

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: February 4, 2014 [] Consent [x] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) adopt a Resolution finding that a one (1) year term extension of the Lease Agreement with Walter J. Hatcher (R2007-1590) of 2.45 acres adjacent to Riverbend Park is in the best interest of the County; and
- B) approve a First Amendment to the Lease Agreement (R2007-1590) with Walter J. Hatcher to extend the term for one (1) year with an option to extend for an additional one (1) year, without payment of rent.

Summary: In February 2008, the County acquired 84 acres of property on Indiantown Road west of Riverbend Park, across from the Cypress Natural Area, from Walter Hatcher and Joyce Hatcher. As a condition of the sale, the Hatchers retained a leasehold interest in 6.54 acres of the property which included their house, until such time ERM was ready to commence development of its restoration project. The Lease Agreement was for five (5) years, with two (2) one (1) year extension options subject to the County's consent, without rent. In January 2013, the Board approved the first extension option (R2013-0052), which expires on February 13, 2014. Mr. Hatcher recently requested the County's consent to exercise the second extension option. Parks and ERM are interested in using the house for a future visitor and educational building. Under the Lease, the Hatchers have the right to remove wormy chestnut, pecky cypress and wood beams upon expiration of the Lease which would make the house unusable without expensive renovations. ERM also did not want to grant the second extension option due to the scheduled commencement of its restoration project. Mr. Hatcher offered to accept construction related access restrictions, to reduce the land area to 2.45 acres and to release his rights to remove the wood and beams in exchange for the County agreeing to allow extension of the Lease for up to two (2) years without payment of rent. The Lease was originally structured to require payment of fair market rent after the expiration of the second one (1) year extension option, but since Mr. Hatcher has agreed to relinquish his right to remove the wood from the house and acknowledges there will be access restrictions and construction activities during the lease extension, Staff's opinion is that extending the term subject to the terms outlined above and without payment of rent is consistent with intent of the original transaction. This First Amendment delegates authority to the County Administrator or his designee to approve or reject exercise of the one (1) year extension option and to exercise the County's right to terminate during the extension option. (PREM) District 1 (HJF)

Background and Policy Issues: On September 11, 2007, (R2007-1589), the Board entered into an Agreement for Purchase and Sale with Indiantown-Jupiter Venture and the Hatchers for the acquisition of 230 acres of property on the northwest side of Riverbend Park. The Hatchers owned 84 acres of the overall 230 acres.

Continued on Page 3

Attachments:

- 1. Location Map
- 2. Resolution
- 3. First Amendment
- 4. Letter dated October 29, 2013, from Walter J. Hatcher

Recommended By: [Signature] [Signature] 1/10/14
Department Director Date

Approved By: [Signature] 1/24/14
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	*(\$0.00)	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget:	Yes _____	No _____			
Budget Account No:	Fund _____	Dept _____	Unit _____	Object _____	
	Program _____				

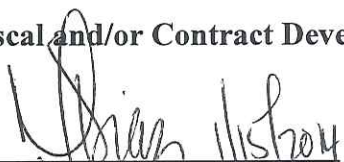
B. Recommended Sources of Funds/Summary of Fiscal Impact:

* No Fiscal Impact

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:




 OFMB
 1/14



 Contract Development and Control
 1/16/14

B. Legal Sufficiency:



 Assistant County Attorney
 1/21/14

C. Other Department Review:

Department Director

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

Background and Policy Issues cont.: The Agreement for Purchase and Sale required the County to enter into a lease with the Hatchers allowing them to occupy 6.54 acres of the 84 acres, which included their home, for five (5) years, with two (2) one (1) year options to extend. The County received a \$125,000 credit against the purchase price for the rental value of the property.

Mrs. Hatcher passed away last year and Mr. Hatcher has requested the County consent to exercise his second one (1) year option to remain in the residence, with an additional one (1) year extension period. Pursuant to the Lease, upon either termination or expiration, the Hatchers may remove the wormy chestnut, pecky cypress and wood beams from the residence, as the house was expected to be demolished as part of the planned restoration project. Recently, ERM and Parks have had discussions regarding the use of the house as a future public visitor and education center. Removal of the wood by Mr. Hatcher may require total demolition of the house and it would be beneficial to the County to have the wood remain as the restoration costs could be excessive. Initially, ERM was reluctant to consider extending the lease for another year as construction is underway on the property, but with the new plan to use the house as a visitor and educational building, ERM has reconsidered. Mr. Hatcher has agreed to release his rights to remove the desirable and expensive rare wood paneling and beams in exchange for the County granting him the second option together with an additional one (1) year option, at no additional charge. However, if the County decides to demolish the house prior to February 14, 2017, Mr. Hatcher will have the right to remove the wood and wood beams. Mr. Hatcher acknowledges and agrees that ERM will be constructing trails, removing vegetation, fill, etc., and access to the property may be hindered and requiring him to vacate the property for a period not to exceed one (1) week.

