Agenda Item #: 3H-10

## PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS <u>AGENDA ITEM SUMMARY</u>

Meeting Date:	June 21, 2011	[X] Consent [ ] Ordinance	[ ] Regular [ ] Public Hearing
Department:	Facilities Development &	L 1	

# I. EXECUTIVE BRIEF

**Motion and Title: Staff recommends motion to approve:** a notice of termination to National Land Company, Inc. (National Land) of the Deposit Receipt and Contract for Sale and Purchase dated May 6, 2008 (R2008-0759) (Contract) and the Termination of Deposit Receipt and Contract for Sale and Purchase dated January 12, 2010 (R2010-0130) (Termination Agreement).

**Summary:** On May 6, 2008, the Board approved the Contract for the sale of 4.85 acres of vacant landlocked County-owned surplus land located in unincorporated Boynton Beach, at the north end of Lake Ida Park, to the adjacent landowner, National Land for \$1,600,000. Pursuant to the terms of the Contract, National Land deposited with the County \$160,000 and was required to close on the property by June 5, 2008. Although the Contract was not contingent on the buyer obtaining financing, National Land notified Staff that it was having difficulty in obtaining financing and requested a delay in closing. Due to the fact that National Land was the sole bidder for the County's property and in light of the slump in the real estate market, Staff was in no hurry to terminate the agreement with National Land. In light of National Land's continued inability to obtain financing, the parties entered into a Termination Agreement on January 12, 2010. The County's parcel does not have legal access, and pursuant to the Termination Agreement National Land was to grant the County an Access and Utility Easement (Easement) across National Land's adjoining property in exchange for the return of its \$160,000 deposit and termination of the Contract. To date, National Land has been unable to cure title defects and grant the County the Easement as required by the Termination Agreement. Staff recommends that the Board terminate the Contract and the Termination Agreement and retain the \$160,000 deposit as liquidated damages. (PREM) Districts 3 and 4 (HJF)

**Background and Justification**: The Park property was acquired by Tax Deeds on May 7, 1945 and October 22, 1946. The Park property lies between Interstate 95 and Lake Ida. Somewhere around June 1950, the Lake Worth Drainage District constructed a canal which separated this 4.85-acre parcel from the rest of the Park and it currently has no legal access. The only current means of access to this property is through the adjacent property owned by National Land. National Land has been unable to cure existing title defects on the land over which the easement to be granted to the County would run. A recent update of the title commitment revealed additional title defects, including code enforcement liens filed by the City of Boynton Beach. It appears unlikely that National Land will be able to clear the title defects. The County Attorney's Office has sent certified letters to National Land to provide notice of the County's intent to recommend that the Board terminate the Termination Agreement and retain the \$160,000 deposit.

#### **Attachments:**

- 1. Location Map
  - 2. Notice of Termination to National Land

Recommended By:	Ret Annun Wing	= 6/2/11	
• •	Department Director	Date	
Approved By:	ander	- 6/10/11	
	<b>County Administrator</b>	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	(\$1(0,000)				
Program Income (County)	<u>(\$160,000)</u>				
In-Kind Match (County					
NET FISCAL IMPACT	<u>(\$160,000)</u>				
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current Buc	lget: Yes		No <u>X</u>		
Budget Account No: Fund P	Dept rogram	<u></u>	Unit	Object	•
B. Recommended Sources of	Funds/Sumn	1arv of Fis	cal Impact:		

# This Contract Deposit of \$160,000 is in a holding account with Finance, which will be transferred to the General Fund upon approval of this item. $\int_{1}^{2} \int_{2}^{2} \int_{1}^{1} \int_{1}^{1} \int_{1}^{2} \int_{1}^{2} \int_{1}^{1} \int_{1}^{1$

C. Departmental Fiscal Review:

#### III. <u>REVIEW COMMENTS</u>

**OFMB Fiscal and/or Contract Development Comments:** А. in the General Ageney fund Fol 7001 Deposit is curve ntly held **OFMB** ontract Dev **B**. **Legal Sufficiency:** 

