

PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:

November 16, 2010

[X] Consent

[] Regular

[] Ordinance

☐ Public Hearing

Department:

Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) adopt a Resolution authorizing the use of certain real property by U.S. Geological Survey, an agency of the United States Department of the Interior, (USGS); and

B) approve a Use Agreement with USGS allowing USGS to construct and monitor shallow wells on County property.

Summary: USGS has requested permission from the County to construct shallow wells on several properties owned by the County. USGS will then conduct long-term monitoring of those wells to obtain water quality information. Each well will be 2 inches in diameter, about 20 feet deep, covered with a 4 inch bolted down manhole cover, and surrounded by an 18 inch (approximately) concrete well pad. The Use Agreement has a term of 20 years. USGS has initially identified seven locations in County parks for the placement of shallow wells. The locations selected for the wells will not adversely impact park operations. The Use Agreement allows USGS to add well locations according to location and approval procedures set forth in the Agreement. Pursuant to the terms of the Agreement, the Director of Property & Real Estate Management shall have the authority to approve additional well locations. The County has the right to require the relocation of the wells, at USGS's sole expense, should the County wish to redevelop any of the properties. USGS shall be entitled to use the well sites without charge. **(PREM) Countywide (HJF)**

Background and Justification: The USGS wishes to obtain information on shallow water quality within Palm Beach County as part of the National Water Quality Assessment Program that has been established to determine the water quality conditions for the nation. One of the components of the program is assessment of the occurrence of nutrients, pesticides, volatile organic compounds (VOCs), trace elements, and radionuclides in groundwater in selected areas of the United States. A representative from USGS met with personnel from the Parks Department to select well sites that would be suitable to both parties. Drilling is expected to be completed before the end of the year. In addition to periodically visiting the well sites to collect water samples or check water levels, USGS shall inspect the well sites and perform any necessary maintenance or repair.

Attachments:

1. Location Map
2. Resolution
3. Use Agreement

Recommended By:

Department Director

Date _____

Approved By:

County Administrator

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0</u> ^{and see below}	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

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

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

☒ No fiscal impact.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

No Fiscal impact for construction of wells on county property

[Signature]
OFMB

del 10/27/10
2/1/11

[Signature] 10/29/10
Contract Development and Control

The Use Agreement complies with our review requirements.

B. Legal Sufficiency:

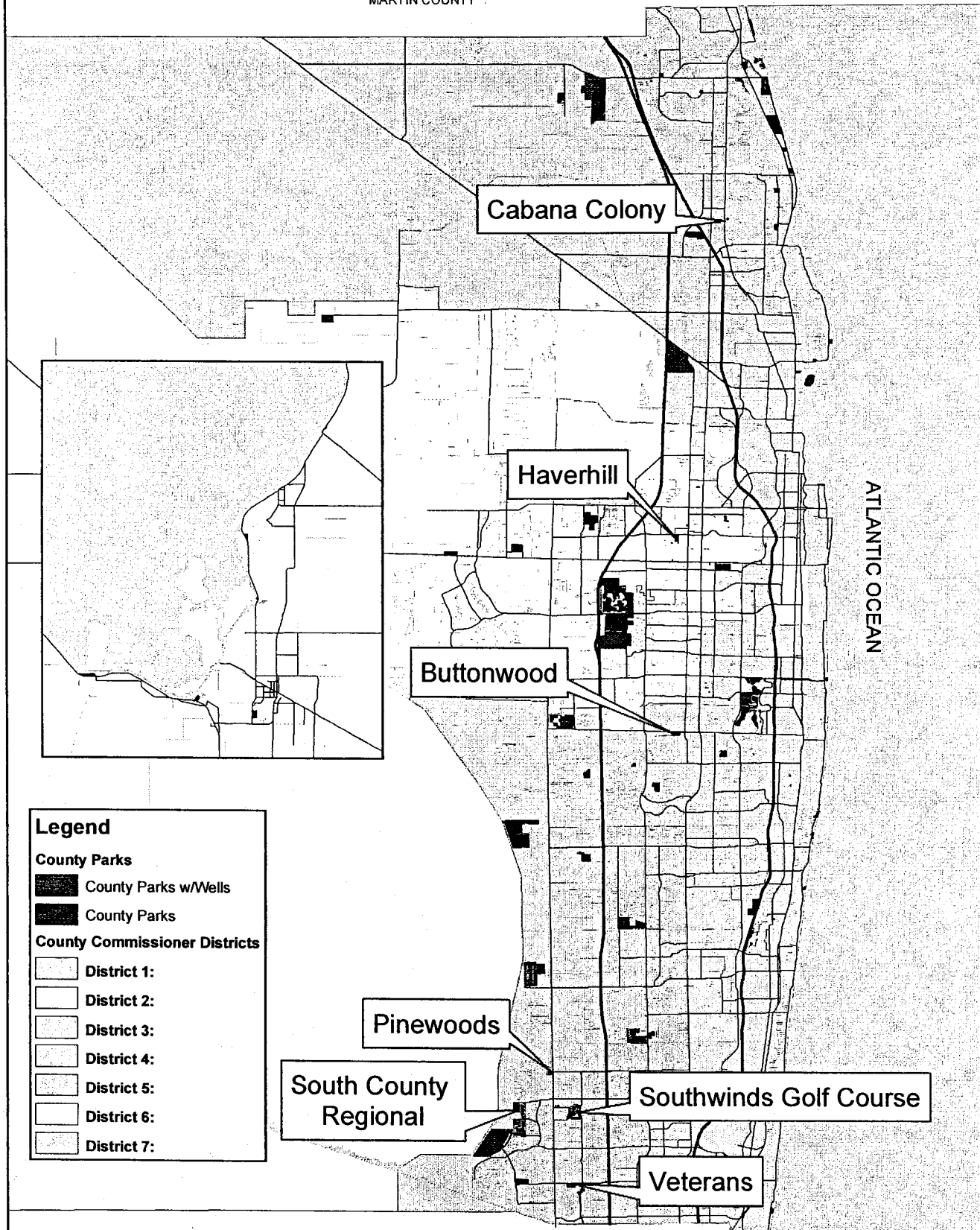
[Signature] 11/1/10
Assistant County Attorney

