



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u><i>See below</i></u>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

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:**

~~There is no fiscal impact with this item.~~

C. Departmental Fiscal Review: *[Signature]* *7-16-12*

**III. REVIEW COMMENTS**

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

*[Signature]* *7/24/2012*  
 OFMB *7/24/12 cc [Signature]*

*[Signature]* *7/18/12*  
 Contract Development and Control *7-25-12 [Signature]*

**B. Legal Sufficiency:**

*[Signature]* *7/26/12*  
 Assistant County Attorney

**C. Other Department Review:**

*[Signature]*  
 Department Director

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

## INTERLOCAL AGREEMENT

**THIS INTERLOCAL AGREEMENT (the "Agreement")**, made and entered into this \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and the Florida Fish and Wildlife Conservation Commission, a public agency of the State of Florida ("F.F.W.C.") each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

### WITNESSETH:

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority that such agencies share in common and that each might exercise separately; and

**WHEREAS**, County is the owner of certain real property in Palm Beach County, Florida, known as DuBois Park located at 19075 DuBois Road, Jupiter, Florida (the "Park"); and

**WHEREAS**, On October 20, 2008, a grant agreement with the F.F.W.C. was executed (R2008-2232) as amended by Amendment No. 1 (R2010-1442), whereby the F.F.W.C. awarded the County a \$500,000 FBIP grant for the Park docks and shoreline stabilization project; and.

**WHEREAS**, County has installed improvements at the Park, including but not limited to a boat slip, together with a boat lift and a storage unit, that the County desires to allow F.F.W.C. to use and occupy in accordance with the terms and obligations set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants, and agreements hereinafter set forth and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **ARTICLE I BASIC PROVISIONS**

**Section 1.01 Recitals.** The foregoing recitals are true and correct and incorporated herein by reference.

**Section 1.02 Premises.** F.F.W.C. shall have the exclusive use of Slip #3, which is improved with a boat lift, and the non-exclusive use of the finger pier that provides access to and from the mainland, all as depicted on Exhibit "A". Furthermore, F.F.W.C. shall have the exclusive use of: (i) Storage Unit # 3 as depicted on Exhibit "A"; and (ii) one (1) designated parking space, as

depicted on Exhibit "A" within the Park. (Collectively, all of the areas described in this Section shall hereinafter be referred to as the "DuBois Premises"). F.F.W.C. agrees that the DuBois Premises shall be used solely by F.F.W.C.

**Section 1.03 Length of Term and Commencement Date.** The initial term of this Agreement is for twenty (20) years and shall commence immediately upon full execution of this Agreement. The Agreement may be renewed for two (2) additional terms of five (5) years each. At least three (3) months prior to the expiration of this Agreement's term, F.F.W.C. shall provide the County with a request to renew this Agreement. Such renewal will require approval of both parties and the County may not unreasonably withhold its approval of the renewal.

**Section 1.04 Submerged Lands Lease.** Slip #3 and the finger pier are located on submerged lands leased by the County from the State of Florida (the "State"), pursuant to Sovereignty Submerged Lands Lease No. 500341216 as recorded in the public records of Palm Beach County in Official Book 24156 Page 0975 and by reference made a part hereof (the "Submerged Lands Lease"). F.F.W.C.'s use of the finger pier, together with Slip #3 shall be subject to the terms of the Submerged Lands Lease, as the same may be modified.

The current term of the Submerged Lands Lease expires on May 8, 2012. County will request that the State renew the Submerged Lands Lease for a term of five (5) years, but County cannot guarantee that the Submerged Lands Lease will be renewed. The parties acknowledge and agree that this Agreement is contingent upon the continued existence of the Submerged Lands Lease; in the event that the Submerged Lands Lease is terminated or is not renewed, this Agreement shall terminate and the parties shall be released from all obligations hereunder arising after the date of termination of the Submerged Lands Lease. County will provide F.F.W.C. with written notice if the Submerged Lands Lease is not renewed.

## **ARTICLE II FEES**

F.F.W.C. shall have the right to use the DuBois Premises at no charge; provided however, F.F.W.C. shall be responsible for any dredging that may be required for use of Slip #3 at its sole cost and expense. F.F.W.C. acknowledges that any dredging is subject to the prior written consent of the State, pursuant to the terms of the Submerged Lands Lease. In the event dredging is necessary F.F.W.C. shall notify the County and the County will use its best efforts to obtain the State's consent regarding the same. F.F.W.C. shall reimburse the County for its proportionate share of all costs and expenses incurred by the County that are associated with the dredging, including those incurred in obtaining any required consents and/or permits.