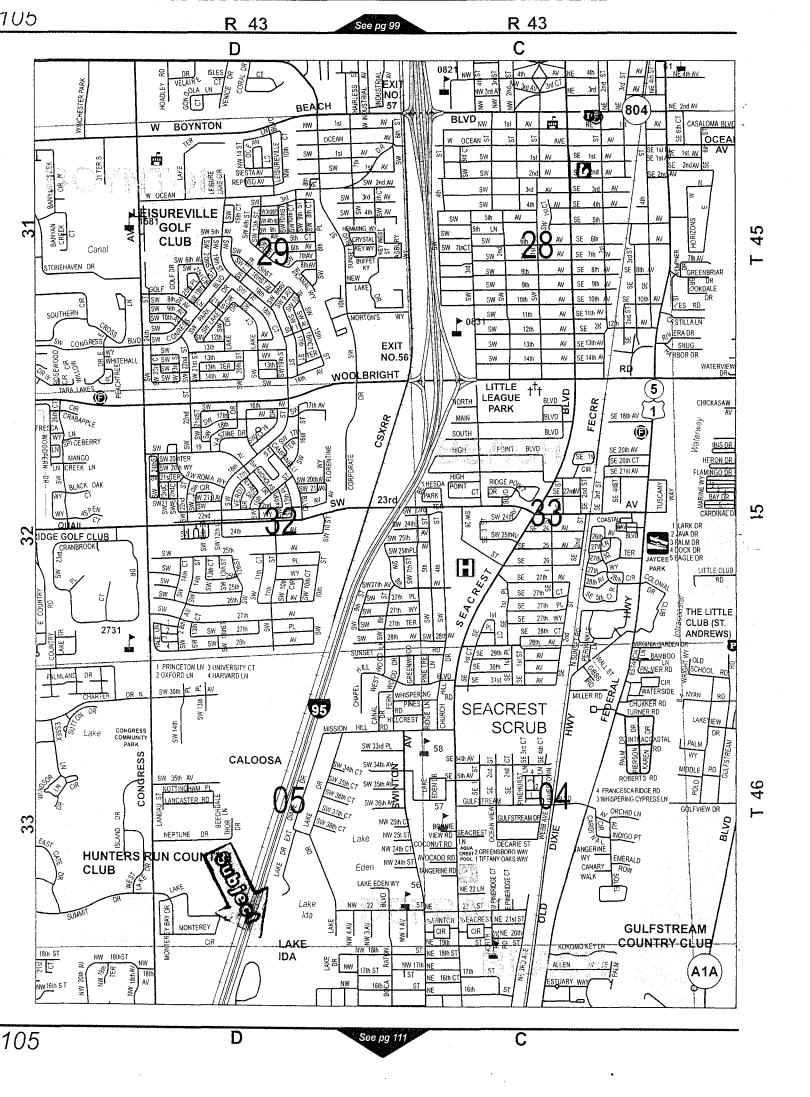
ounty Attorney fant

C. Other Department Review:

**Department Director** 

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

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Facilities Development & Operations Department Property & Real Estate Management Division

2633 Vista Parkway West Palm Beach, FL 33411-5605 (561) 233-0217 FAX: (561) 235-0210 www.pbcgov.com/fdo

Palm Beach County Board of County Commissioners

-Kåren T. Marcus, Chair

Shelley Vana, Vice Chair

Paulerte Burdick

Steven L. Abrams

Burt Aaronson

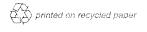
Jess R. Santamaria

Priscilla A. Taylor

County Administrator

Robert Weisman

"An Equal Opportunity Affirmative Action Employer"



#### June 21, 2011

and

National Land Company, Inc. **ATTENTION: David C. Paladino, II** 1528 North Lakeside Drive Lake Worth, Florida 33460-1922 By Certified Mail, Return Receipt Requested 4008 1140 0001 6923 4037

### National Land Company, Inc. 2600 South Ocean Boulevard #508 S Palm Beach, Florida 33480-5494

By Certified Mail, Return Receipt Requested 4008 1140 0001 6923 4044

## RE: Notice Terminating the Termination of Deposit Receipt and Contract for Purchase and Sale dated January 12, 2010 (R2010-0130) and the Deposit Receipt and Contract for Sale and Purchase dated May 6, 2008

Dear Mr. Paladino:

On January 21, 2010, County staff delivered a letter to you pursuant to the terms of the Termination of Deposit Receipt and Contract for Sale and Purchase dated January 12, 2010 (R2010-0130) (the "Termination Agreement"), notifying you of the County's objections to title and requesting that you cure the matters identified in such letter. You failed to cure such defects within the 90-day cure period provided by the Termination Agreement and close the transaction.

On November 1, 2010 and March 9, 2011, County staff sent you letters advising you that County staff intended to request that the Board of County Commissioners terminate the Termination Agreement. This letter shall constitute notice that the County is hereby terminating the Termination Agreement and the Deposit Receipt and Contract for Purchase and Sale dated May 6, 2008 (R2008-0759) (the "Purchase and Sale Agreement") due to your default under such agreements and that the County intends to retain the Liquidated Sum of one hundred sixty thousand dollars (\$160,000.00) which you previously forfeited under the terms of Purchase and Sale Agreement.

# ATTACHMENT # ユ



June 21, 2011 National Land Company, Inc. 2 of 2

Please direct any questions concerning this matter to Ross C. Hering, Director, Property and Real Estate Management, who can be reached at (561) 233-0217.

#### ATTEST:

SHARON R. BOCK CLERK & COMPTROLLER

By: \_\_\_\_

Deputy Clerk

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

By: <u>Karen T. Marcus, Chair</u>

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:

County Attorney

APPROVED AS TO TERMS AND CONDITIONS

Department Director

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