C. Other Department Review:

Department Director

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

MARTIN COUNTY



ATLANTIC OCEAN

BROWARD COUNTY

Legend

County Parks

County Parks w/Wells

County Parks

County Commissioner Districts

District 1:

District 2:

District 3:

District 4:

District 5:

District 6:

District 7:



PALM BEACH COUNTY
PARKS AND RECREATION DEPARTMENT
PLANNING AND DESIGN DIVISION

PALM BEACH COUNTY PARKS
USGS Monitor Well Locations
2010

This map is provided "as is" without warranty or any representation of accuracy, completeness or timeliness. The County makes no warranties, expressed or implied, as to the use of this map. There are no implied warranties of merchantability or fitness for a particular purpose. The owner of this map acknowledges and accepts the limitations of this map, including the fact that the data coverage is dynamic and in a constant state of maintenance, correction and update.

Source:
Palm Beach County GIS Coordination
Palm Beach County Parks and Recreation

Map Date: October 16, 2010
Created By: M. Moore
File Name: 10102010.pdf



Scale
0 0.5 1 2
Miles

LOCATION MAP

ATTACHMENT # 1

RESOLUTION NO. 20__

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE USE OF CERTAIN REAL PROPERTY BY THE U.S. GEOLOGICAL SURVEY, PURSUANT TO FLORIDA STATUTE SECTION 125.38; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the U.S. Geological Survey, an agency of the United States Department of the Interior ("USGS"), has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County allow the use of certain real property owned by Palm Beach County by USGS for construction and monitoring of shallow wells as part of the National Water-Quality Assessment Program; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that the aforementioned use constitutes a use for the community interest and welfare, such real property is required for such use and such real property is not needed for County purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Authorization to Lease Real Property

The Board of County Commissioners of Palm Beach County shall allow USGS to use, pursuant to the Use Agreement attached hereto and incorporated herein by reference, for a term of twenty (20) years at no charge, the real property identified in such Use Agreement for the use identified above.

Section 3. Conflict with Federal or State Law or County Charter

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

Section 4. Effective Date

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing resolution was offered by Commissioner _____ who moved its adoption. The Motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

COMMISSIONER KAREN T. MARCUS
COMMISSIONER
COMMISSIONER SHELLEY VANA
COMMISSIONER STEVEN L. ABRAMS
COMMISSIONER BURT AARONSON
COMMISSIONER
COMMISSIONER

The Chair thereupon declared the resolution duly passed and adopted this ____ day of _____, 20__.

PALM BEACH COUNTY, a political
subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: Ray Anthony Wolf
Department Director

USE AGREEMENT

THIS USE AGREEMENT, made and entered into this _____ day of _____ 20____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "County" and the **U.S. GEOLOGICAL SURVEY**, an agency of the United States Department of the Interior, hereinafter referred to as "USGS".

WITNESSETH:

WHEREAS, USGS wishes to obtain information on shallow water quality within Palm Beach County as part of the National Water-Quality Assessment Program (NAWQA) that has been established to determine the water-quality conditions for the nation; and

WHEREAS, in order to obtain the water quality information, USGS needs to construct and monitor shallow wells at different locations throughout the County; and

WHEREAS, USGS has requested permission from County to construct shallow wells on several properties owned by County and conduct long-term monitoring of said wells; and

WHEREAS, County is supportive of USGS's desire to obtain information on the quality of shallow water in Palm Beach County.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County hereby grants USGS the right to use the Premises as hereinafter defined upon the following terms and conditions:

ARTICLE I BASIC PROVISIONS

Section 1.01 Premises.

(a) The Premises that are the subject of this Agreement consist of the well sites located on the real property owned by County as identified in Exhibit "A" attached hereto and by reference made a part hereof, together with those well sites that are identified according to the procedure set forth in Section 1.01(b) below (collectively, the "Premises"). The use of the word "Premises" shall be deemed to mean the well sites individually as well as collectively.

(b) USGS may identify additional locations for well sites according to the location procedures set forth herein and in Exhibit "B" attached hereto and made a part hereof. The

Director of the County's Property & Real Estate Management Division (the "PREM Director") shall be the County's representative for all matters related to this Agreement. USGS shall contact the PREM Director to arrange for inspection of possible well site locations on County property at least 48 hours in advance of such inspections. USGS shall submit a written list of the selected sites to the PREM Director for approval of the locations, which approval shall be granted in the PREM Director's sole discretion. Upon approval of the locations by the PREM Director, as evidenced by written notice to USGS, the approved well sites shall become part of the Premises and shall be subject to all of the terms and conditions of this Agreement as if they had been included originally in Exhibit "A". Although not required, this Agreement may be amended at County's request to update the list of well sites, and USGS agrees to cooperate with the processing and approval of such amendment.