## **ARTICLE III CONDUCT OF BUSINESS AND USE OF DUBOIS PREMISES BY F.F.W.C.**

**Section 3.01 Use of DuBois Premises.** F.F.W.C. acknowledges that the intent of the parties is for F.F.W.C. to dock an F.F.W.C. vessel at Slip #3 on a regular basis for law enforcement/security purposes. F.F.W.C. shall not store nor permit to be stored in Storage Unit #3 any firearms, firearm ammunition or explosives of any kind.

**Section 3.02 Condition of the DuBois Premises.** The F.F.W.C. acknowledges that the DuBois Premises is being licensed in its "AS-IS" condition. The County is in no way representing that the DuBois Premises is suitable for F.F.W.C.'s intended use and F.F.W.C. is accepting all risk associated with the use of the DuBois Premises.

**Section 3.03 F.F.W.C.'s Work.** F.F.W.C. shall not modify or alter the DuBois Premises without the prior written approval of the County through its Director of Facilities Development & Operations and the Director of Parks & Recreation.

**Section 3.04 Waste or Nuisance.** F.F.W.C. shall not commit or suffer to be committed any act or thing which may affect County's fee interest in the Park. F.F.W.C. 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 F.F.W.C.'s operations, on the DuBois Premises or in any manner not permitted by law.

**Section 3.05 Governmental Regulations.** F.F.W.C. shall, at F.F.W.C.'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 F.F.W.C. or its use of the DuBois Premises, and shall faithfully observe in the use of the DuBois Premises all County ordinances and state and federal statutes now in force or which may hereafter be in force. F.F.W.C. shall comply with all ecological requirements to operate its business on the DuBois Premises. F.F.W.C. shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from F.F.W.C.'s failure to perform its obligations specified in this Section. This Section shall survive the expiration or earlier termination of this Agreement.

**Section 3.06 Non-Discrimination.** F.F.W.C. shall assure and certify that it will comply with the Title IV 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, ethnicity, gender, national origin, religion, ancestry, sex, age, marital status, familial status, gender identity or expression, sexual orientation or disability with respect to any activity occurring on the DuBois Premises.

**Section 3.07 Surrender of Premises.** Upon expiration or earlier termination of this Agreement, F.F.W.C., at its sole cost and expense, shall remove all of its personal property from the DuBois Premises and shall surrender the DuBois Premises to the County in the condition the DuBois Premises were in as of the date of this Agreement, reasonable wear and tear excepted.

#### **ARTICLE IV REPAIRS/ MAINTENANCE /OPERATING COSTS**

County shall maintain, repair and keep the DuBois Premises in good condition and repair at County's sole cost and expense. County shall also be responsible for all operating costs for the DuBois Premises, including without limitation the provision of electric and water service to Slip

#3. Notwithstanding anything herein to the contrary, F.F.W.C. shall be responsible for the maintenance and repair of the boat lift at F.F.W.C.'s sole cost and expense.

#### **ARTICLE V INDEMNIFICATION**

Each party shall be liable for its own actions and negligence and to the extent permitted by law, the F.F.W.C. shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the F.F.W.C. negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes 768.28, nor shall the same be construed to constitute agreement by F.F.W.C. to indemnify the County for County's negligent, willful or intentional acts or omissions. This Article shall survive the expiration or earlier termination of this Agreement.

#### **ARTICLE VI INSURANCE**

Without waiving the right to sovereign immunity as provided by Section 768.28 Florida Statutes, F.F.W.C. acknowledges and represents that F.F.W.C. is self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event F.F.W.C. maintains third-party Commercial General Liability and Business Auto Liability, in lieu of exclusive reliance of self-insurance under Section 768.28 Florida Statutes, F.F.W.C. shall maintain said insurance policies at limits not less than \$500,000 each occurrence. F.F.W.C. shall add the County as an "Additional Insured" with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Parks & Recreation Department". F.F.W.C. agrees the Additional Insured endorsement provides coverage on a primary basis. Claims-bill indemnification style coverage shall not be considered third-party liability for the purpose of this paragraph.

