

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	<i>* see below *</i>				
# 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:

County will continue to pay utility cost of an estimated amount of \$540 per yr

[Signature]
 OFMB
cd 11/22/10
11/22/10

[Signature] 11/23/10
 Contract Development and Control
G. Jones 11/23/10

This Contract complies with our contract review requirements.

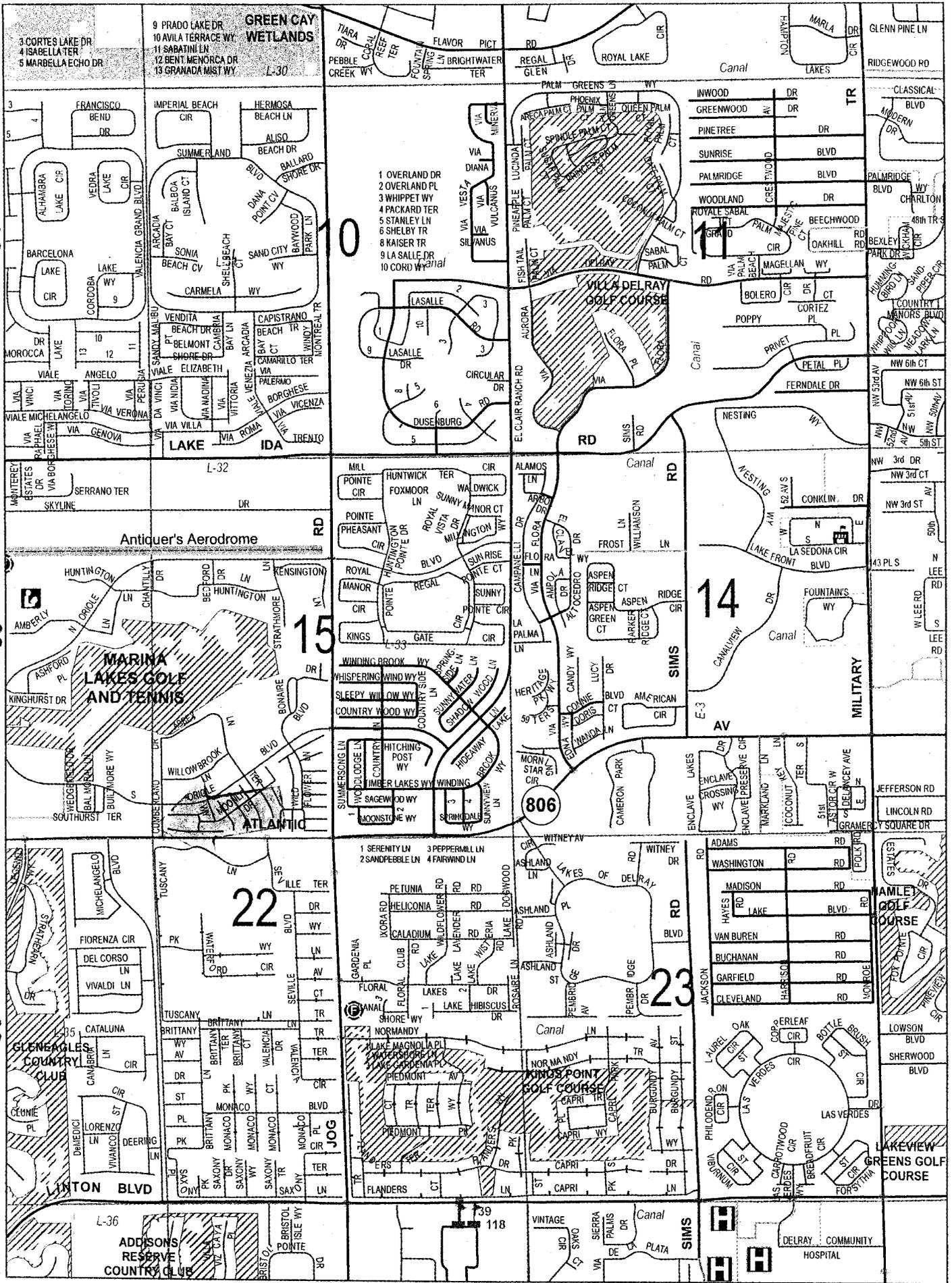
B. Legal Sufficiency:

[Signature] 11/24/10
 Assistant County Attorney

C. Other Department Review:

 Department Director

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



LOCATION MAP

ATTACHMENT #1



IRRIGATION SYSTEM LICENSE AGREEMENT

THIS IRRIGATION SYSTEM LICENSE AGREEMENT ("Agreement") is made and entered into _____ by and between Palm Beach County, a political subdivision of the State of Florida, whose address is Governmental Center, 301 N. Olive Avenue, West Palm Beach, Florida 33401 ("County") and Oriole Villages Center Inc., a Florida corporation, whose address is 4780 N State Road 7, Suite 250, Lake Worth, Florida 33449 ("Oriole").