Section 1.02 Length of Term and Commencement Date.

USGS shall have the right to use and access the Premises for a period of twenty (20) years from the Effective Date as defined herein (the "Term"), unless sooner terminated pursuant to the provisions of this Agreement.

ARTICLE II USE FEE

USGS shall be entitled to use the Premises without charge.

ARTICLE III USE OF PREMISES BY USGS

Section 3.01 Use of Premises.

County hereby grants USGS the right to construct, monitor, and maintain/repair a shallow well on each of the well sites included in the Premises according to the terms and conditions set forth herein and in Exhibit "B". USGS shall use the Premises solely and exclusively for construction, monitoring, and maintenance/repair of shallow wells. USGS shall not use, permit or suffer the use of the Premises for any other business or purpose whatsoever. In the event a well site needs to be relocated due to obstructions at the original well site, USGS shall notify the PREM Director and obtain his approval of the new site according to the procedure set forth in Section 1.01(b) above. Upon approval of the new location by the PREM Director, as evidenced by written notice to USGS, the approved well site shall become part of the Premises and shall be subject to all of the terms and conditions of this Agreement as if it had been included originally in Exhibit "A". Approval of the well site location may be granted in County's sole and absolute discretion. USGS shall notify the PREM Director, in writing, at least 72 hours prior to commencing the construction of each well included in the Premises. Such notice shall include a specific list of companies, personnel, and equipment that will be located at each well site. The use of the Premises by USGS shall not interfere with County's use of, access to and parking on

the County's contiguous property, except as may temporarily occur during the drilling procedure, collection of water samples, and maintenance/repair of the wells as described in Exhibit "B". Upon completion of construction, each well site and the contiguous County property shall be left in or restored to the same condition as it was when USGS first entered upon the land to begin its work, except for the addition of the concrete pad and manhole cover.

Section 3.02 USGS's Work.

USGS shall make no further improvements, alterations or additions to the Premises without the prior written consent of County. USGS agrees and acknowledges that any such work performed by USGS whether pursuant to this Section or otherwise, is performed and accomplished solely for the benefit and convenience of USGS, and not for the benefit of County, such work being nevertheless subject to each and every provision of this Agreement. USGS and its agents shall be responsible for repairing, at USGS's sole cost and expense, any damage caused to Premises and/or County's contiguous property, by the installation of the wells.

Section 3.03 Waste or Nuisance.

USGS shall not commit or suffer to be committed any waste upon the Premises or 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. USGS shall not store or dispose any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents, including any petroleum products, used or produced in USGS's operations, on the Premises or in any manner not permitted by law. All refuse generated by USGS is to be removed promptly from the Premises at USGS's sole cost and expense. For the purpose of this Section, "Premises" shall be deemed to include County's contiguous property.

Section 3.04 Governmental Regulations.

USGS shall, at USGS's sole cost and expense, secure any required permits and comply with all regulations of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to USGS or its use of the Premises, and shall faithfully observe in the use of the Premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force. USGS shall comply with all ecological requirements to operate its business on the Premises.

Section 3.05 Relocation.

In the event County redevelops all or a portion of any of its property adjacent to a well site and such redevelopment requires, in County's sole determination, the relocation of the well, USGS shall relocate its well at USGS's sole cost and expense. County shall provide USGS with one (1) year's notice if a well must be relocated. County will work with USGS to find a suitable

location for a replacement well on County property. In the event a well site needs to be relocated due to County's redevelopment plans, USGS shall obtain approval of the new site from the PREM Director according to the procedure set forth in Section 1.01(b) above. Upon approval of the new location by the PREM Director, as evidenced by written notice to USGS, the approved well site shall become part of the Premises and shall be subject to all of the terms and conditions of this Agreement as if it had been included originally in Exhibit "A". Approval of the well site location may be granted in County's sole and absolute discretion. The replaced well shall be properly abandoned by USGS according to the procedures set forth in Section 3.07. Although not required, this Agreement may be amended to delete any replaced well and include its replacement well within the Premises.

Section 3.06 Non-Discrimination.

USGS shall assure and certify that it will comply with the Title VII 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, gender identity or expression, or disability with respect to any activity occurring on the Premises.

Section 3.07 Surrender of Premises.

Upon expiration or earlier termination of this Agreement, USGS, at its sole cost and expense, shall close and cap all wells, remove any improvements above the ground surface, and restore the Premises to the same condition it was in when USGS entered upon the land prior to commencement of construction. USGS shall utilize the same procedures when abandoning any individual wells for any reason.

ARTICLE IV REPAIRS AND MAINTENANCE OF PREMISES

County shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Premises. All portions of the Premises and all improvements erected on and in the Premises shall be kept in good repair and condition by USGS. Upon expiration or earlier termination of this Agreement, USGS shall deliver the Premises to County in good repair and condition as specified herein. In the event of any damage to the Premises, County may complete the necessary repairs and USGS shall reimburse County for all expenses incurred by County in doing so.

ARTICLE V INSURANCE

USGS is self-insured and shall have full control of and sole responsibility for its activities, equipment, and personnel while at the Premises. Further, USGS agrees to promptly

consider and adjudicate any and all claims which may arise from its operations at the Premises, and to pay for any damage done to the Premises or other County property. Such adjudication may be made under the Federal Tort Claims Act, 28 USC 2671, et. seq.; or under such other authority as may be available to USGS. USGS shall give such consideration to all claims, demands, or suits arising directly or indirectly from USGS's use of the Premises.