F.F.W.C. shall maintain or be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, F.F.W.C. shall provide a statement or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above-mentioned coverages.

Compliance with the foregoing requirements shall not relieve F.F.W.C. of its liability and obligations under this Agreement.

F.F.W.C. agrees its self-insurance, general liability and automobile liability insurance shall be primary as respects to any coverage afforded to or maintained by County.

**ARTICLE VII  
TERMINATION RIGHTS**

Notwithstanding anything in this Agreement to the contrary, the County and F.F.W.C. each have the right to terminate the Interlocal Agreement as it relates to the DuBois Premises for any reason upon thirty (30) days prior written notice to the other party. Such termination shall be effective thirty (30) days from the receipt of written notice thereof.

**ARTICLE VIII  
ANNUAL BUDGETARY FUNDING**

This Agreement and all obligations of County hereunder are subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners.

**ARTICLE IX  
ACCESS**

**Section 9.01 F.F.W.C.'s Access.** F.F.W.C. shall have the right of ingress and egress over and across the Park as is reasonably necessary for the use of the DuBois Premises. The Park is open to the public between sunrise and sunset. F.F.W.C. shall be responsible for unlocking and relocking the park gate when accessing the DuBois Premises during the hours that the Park is not open to the public. The County shall install a chain link fence as depicted on Exhibit "A" with a gated entrance, at its sole cost and expense, in order to secure the site. County shall provide F.F.W.C. with keys to both the Park gate and the gates depicted on Exhibit "A" for access.

**Section 9.02 County's Access.** In the event of an emergency County shall have the right, without prior notice to F.F.W.C., to access Storage Unit # 3 .

**ARTICLE X  
MISCELLANEOUS**

**Section 10.01 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 F.F.W.C. concerning the DuBois 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 F.F.W.C. unless reduced to writing and signed by them.

**Section 10.02 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, 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 (provided in each case a receipt is obtained), or on the date of transmission with confirmed answer back if telecopier or fax if transmitted before 5 P.M. on a business day and on the next business day if transmitted after 5 P.M. 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:

Parks & Recreation Department  
Attn: Director, Parks Financial and Support Services  
John Prince Park  
2700 Sixth Avenue South  
Lake Worth, FL 33461  
Fax: 561-242-6930

with a copy to:

Palm Beach County  
Facilities Development & Operations Department  
Attn: Director  
2633 Vista Parkway  
West Palm Beach, FL 33411-5605  
Fax: 561-233-0206

Palm Beach County Attorney's Office  
Attn: Real Estate Attorney  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 33401  
Fax: 561-355-4398

(b) If to F.F.W.C. at:

Florida Fish and Wildlife Commission  
Attn: Regional Director  
8535 Northlake Blvd.  
West Palm Beach, FL 33412-3303

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

**Section 10.03 Assignment.** F.F.W.C. shall not assign this Agreement or any interest herein without the prior written consent of the County.



**Section 10.04 Recording.** Neither this Agreement nor any memorandum or short form hereof, shall be filed in the Public Records of Palm Beach County, Florida, but this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County as required by Chapter 163 of the Florida Statutes.

**Section 10.05 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 10.06 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 10.07 Time of Essence.** Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

**Section 10.08 Palm Beach County Office Of The Inspector General Audit Requirements.** Palm Beach County's Office of Inspector General is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**Section 10.09 Effective Date of Agreement.** This Agreement shall take effect when signed by F.F.W.C. and approved by the Palm Beach County Board of County Commissioners (the "Effective Date").

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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

ATTEST:

COUNTY

SHARON R. BOCK  
CLERK & COMPTROLLER

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Shelley Vana, Chair

Signed and delivered  
in the presence of:

APPROVED AS TO TERMS  
AND CONDITIONS

\_\_\_\_\_  
Witness Signature

By:   
Director, Parks & Recreation Dept.

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

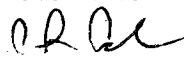
APPROVED AS TO TERMS AND  
CONDITIONS

By:   
Assistant County Attorney

By:   
Department Director

F.F.W.C.