As this lease is with an individual, Florida Statutes, Section 286.23, does not require a Disclosure of Beneficial Interests be obtained.

TWP 40

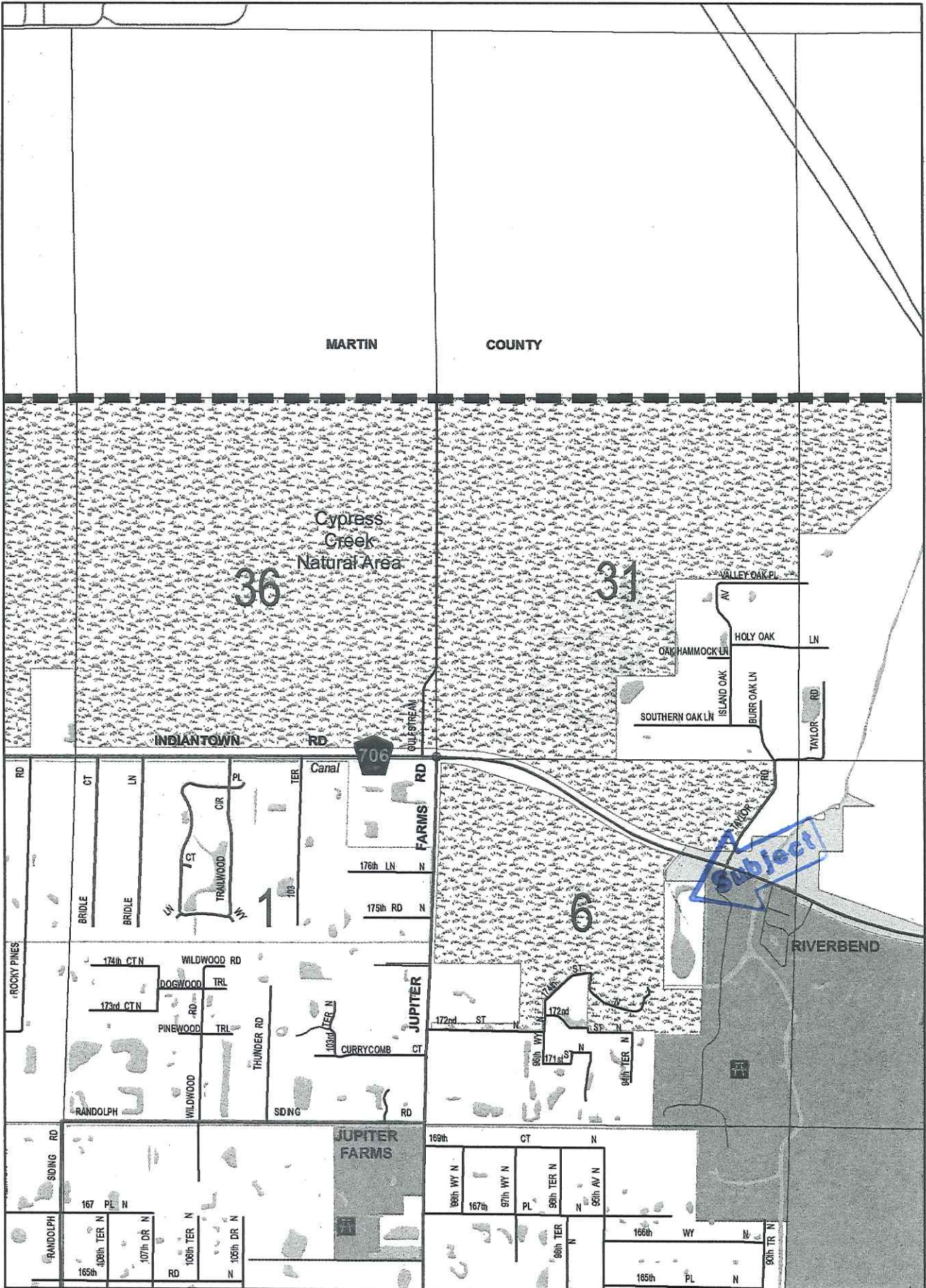
1

TWP 40

2

TWP 41

3



RNG 41

See pg 12

RNG 42

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LOCATION MAP

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RESOLUTION NO. 2014-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING A ONE (1) YEAR EXTENSION OF THE TERM OF THE LEASE, WITH ONE (1) ADDITIONAL ONE (1) YEAR EXTENSION OPTION, UNDER THE TERMS OF COUNTY'S LEASE OF CERTAIN REAL PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Walter J. Hatcher, an individual, ("Tenant"), pursuant to a Lease Agreement dated September 11, 2007, (R2007-1590), as extended, leases 6.54 acres of property, together with a single family residence, from the County for residential purposes located adjacent to Riverbend Park in Jupiter; and

WHEREAS, the Term of the Lease, as extended by the Tenant's exercise of the first option to extend, expires on February 13, 2014; and

WHEREAS, under the terms of the Lease, upon either termination or expiration, Mr. Hatcher may remove certain valuable and desirable wood and wood beams from the residence, which would allow the residence to be demolished as part of the construction of the property; and

WHEREAS, County wishes to utilize the residence for a future public visitor and educational building, which would require the wood and wood beams to remain within the residence; and

WHEREAS, Tenant wishes to amend the Lease to exercise the last one (1) year rent free extension of the Term of the Lease, with an additional one (1) year extension option without charge in exchange for the Tenant releasing his rights to remove the valuable wormy chestnut, pecky cypress and wood beams from the residence and a reduction to the Premises; and

WHEREAS, if the County elects to demolish the residence prior to February 14, 2017, Tenant, at Tenant's sole cost and expense, shall have the right to coordinate the salvage of any wood beams, wormy chestnut and pecky cypress siding located on the Premises; and

WHEREAS, it would not be cost effective to replace the wood and wood beams and removal may require the single family residence to be demolished; and

WHEREAS, the single family residence would provide visitors to Riverbend Park with a public visitor and educational center and County wishes to retain said residence; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that the single family residence would enable the County to provide a service to the public and the extension of the Lease Agreement with Tenant for one (1) additional year, with an additional one (1) year extension option at no charge is in the best interests of the County.