ARTICLE VI INDEMNITY

USGS shall be liable for its own actions and negligence, and, to the extent permitted by law, USGS shall indemnify, defend and hold harmless County against any actions, claims or damages arising out of its negligence in connection with this Agreement. Notwithstanding the foregoing, nothing in this Section shall be construed as a waiver of the County's or USGS's present statutory sovereign immunity.

ARTICLE VII MISCELLANEOUS

Section 7.01 Entire Agreement.

This Agreement and any Exhibits attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between County and USGS concerning the Premises. All representations, either oral or written, shall be deemed to be merged into this Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Agreement shall be binding upon County or USGS unless reduced to writing and signed by them.

Section 7.02 Notices.

All notices, consents, approvals, 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 national overnight delivery service (provided in each case a receipt is obtained), telecopied or faxed, 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 national overnight delivery service, or on the date of transmission with confirmed answer back if telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, 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 designate 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:

- (a) If to the County at:
Property and Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, Florida 33411-5605
Telephone: 561-233-0217
Fax: 561-233-0210

With a copy to:
Palm Beach County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
Telephone: 561-355-2225
Fax: 561-355-4398

- (b) If to the USGS at:
United States Department of the Interior_
U.S. Geological Survey
Attn: Marian Berndt, Project Manager
Florida Water Science Center - Tallahassee
2639 North Monroe Street, Suite A-200
Tallahassee, Florida 32303
Telephone: 850-553-3670
Fax: 850-553-3641

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

Section 7.03 Recording.

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

Section 7.04 Waiver of Jury Trial.

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

Section 7.05 Governing Law and Venue.

This Agreement shall be governed by and interpreted according to the laws of the State of Florida and venue shall be in Palm Beach County.

Section 7.06 Inspector General.

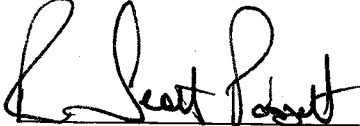
Palm Beach County has established the Office of the Inspector General, Ordinance R2009-049, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the parties or entities with which the County enters into agreements, their officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All parties or entities doing business with the County or receiving County funds shall fully cooperate with the Inspector General including granting the Inspector General access to records relating to the agreement and transaction.

Section 7.07 Effective Date.

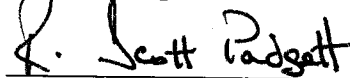
This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

IN WITNESS WHEREOF, County and USGS have executed this Agreement, or have caused the same to be executed as of the day and year first above written.

WITNESS:



Witness Signature



Print Witness Name

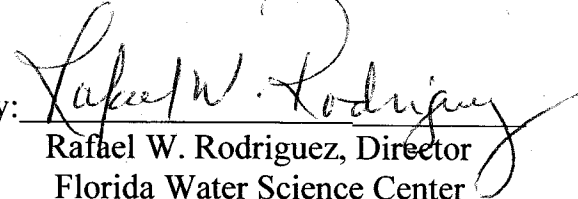


Witness Signature



Print Witness Name

U.S. GEOLOGICAL SURVEY, an
agency of the United States Department of
the Interior

By: 
Rafael W. Rodriguez, Director
Florida Water Science Center

The authority for the USGS to enter into this agreement is 43 U.S.C. 36c. The USGS has delegated the authority to sign this agreement to the Center Director, as documented in the USGS Survey Manual Chapter 205-13, Appendix A, Paragraph G-1(a), for acceptance of contributions authorized by 43 U.S.C. 36c.

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

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

By: Deputy Clerk

By: _____, Chair

WITNESS:

Witness Signature

Print Witness Name

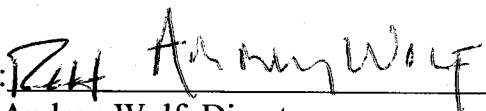
Witness Signature

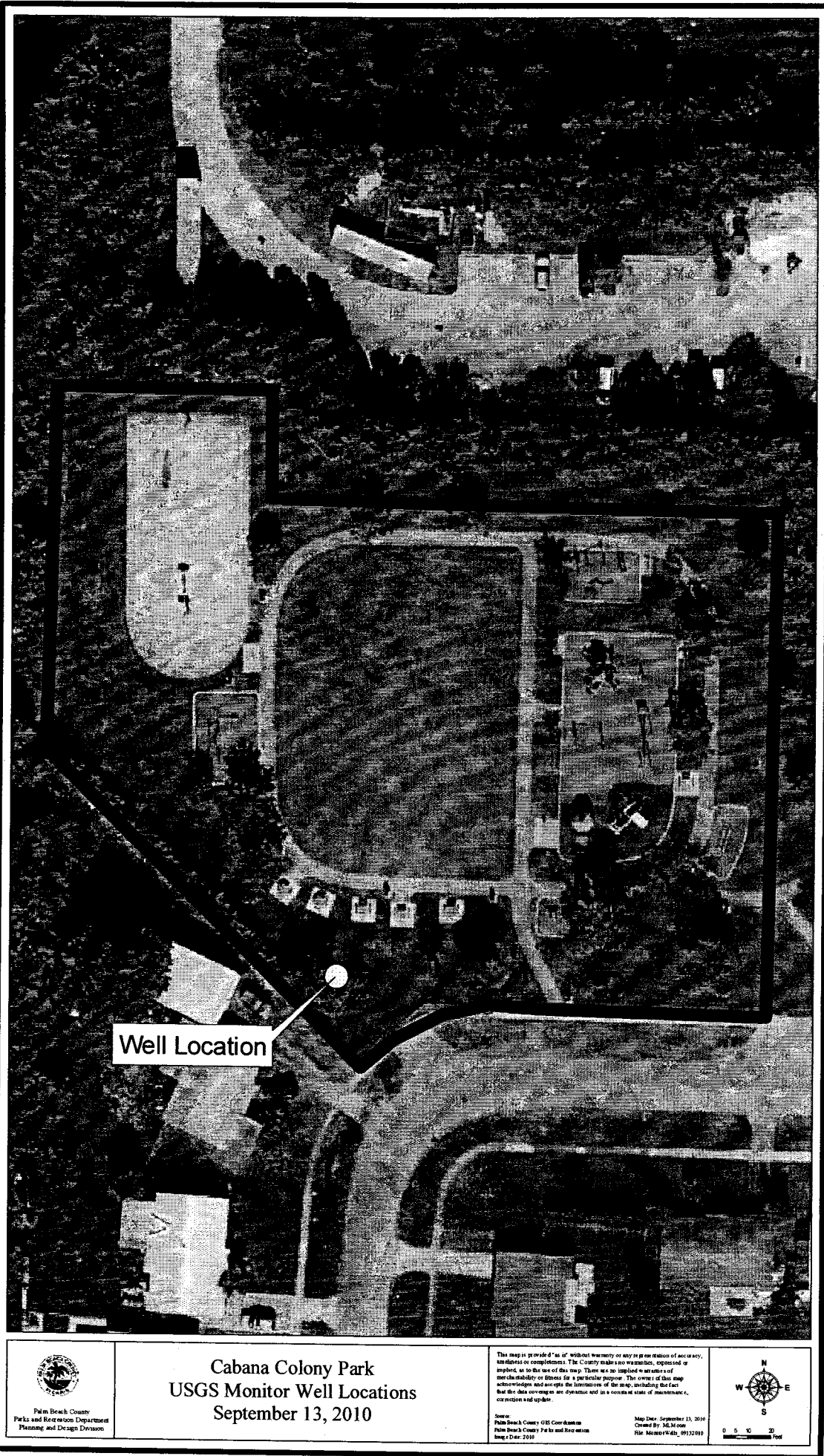
Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: 
Audrey Wolf, Director
Facilities Development & Operations



Well Location



Cabana Colony Park
USGS Monitor Well Locations
September 13, 2010

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Source:
Palm Beach County GIS Coordinator
Palm Beach County Parks and Recreation
Map Date: 2010
Created By: MCM One
File Name: 0410_09132010
Map Date: September 13, 2010
Created By: MCM One
File Name: 0410_09132010