WITNESSETH:

WHEREAS, the County is the owner of property located at 14925 Cumberland Drive in unincorporated Delray Beach, Florida ("County Parcel") which is improved with a single pump irrigation system (the "Irrigation System");

WHEREAS, Oriole is the owner of property located adjacent to the County Parcel (the "Oriole Parcel");

WHEREAS, the Irrigation System services sixteen (16) designated zones (the "Zones") located on both the County Parcel and the Oriole Parcel;

WHEREAS, the Irrigation System does not have enough capacity to serve all of the Zones simultaneously; therefore, the County has installed two (2) individual time clocks to independently regulate the use of the Irrigation System by the County and Oriole;

WHEREAS, the County time clock (the "County Time Clock") shall regulate the usage of the Irrigation System regarding Zones 1-4 and 8-16 located on the County Parcel (collectively, the "County Zones");

WHEREAS, the Oriole time clock (the "Oriole Time Clock") shall regulate the usage of the Irrigation System regarding Zone 5 located on the County Parcel and Zones 6 and 7 located on the Oriole Parcel as depicted on Exhibit "A" attached hereto and made a part hereof. (Collectively, Zones 5, 6 and 7 shall hereinafter be referred to as the "Oriole Zones"); and

WHEREAS, the County is willing to grant Oriole a revocable license to use the Oriole Time Clock and the Irrigation System as it relates to the Oriole Zones.

NOW, THEREFORE, for and in consideration of the promises, agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Oriole hereby agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. County hereby grants in favor of Oriole its successors and assigns, a non-exclusive license to use, operate, maintain, repair and replace any portion of the Oriole Time Clock and the Irrigation System located in the Oriole Zones ("Permitted Work") at its sole cost and expense.

3. Oriole shall immediately report to the County's representative any condition that it discovers or is made aware of regarding the Irrigation System, Oriole Time Clock and/or County Time Clock that may need repair or maintenance by the County.

The parties hereby designate the following individuals, with the following contact information, as the sole representatives for the administration of this Agreement:

County's Representative:

Facilities Manager South County Region
Facilities Management Division
2633 Vista Parkway, West Palm Beach, FL 33411-5603
Phone No.: 561-276-1218
Fax No.: 561-276-1318
Email: ggellerman@pbcgov.org

Oriole's Representative:

Oriole Villages Center, Inc.
c/o Phoenix Management Services, Inc.
3082 Jog Road
Lake Worth, FL 33467
Phone No.: 561-964-1550
Fax No.: 561-964-8731
Email: patti@phoenixfla.com

Any party may from time to time change its designated representative and/or such individuals contact information, upon three (3) days prior written notice to the other parties.

4. This Agreement shall be effective upon execution by the parties hereto and approval of the Palm Beach County Board of County Commissioners, and shall extend for a period of one (1) year thereafter (the "Term"), unless sooner terminated pursuant to the provisions of this Agreement. The Term shall be automatically renewed for successive one (1) year periods unless either party hereto provides the other with at least thirty (30) days written notice of its termination of this Agreement.

5. Oriole shall exercise the rights granted hereunder in a manner which does not unreasonably interfere with and minimizes the impact upon the County's use and enjoyment of the Irrigation System and the County Parcel.

6. Oriole shall only use the Irrigation System on Monday, Wednesday and Saturday between 7:00 a.m. to 10:00 a.m. (the "Oriole Use Time"). The County shall only use the Irrigation System on Monday, Wednesday and Saturday between 12:00 a.m. to 7:00 a.m. (the "County Use Time"). In the event the current South Florida Water Management District's Comprehensive Water Conservation Program restrictions which govern water usage on both the County Property and the Oriole Property are made either more or less restrictive, the County will notify Oriole's representative in order to modify the Oriole Use Time and the County Use Time proportionately as follows: (i) 13/16 of the increase or decrease in water usage time shall be added to the County Use Time or subtracted from the County Use Time, as applicable and (ii) 3/16 of the increase or decrease in water usage time shall be added to the Oriole Use Time or

subtracted from the Oriole Use Time, as applicable.

7. Notwithstanding anything in this Agreement to the contrary, Oriole and the County agree to cooperate with each other in the event either party needs to temporarily use the Irrigation System for additional time above that which has been allocated to them pursuant to the terms hereof.

8. Oriole shall comply with all ordinances, laws, rules and regulations of governmental authorities having jurisdiction over the Oriole Zones or use thereof as herein provided and shall comply with all water use restrictions imposed by the governmental authorities having jurisdiction over the Oriole Zones, as currently in effect or which may hereafter be in effect (the "Restrictions"). Oriole shall reimburse the County for any fines, penalties, costs and expenses that are imposed on the County, which result from a violation of the Restrictions. Oriole acknowledges that any violation of the Restrictions by Oriole may result in the termination of this Agreement by the County. Such termination shall be effective upon Oriole's receipt of written notice of the same.