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 extend the Term for one (1) year, with one (1) one (1) year extension option without charge and reduce the Premises from 6.54 acres to 2.45 acres pursuant to the First Amendment to Lease Agreement, attached hereto and incorporated herein by reference, in connection with the lease of property and the single family residence identified in such Lease Agreement.

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 Priscilla A. Taylor, Mayor
- Commissioner Paulette Burdick, Vice Mayor
- Commissioner Hal R. Valeche
- Commissioner Shelley Vana
- Commissioner Steven L. Abrams
- Commissioner Mary Lou Berger
- Commissioner Jess R. Santamaria

The Mayor thereupon declared the Resolution duly passed and adopted this _____
day of _____, 2014.

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

By: 
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: 
Department Director

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**FIRST AMENDMENT
TO
LEASE AGREEMENT**

THIS FIRST AMENDMENT TO LEASE AGREEMENT (the "First Amendment") is made and entered into _____ by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and Walter J. Hatcher, an individual, hereinafter referred to as "Tenant".

WITNESSETH:

WHEREAS, County and Tenant entered into a Lease Agreement dated September 11, 2007, (R2007-1590) (the "Lease"), for the use of the Premises as defined in the Lease; and

WHEREAS, the Term of the Lease, as extended by the Tenant's exercise of the first option to extend (R2013-0052), currently expires on February 13, 2014; and

WHEREAS, Tenant is aware of County's intent to conduct activities on the Property (including the Premises) which may involve the use of heavy machinery and equipment, causing noise, vibration, dust, increased traffic, and other disturbances on said portion of the Property which may result in inconvenience or impacts to Tenant's use of or access to the Premises; and

WHEREAS, the parties wish to amend the Lease to approve a one (1) year extension and an additional one (1) year renewal period of the Term of the Lease; reduce the Premises; provide for continued rent free occupancy during the renewal period; provide for the Director of the Department of Environmental Resources Management ("Department") to provide notice of termination; modify various terms; and incorporate certain other language required by County; and

WHEREAS, County hereby acknowledges that Tenant is not delinquent in the payment of rent and is not in default of any of the terms and conditions of the Lease.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning ascribed to them in the Lease.
2. The Term of this Lease is extended for a period of one (1) year commencing upon February 14, 2014, and terminating February 13, 2015, unless sooner terminated pursuant to the provisions of this Lease.
3. Section 1.01, Premises, of the Lease is amended to replace Exhibit "A" attached to the Lease with Exhibit "A" attached to this First Amendment and made a part hereof.