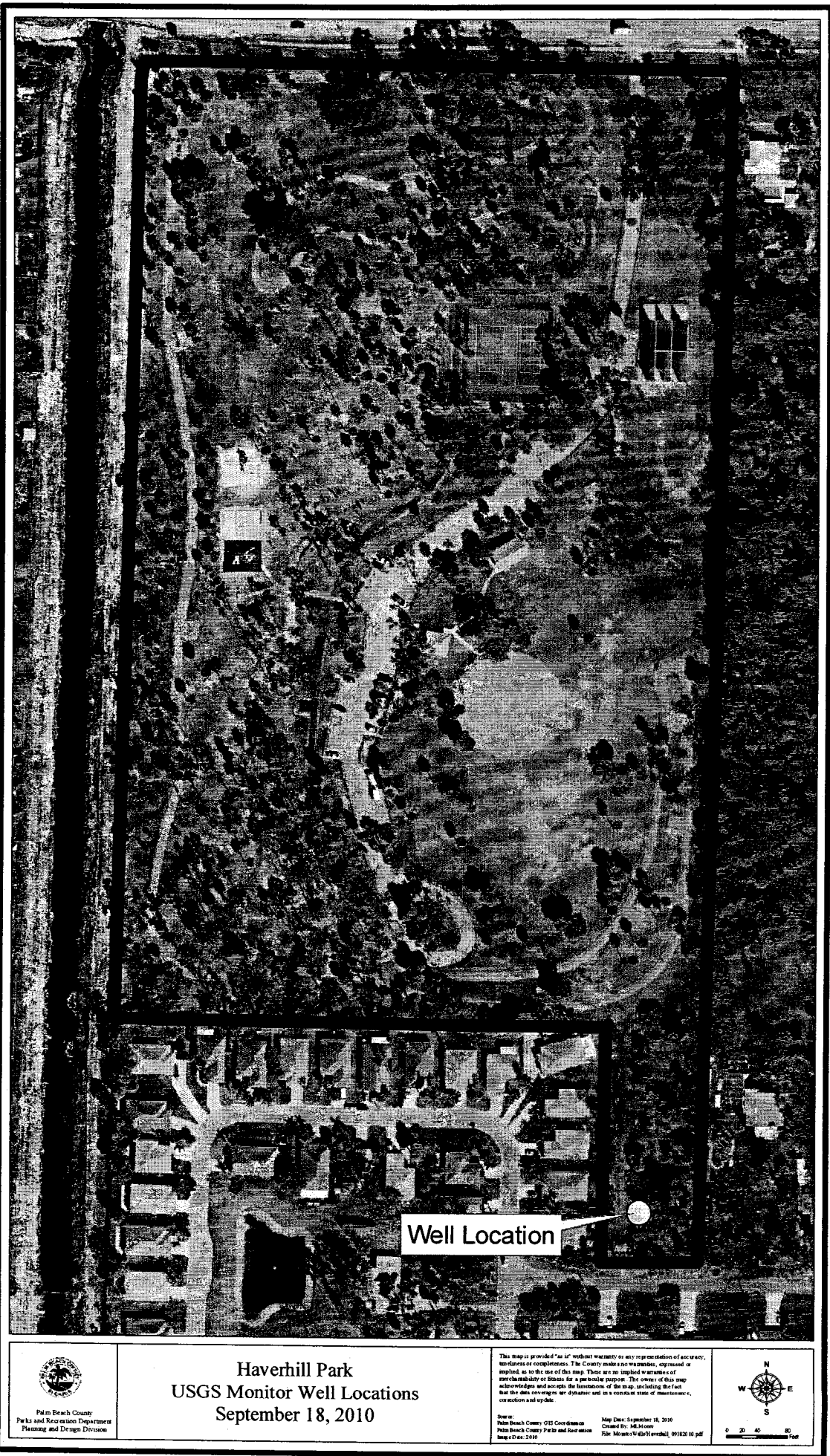
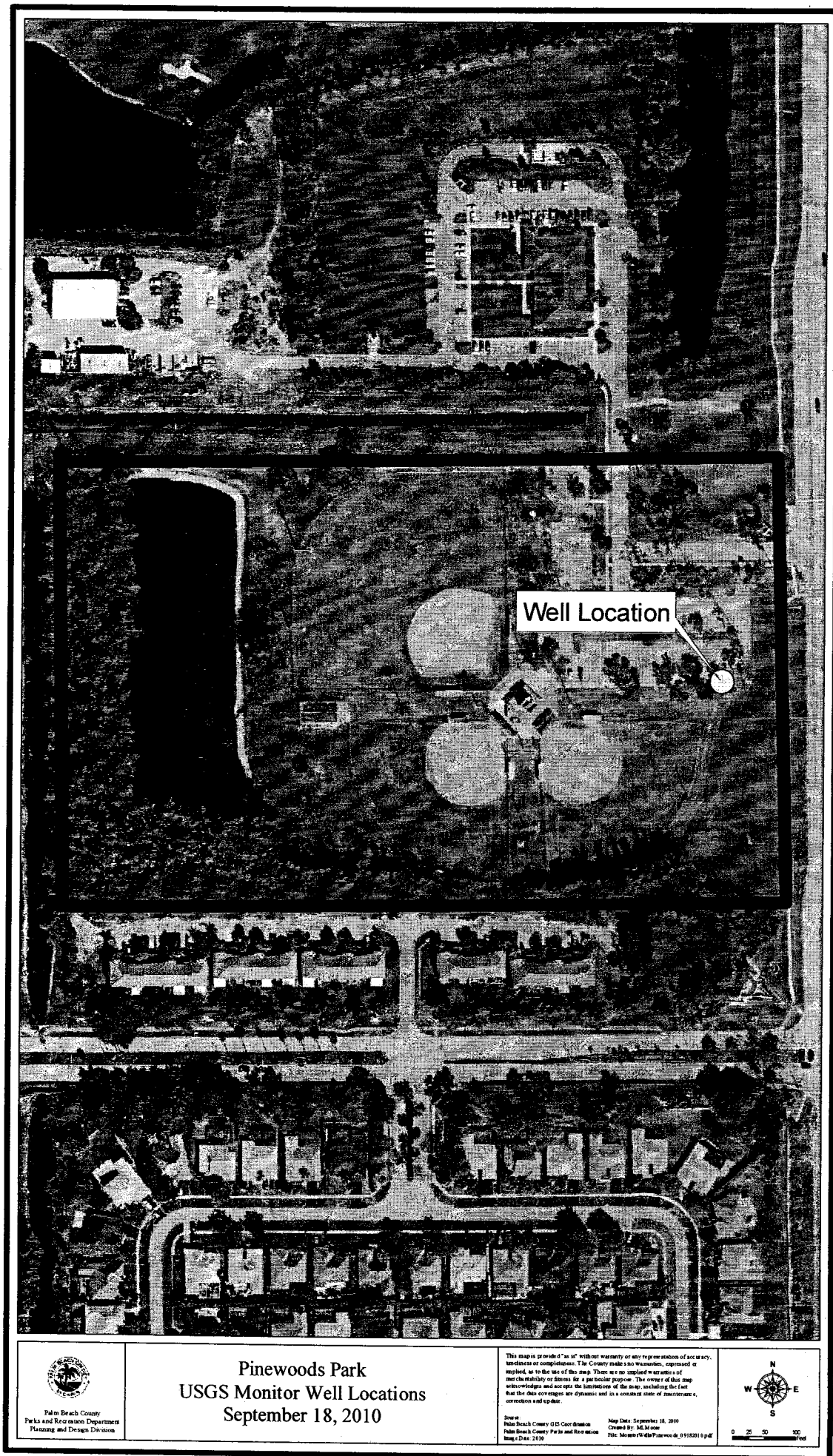


