10/28/10
 Contract Dev. and Control

B. Legal Sufficiency:

Anne Delaney 10/29/10
 Assistant County Attorney

C. Other Department Review:

[Signature]
 Department Director

**MEMORANDUM OF UNDERSTANDING
FOR PURCHASE AND SALE OF WETLAND MITIGATION CREDITS**

THIS MEMORANDUM OF UNDERSTANDING FOR PURCHASE AND SALE OF WETLAND MITIGATION CREDITS (this "MOU") is made and entered into by and between the Palm Beach County Parks and Recreation Department, an administrative department of Palm Beach County ("PRD"), and the Palm Beach County Department of Airports, an administrative department of Palm Beach County ("DOA"), and approved by the Palm Beach County Board of County Commissioners (the "Board") on _____.

WITNESSETH:

WHEREAS, PRD has initiated a project within Okeehetee Park South for the creation and enhancement of approximately fifty (50) acres of wetlands, which will be utilized as a Permittee-Responsible Offsite Mitigation Area (PROMA) for future unavoidable permitted wetland impacts proposed by Palm Beach County ("Parks Project"); and

WHEREAS, PRD was issued a South Florida Water Management District Permit No.: 50-03738-P on May 27, 2010, and has applied for an United States Army Corps of Engineers Permit for the Parks Project; and

WHEREAS, the Parks Project is anticipated to result in the creation of approximately twenty one (21) wetland mitigation credits ("Mitigation Credits"), with sixteen (16) mitigation credits estimated to be released on or before December 31, 2012; and

WHEREAS, Palm Beach County (the "County"), by and through DOA owns and operates the North County General Aviation Airport (the "Airport"), located in Palm Beach County, Florida; and

WHEREAS, the Federal Aviation Administration ("FAA") recommends public-use airports address wildlife hazards arising from existing wetlands in FAA Advisory Circular 150/5200-33B, "Hazardous Wildlife Attractants on or Near Airports"; and

WHEREAS, in an attempt to address concerns over wildlife attractants/hazards that have the potential of impacting aircraft operations at the Airport, DOA has implemented a project to fill in certain designated wetland areas at the Airport ("Airport Project"); and

WHEREAS, Phase 1 of the Airport Project includes filling of several connected wetlands within the approach path to Runway 13 at the Airport; and

WHEREAS, DOA desires to mitigate unavoidable wetland impacts resulting from the Airport Project at an offsite location that will not create a threat or hazard to Airport users; and

WHEREAS, DOA desires to purchase Mitigation Credits from PRD, including Mitigation Credits resulting from the Parks Project, for use in connection with the Airport Project and any project located on property managed by DOA requiring wetland mitigation; and

WHEREAS, PRD intends to utilize any funds received from DOA for purpose of satisfying the on-going permit requirements applicable to the Parks Project, including on-going management and maintenance activities; and

WHEREAS, this MOU is an inter-departmental agreement and is intended to formalize the understanding between PRD and DOA regarding the purchase and sale of Mitigation Credits.

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

1. Purchase Price. Subject to the terms and conditions of this MOU, PRD agrees to sell to DOA and DOA agrees to purchase from PRD sixteen (16) Mitigation Credits resulting from the Parks Project. The purchase price shall be Sixty Thousand Dollars (\$60,000) per Mitigation Credit or a total amount of Nine Hundred Sixty Thousand Dollars and 00/100 (\$960,000). Subject to the provisions of paragraph 4 below, DOA shall transfer the purchase price to PRD within ninety (90) days of receipt of a written invoice from PRD to DOA. PRD may invoice DOA on a lump sum or per credit basis as Mitigation Credits become available for use by DOA in connection with the Airport Project.

2. Right of First Offer to Purchase Additional Mitigation Credits. In the event additional Mitigation Credits are available as a result of the Parks Project or any other similar project initiated by PRD, DOA shall have the right of first offer to purchase additional Mitigation Credits from PRD. The purchase price and timing of payment for any additional Mitigation Credits shall be subject to mutual agreement of the parties.

3. Evidence of Transfer. PRD shall provide DOA with evidence that the Mitigation Credits have been transferred to DOA and available for use by DOA in accordance with applicable laws and/or permit requirements.

4. Funding. Notwithstanding any provision of this MOU to the contrary, PRD acknowledges and agrees that DOA's obligations under this MOU shall be subject to and contingent upon approval of use of passenger facility charges as matching funds for Florida Joint Participation Grant, No. 427133-1-94-01, for wetland wildlife hazard mitigation.

5. Entire Understanding. This MOU represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, whether written or oral, relating to this MOU.

6. Amendment. This MOU may be modified and amended only by written instrument executed by the parties hereto.

7. Effective Date. This MOU shall become effective on the date approved by the Board.

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

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

**PALM BEACH COUNTY, A POLITICAL
SUBDIVISION OF THE STATE OF FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS**

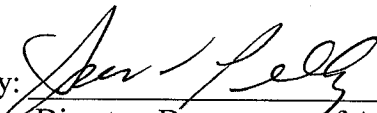
By: _____
Deputy Clerk


By: _____
Chair

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND
CONDITIONS**

By: _____
County Attorney

By:  _____
Director, Department of Airports

By:  _____
Director, Parks and Recreation Department