4. Section 1.03, Option to Renew, of the Lease is deleted in its entirety and replaced as follows:

County hereby grants to Tenant, so long as Tenant shall not be in default of any term, covenant, condition or payment of rent under this Lease, the right and option to renew the Term of this Lease as to Parcel "A" for one (1) one (1) year period (the "Renewal Period") under the same terms and conditions of this Lease and commencing upon February 14, 2015. Tenant shall exercise its option to renew, if at all, by written notice to the County received by the County on or before ninety (90) days prior to the current Term Expiration Date (February 13, 2015). Any renewal of the Term of the Lease shall be at Department's sole and absolute discretion. In the event Department will not grant a renewal of the Term of the Lease, Department shall notify Tenant of Department's denial of the lease renewal within thirty (30) days after receipt of Tenant's written notice to renew the Lease.

Failure of Tenant to duly and timely exercise its option to renew the Term of this Lease shall be deemed a waiver of Tenant's right to said option and all further options.

5. Section 2.01(b), Rent during Renewal Periods, is deleted in its entirety and replaced as follows:

There shall be no charge for rent for the Renewal Periods following the initial five year Term. In the event this Lease is terminated by either party after the Term Expiration Date, Tenant shall not be entitled to a refund of any portion of the Term Rent.

6. Section 4.04, Surrender of Premises, is deleted in its entirety and replaced as follows:

Upon termination or expiration of this Lease, Tenant, at its sole cost and expense, if so directed by County, shall remove Tenant's personal property, removable fixtures, equipment and Alterations from the Premises and shall surrender the Premises to the County in the same condition the Premises were in as of the Commencement Date of this Lease, reasonable wear and tear and casualty excepted. Upon surrender of the Premises, title to any and all remaining improvements, Alterations or property within the Premises shall be considered abandoned by Tenant and, at the option of County, may either be retained as County's property or may be removed by County at Tenant's expense. If County elects to demolish the residence located on the Premises prior to February 14, 2017, Tenant, at Tenant's sole cost and expense, shall have the right to coordinate the salvage of any wood beams, wormy chestnut and pecky cypress siding located on the Premises. County will grant Tenant a temporary access easement over the Property for the purpose of removing the wormy chestnut and pecky cypress siding and wood beams located within the residence. The temporary access easement shall terminate in either 90 days or upon such removal is completed, whichever is earlier.

7. The parties acknowledge that the Department may execute any documentation necessary to provide notice to the termination of this Lease, as provided in Article XII.

8. Article XIII, Quiet Enjoyment, is modified to include:

Tenant acknowledges that during the construction within the Property, Tenant may be denied access to the Premises for a period not to exceed one (1) week. Tenant agrees, at the sole cost and expense of Tenant, to vacate the Premises, if requested by County, during such period. County will endeavor to provide Tenant 15 days notice prior to such closure of the access to the Premises.

9. Section 14.02(b), Notices, is modified to add the following:

and

Department of Environmental Resources Management
Attention: Director
2300 North Jog Road
West Palm Beach, Florida 33411
Telephone: (561) 233-2400
Fax: (561) 233-2414

10. Palm Beach County has established the Office of the Inspector General. 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.

11. No provision of this Lease is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Lease, including but not limited to any citizens of Palm Beach County or employees of County or Tenant.

12. Tenant shall assure and certify that it will comply with the Title VI 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, familial status, sexual orientation, gender identity or expression, or disability with respect to any activity occurring on the Premises or conducted pursuant to this Lease.

13. Except as set forth herein, the Lease remains unmodified and in full force and effect.

14. This First Amendment 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, the parties have duly executed this First Amendment as of the day and year first written above.

TENANT:

WITNESSES:

B. J. Studt
Witness Signature

BENJAMIN STUDT
Print Witness Name

Joyce L Hatcher
Witness Signature

Joyce L Hatcher
Print Witness Name

By: Walter J Hatcher
Walter J. Hatcher

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

COUNTY:

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

By: _____
Pricilla A. Taylor, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