Exhibit "A"
 Premises
 Page 2 of 7



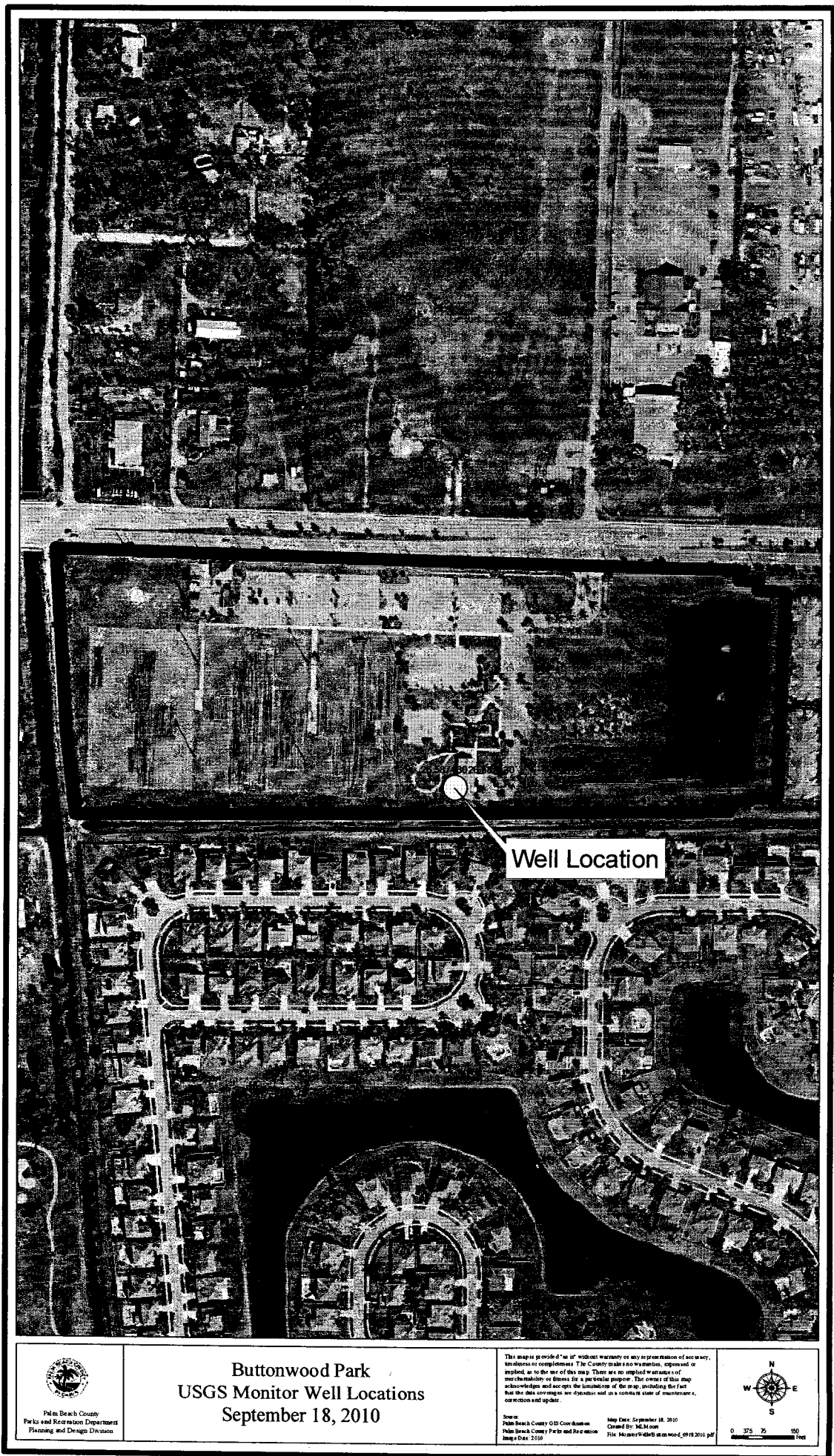




Exhibit "A"
 Premises
 Page 4 of 7



Well Location

 <p>Palm Beach County Parks and Recreation Department Planning and Design Division</p>	<p align="center">Veteran's Park USGS Monitor Well Locations September 18, 2010</p>	<p><small>This map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The County makes no warranty, expressed or implied, as to the use of this map. There are no implied warranties of merchantability or fitness for a particular purpose. The owner of this map acknowledges and accepts the limitations of the map, including the fact that the data coverage is dynamic and in a constant state of maintenance, correction and update.</small></p> <p><small>Source: Palm Beach County GIS Coordinates Palm Beach County Parks and Recreation Map Date: September 18, 2010 Created By: M. Moore File: Monitor_Wells_Veteran_Park_09182010.pdf Image Date: 2010</small></p>	 <p>0 35 70 140 Feet</p>
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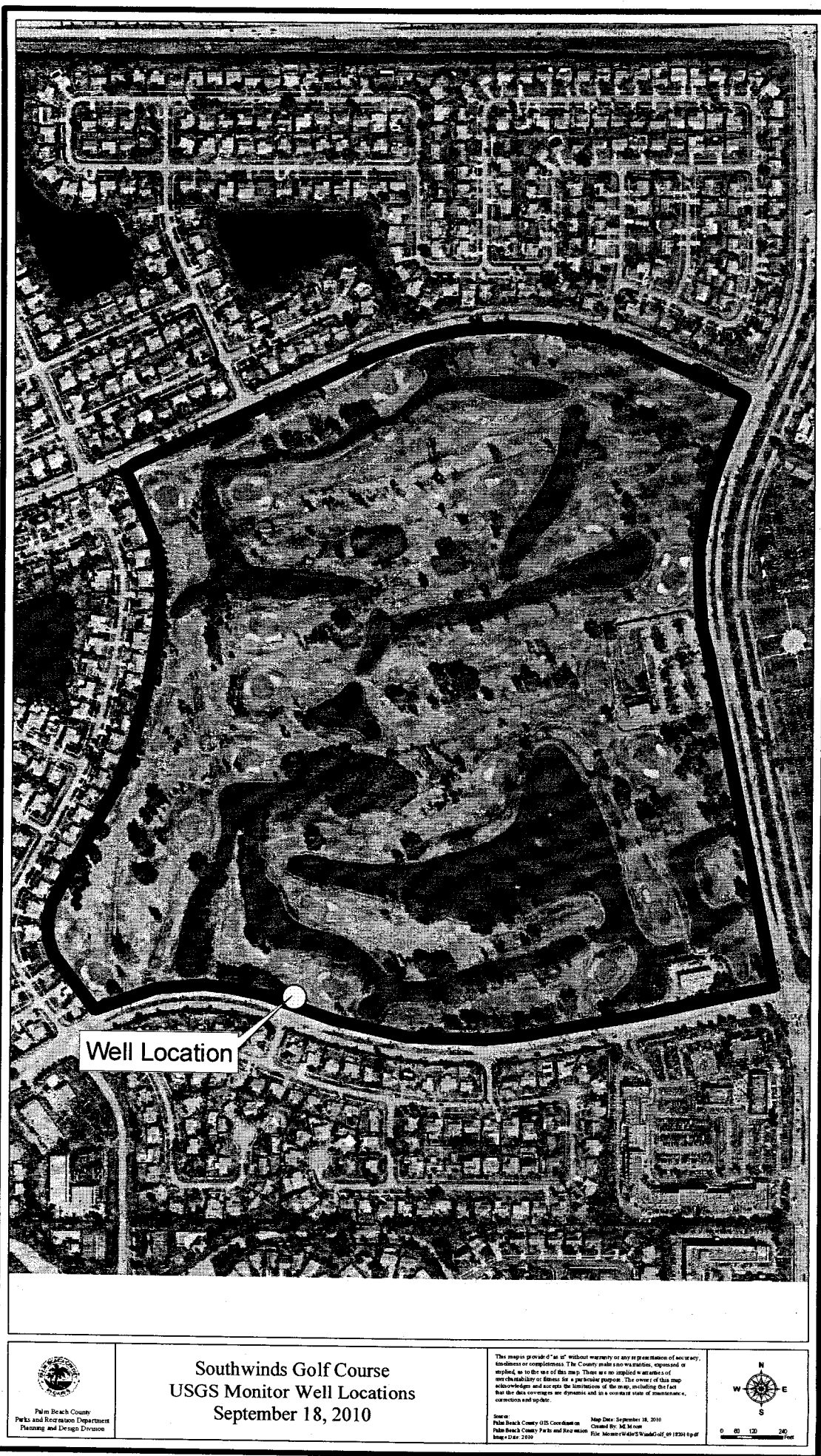


Exhibit "A"
Premises
Page 7 of 7

Exhibit "B"

Location, Drilling and Monitoring Procedures



United States Department of the Interior

U.S. GEOLOGICAL SURVEY

FLORIDA WATER SCIENCE CENTER – TALLAHASSEE

2639 North Monroe Street, Suite A-200

Tallahassee, Florida 32303

Telephone: 850-553-3640

FAX: 850-553-3641

NAWQA well drilling information sheet (summer 2010)

The following information provides general procedures that for USGS well drilling in Palm Beach County, August and September 2010. Drilling will be done by GFI International from Delray Beach:

- The location of the property for each well will be determined by the USGS. Well locations will be selected randomly across the County for a fair representation of the urban landscape.
- The actual location of the well on each property will be determined by USGS personnel in conjunction with the land owner. A short agreement will be presented and signed by both parties.
- A stake will be placed at the actual drilling location, which will be approved with the land owner.