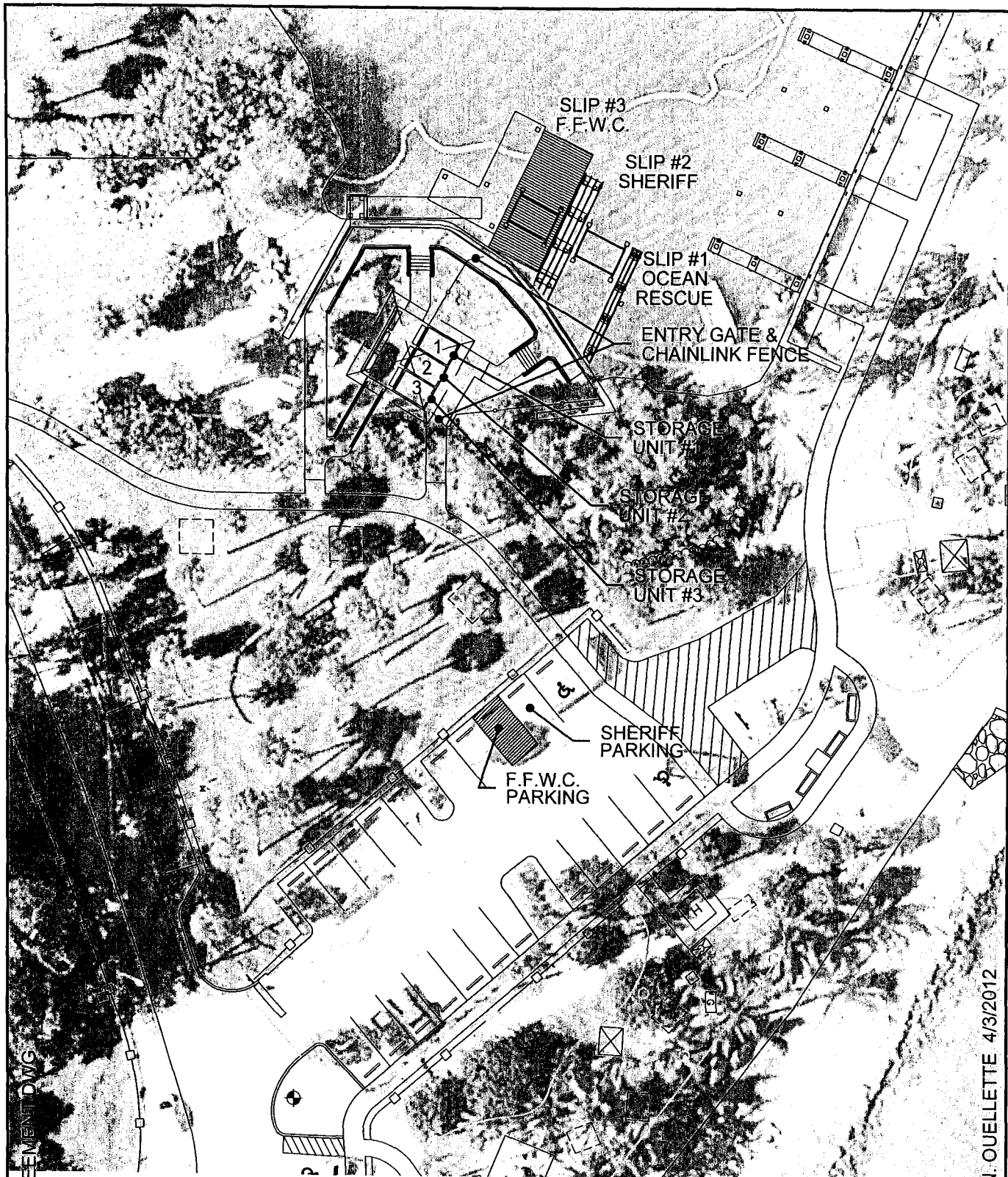
FLORIDA FISH AND WILDLIFE  
CONSERVATION COMMISSION, a public  
agency of the State of Florida

By:   
Deputy Director, Division of Law Enforcement

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: 

EXHIBIT "A"



DUBOIS USE AGREEMENT DWG

T. GRANOWITZ / N. OUELLETTE 4/3/2012

STORAGE UNIT #1 - SHERIFF  
STORAGE UNIT #2 - OCEAN RESCUE  
STORAGE UNIT #3 - F.F.W.C.