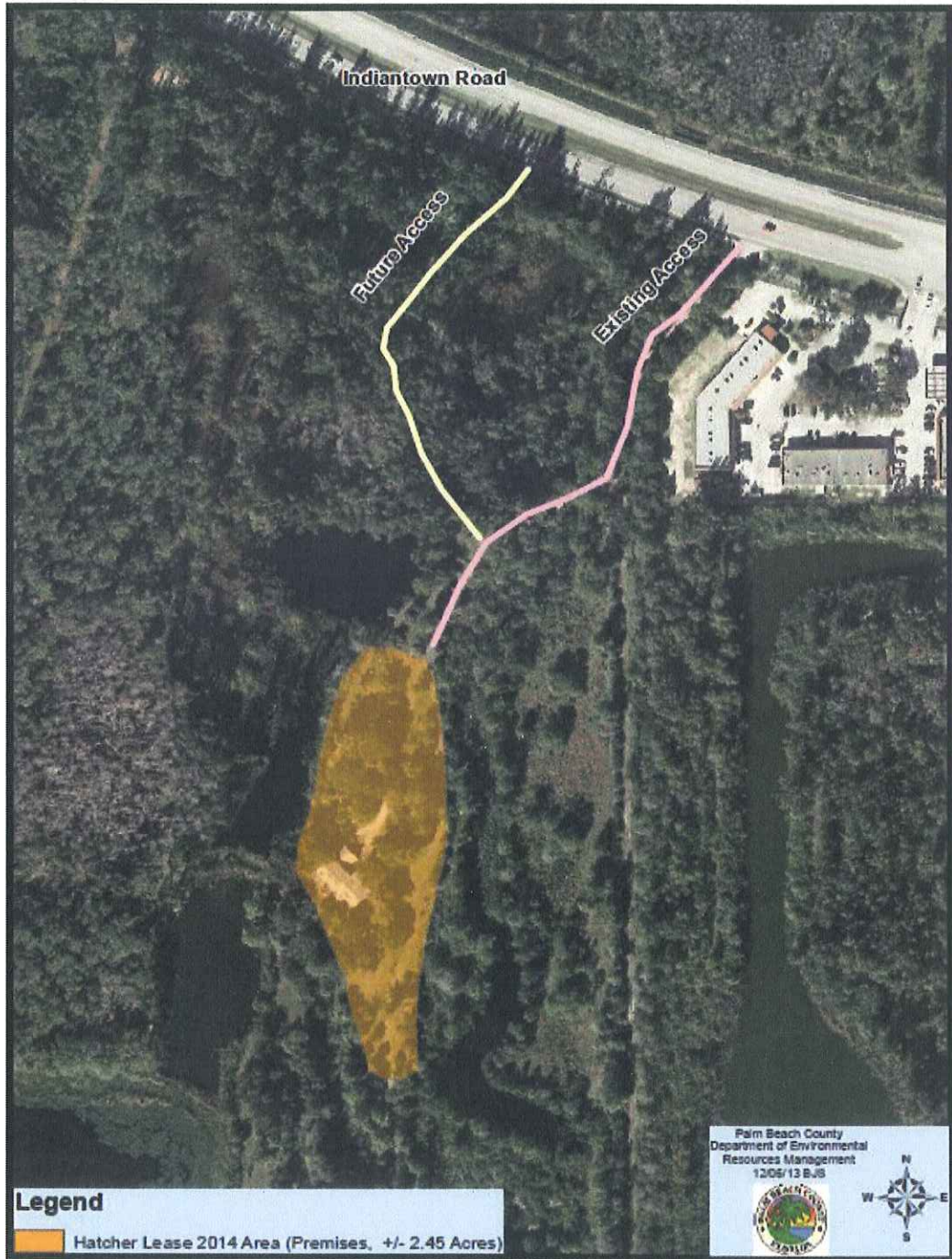
By: [Signature]
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

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

EXHIBIT "A"
PARCEL "A" OF THE "PREMISES"

Hatcher Lease Area - 2014 Lease Amendment



Walter Hatcher
9424 Indiantown Road
Jupiter, FL 33478
561-746-8648

October 29, 2013

Property & Real Estate Management Division
Attn: Director
2633 Vista Parkway
West Palm Beach, Florida 33411-5605

Re: Lease Agreement between Palm Beach County and Walter and Joyce (deceased 6/27/13)
Hatcher

Pursuant to Article 1, Section 1.03 of our lease agreement dated September 11, 2007 and effective February 14, 2008, we hereby exercise our option to renew the lease for Parcel A for one (1) year under the terms and conditions of this lease.

If you have questions or need additional information, please call our representative, Kim Hatcher Beaumont at Traylor, Gratton & Beaumont, LLC, 561-737-7900.

We appreciate your assistance in this matter.

Sincerely,


Walter Hatcher

cc: Palm Beach County Attorney's Office