- Underground utilities will be located at each site. The USGS will contact the appropriate people to visit each site and mark for obstructions. If obstructions are found, the well site will be moved within the general area of the original placement.
- Drilling will occur several weeks later, USGS will notify the land owner of the date and approximate time of the actual drilling. All efforts will be made to make the drilling times convenient for both the land owner and the driller.
- The drillers will arrive on-site and set rig up. Rig is the approximate size of a small tow truck (see picture below).
- Actual drilling will take about 30 to 60 minutes, at which time the rig will be moved off the well and cleaned. The well will be 2 inches in diameter and about 20 feet deep.
- The well pad will be constructed while well is pumped (developed) for 20 to 30 minutes. The well pad will be about 18 inches round constructed of concrete, with a small (4 inch) man whole cover that will be bolted down (see picture below).

- Site will be cleaned up and drill rig and crew will move to next site. The entire time from arrival to leaving should take between 2 and 3 hours.
- USGS personnel will complete clean up and address any issues on site. They will also meet with land owner at that time or another time to make sure site is acceptable, if not USGS personnel will make the necessary changes or arrangements to fix.
- After we drill the well this summer, we will collect a water sample sometime early 2011. The water sample collection will take about six hours, which we do on-site in our USGS mobile lab van.
- The following 6 or 7 years, we will visit the well once a year to do a water level (takes about 5 minutes) and visually inspect the well to see if any damage occurred over the previous 12 month period. We will also repair or do any maintenance to well to keep the visible part looking good. In 8 years (2018), we will revisit the well to collect another water sample.
- Again, eight years later (2026) we will collect another water sample, and visit the well each in between to obtain a water level.
- During this entire time, if the well gets damaged beyond repair, or the project is discontinued, the USGS will repair or pay to properly abandon the well.