SHEET 1 of 2

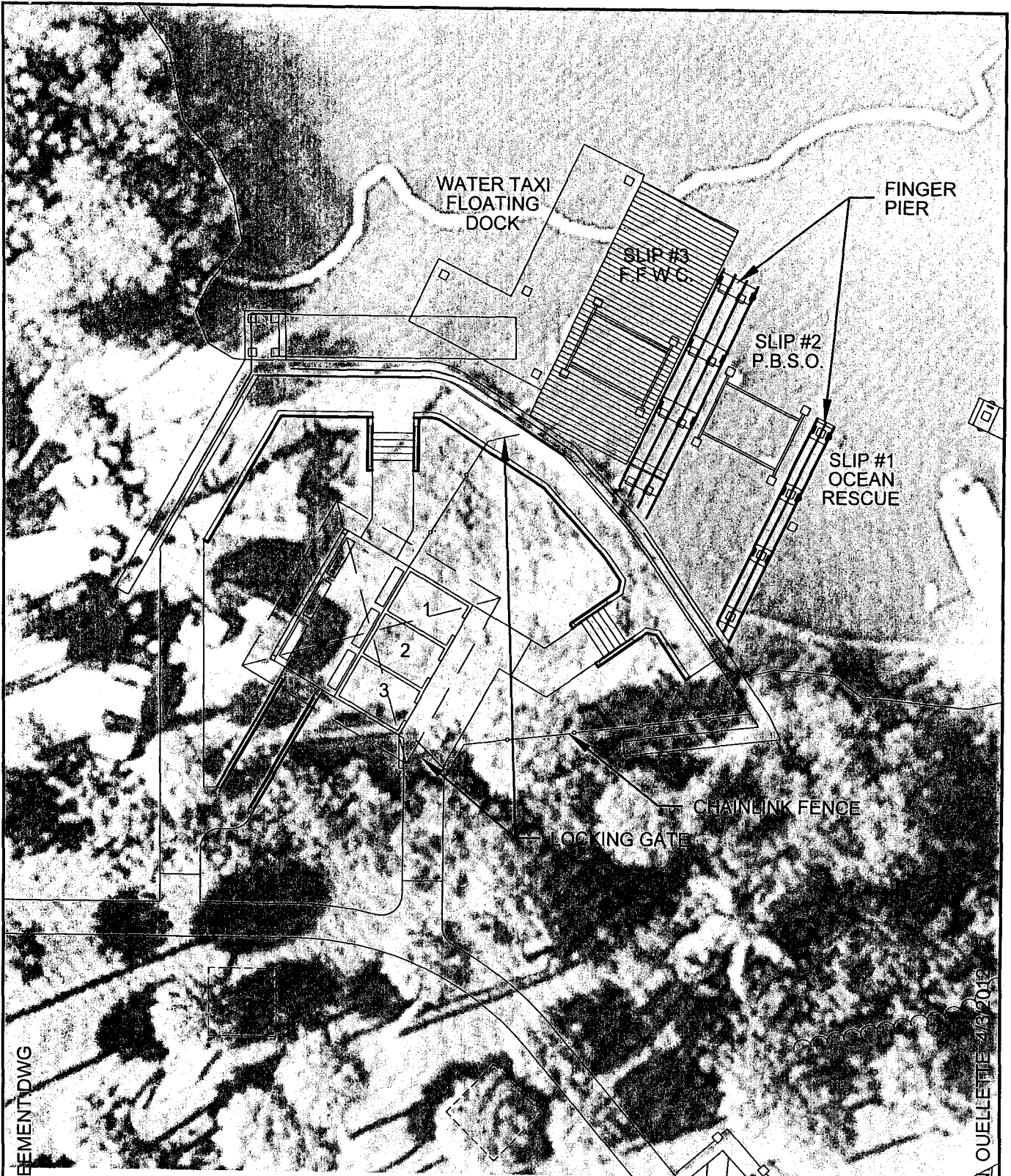


PALM BEACH COUNTY  
PARKS & RECREATION  
DEPARTMENT

DUBOIS PARK  
F.F.W.C. USE AGREEMENT  
DUBOIS PREMISES



EXHIBIT "A"



DUBOIS USE AGREEMENT DWG

ROOM 1 - P.B.S.O.  
ROOM 2 - P.B.C. OCEAN RESCUE  
ROOM 3 - F.F.W.C.

SHEET 2 of 2

T. GRANOWITZ / N. OUELLETTE 4/8/2012



PALM BEACH COUNTY  
PARKS & RECREATION  
DEPARTMENT

DUBOIS PARK  
F.F.W.C. USE AGREEMENT  
DUBOIS PREMISES