9. The County currently supplies all utilities for the operation of the Irrigation System and will continue to do so at the County's sole cost and expense throughout the Term of this Agreement. In no event shall the County be liable for an interruption or failure in the supply of any utilities for the operation of the Irrigation System.

10. Oriole shall maintain on a primary basis and at its sole cost and expense, at all times during the term of this Agreement, Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage liability and Workers Compensation insurance covering all employees in accordance with Chapter 440 Florida Statutes. The Commercial General Liability Insurance shall include coverage for Premises-Operations, Contractual and Product Liability, Independent Contractors, Contractual Liability and Broad Form Property Damage Liability coverages. Except for Worker's Compensation, all insurance policies shall name Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents" as an additional insured. A Certificate of Insurance evidencing such insurance coverage shall be provided to the County prior to the commencement of any of the Permitted Work, such Certificate indicating at least ten (10) days prior notice of cancellation or adverse material change in coverage.

11. Oriole its successors and/or assigns shall indemnify, defend and hold the County harmless from and against any loss, damage, liability, action, claim, penalty, fine, cost, expense, or suit (including reasonable attorney's fees and expense at trial and appellate levels) arising out of the exercise of the rights granted hereby by any person whomsoever, including, without limitation, loss of life, personal injury and/or damage to property arising in connection with the Permitted Work. Oriole's indemnification obligations set forth herein shall survive termination of this Agreement.

12. All written notices, demands and other communications required or provided for under this Agreement shall be sent by certified mail, return receipt requested, postage prepaid, in the case of mailing, or by overnight or same day courier, or by electronic transmission producing a written record, or hand delivered. All notices shall be addressed to the following or to such

other address or person as shall be designated by a party in a written notice given in the manner required hereby.

If to the County at:

Director, Facilities Development & Operations
Palm Beach County
2633 Vista Parkway
West Palm Beach, FL 33411
Fax: (561) 233-0206

with a copy to:

Palm Beach County
Attn: County Attorney
301 North Olive Avenue
West Palm Beach, FL 33401
Fax: (561) 355-6461

If to Oriole at:

Oriole Villages Center, Inc.
c/o Phoenix Management Services, Inc.
3082 Jog Road
Lake Worth, FL 33467
Fax: (561) 964-8731

13. In no event shall the County Parcel be subject to any liens arising from Oriole's exercise of the rights granted hereunder. Oriole shall promptly cause any lien imposed against the County Parcel to be discharged or transferred to bond.

14. The parties agree that no person shall, on the grounds of race, color, national origin, religion, ancestry, sex, age, marital status, sexual orientation, disability, or gender identity or expression be excluded from the benefits of, or be subjected to, any form of discrimination under any activity carried out by the performance of this Agreement.

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

16. **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.**

17. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in a state court of competent jurisdiction located in Palm Beach County, Florida.

18. No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations, drafting and redrafting of this instrument so as to arrive at its final form. Thus, the terms of this Agreement shall not be strictly construed against

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

19. This Agreement contains the entire understanding and agreement of the parties hereto with respect to the subject matter hereof. No amendment shall be effective unless the same is in writing and signed by all parties.

20. Pursuant to Ordinance No. 2009-049, Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. All parties doing business with the County shall fully cooperate with the Inspector General. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and to audit, investigate, monitor, and inspect the activities of Oriole, its officers, agents, employees, and lobbyists in order to ensure compliance with the Agreement and to detect waste, corruption and fraud.

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

ATTEST:

**SHARON R. BOCK
CLERK & COMPTROLLER**

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

By: _____
Deputy Clerk

By: _____

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

APPROVED AS TO ITS TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: Audrey Wolf *[Signature]*
Audrey Wolf, Director
Facilities Development & Operations

WITNESS:

**ORIOLE VILLAGES CENTER, INC., a
Florida corporation**

Marty Hy *[Signature]* VP
Witness Signature

By: [Signature] PRES

Martin I Hyman
Print Witness Name

Print Name: SOLOMON Z. ROSEN PRES.

[Signature] LEAM
Witness Signature

Print Title: PRESIDENT - TREASURER

Arnold Katz LEAM
Print Witness Name

(SEAL)

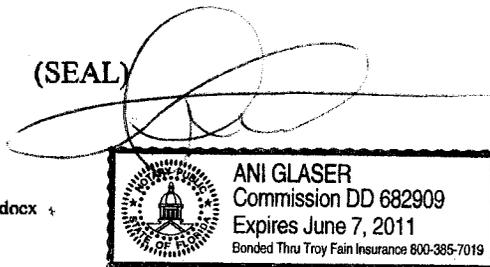


EXHIBIT "A"

Oriole Zones

