Agenda Item #: **3**#15

## PALM BEACH COUNTY **BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY**

Meeting Date:	July 1, 2014	[X] Consent [ ] Ordinan	[ ] Regular ce [ ] Public Hearing
Department:	Facilities Develop	oment & Operations	
	-	I. <u>EXECUTIVE BRIE</u>	<u>E<b>F</b></u>
		motion to approve: a in Bert Winters Park.	Declaration of Restrictive Covenant on a
Ross Road in Juno District (FIND) gra Inc. (AMIkids) par Winters Park. The the Property to be requires dedication construction. The I	Beach. In 2013, that to reimburse the reel ("Property") lo County completed to improved as a public of the property for p	the County was awarde a County 25% of the concated on the Intracoas the acquisition in April ic boating access facility public use for a minimust requires recordation of	Ellison Wilson Road just south of Donald ed a \$250,000 Florida Inland Navigation ost to acquire the one (1) acre AMIKids, stal Waterway within the limits of Bert 2013. The FIND grant contract requires by within 7 years of land acquisition and am period of 25 years after completion of this Declaration to provide notice of the
one (1) acre AMIk Park (R2013-491). for \$250,000 (R-20) property. The bala Access and Preserv agenda item was p requires the Propert acquisition (by Apr completion of the b plan to expand car/ launching, and add approved and recor construction is con construction and con	On May 7, 2013, to 13-0568) with the ince of the acquisite ation General Obligation Gener	d on the Intracoastal Whe Board approved the Intent to fund 25% of the Intent to fund 25% of the Intent to fund Issue. The Intent to January 14, 2014 in Intention Bond Issue. The Intention Bond Issue. The Intention Issue Isue I	d approved a \$1,000,000 purchase of the laterway, for inclusion into Bert Winters submission of a FIND grant application as purchase price to acquire the AMIkids rough the 2004 \$50,000,000 Waterfront grant was awarded and a receive and file 4, (R-2014-0068). The grant agreement ting access facility within 7 years of land for a minimum period of 25 years after ultant has been hired to develop a master modify the boat ramps to improve boat is Restrictive Covenant is required to be the \$250,000 grant reimbursement. Once mended to document the completion of the property for use as a public boating this date.
	ion Map ctive Covenant		
Recommended By	Depa	rmy Work	6 3 14 Date
Approved By:	La Carrier	Maller nty Administrator	Date

# II. FISCAL IMPACT ANALYSIS

A.	Five Year Summary of I	Fiscal Impact:				
Fisca	al Years	2014	2015	2016	2017	2018
Oper Exte Prog	ital Expenditures rating Costs rnal Revenues ram Income (County) ind Match (County					
NET	FISCAL IMPACT	*		<del></del>	Control of the Contro	
	DITIONAL FTE ITIONS (Cumulative)					
Is It	em Included in Current Bu	adget: Yes	N	o		
Budg	get Account No: Fund	Dept Program	, U	nit	Object	
В.	Recommended Sources	of Funds/Sumn	nary of Fiscal	Impact:		
:	* There are no fiscal impact	ts associated wit	h this agenda	item.		
C.	Fixed Asset Number Departmental Fiscal Rev		W	6.5	- 14	
		III. <u>REVIE</u>	W COMME	<u>NTS</u>		
<b>A</b> .	OFMB Fiscal and/or Cor	19/2014	A-3	ents:  Jolobo  Mopment and C	unt Control	2114
В.	Legal Sufficiency:  Assistant County Attorney	<u> </u>				
C.	Other Department Revie	ew:				
	Department Director					

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

RNG 43 See pg 35 RNG 43 Page **25** 

PALW 703,3

LOCATION MAP

Prepared By and Return to: Peter Banting, Real Estate Specialist Palm Beach County Property & Real Estate Management Division 2633 Vista Parkway West Palm Beach, FL 33411-5605

PCN: 00-43-41-29-00-000-5720

# DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT ("Restrictive Covenant") is made as of this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2014, by PALM BEACH COUNTY, a political subdivision of the State of Florida (hereinafter "County") to satisfy a grant funding condition by the FLORIDA INLAND NAVIGATION DISTRICT, a special state taxing district of the State of Florida (hereinafter "District").

#### **RECITALS**

WHEREAS, the County purchased a parcel of land together with certain property rights from AMIkids, Inc. ("AMIkids") located within the County's Bert Winters Park ("Park") at 13425 Ellison Wilson Road, Juno Beach, Florida, as more particularly described in Exhibit "A", attached hereto and made a part hereof ("Property"); and

WHEREAS, the County is the sole owner of said Property pursuant to that certain Warranty Deed from AMIkids to County as recorded in ORB 26063, Page 77 in the public records of Palm Beach County; and

WHEREAS, the District approved a Waterway Assistance Program grant for the Park (District Project No. PB-13-169) which provides for the District to contribute up to \$250,000 towards the County's acquisition costs of the Property and requires the Property be dedicated for public use as a boating access facility for a minimum period of 25 years.

**NOW THEREFORE,** in consideration of the premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned County does hereby establish and agree to be bound by this Restrictive Covenant upon the Property, which shall run with the land and be binding on County as follows:

- 1. The recitals and findings set forth in the preamble of this Restrictive Covenant are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.
  - 2. The Property shall be for public use primarily as a boating access facility.
- 3. In the event that construction of the boating access facility as set forth in District Project No. PB-13-169 (the "Project") is not completed by April 25, 2020, the District shall have the right to require the County to reimburse the District's Funds in full.
- 4. This Restrictive Covenant shall be effective and remain in full force and effect upon recordation in the Palm Beach County public records and shall be binding on the County. Upon completion of the County's construction of the project as set forth in District Project No. PB-13-169 (the "Project"), the County shall execute and record in the Palm Beach County public records an amendment to this Restrictive Covenant to document the completion date of the Project and the commencement of a twenty-five (25) year limitation of this restriction ("Retention Period").
- 5. County shall notify the District, whose mailing address is 1314 Marcinski Road, Jupiter, Florida 33477-9498 upon any sale, refinancing, foreclosure, conveyance by deed in lieu of foreclosure, change in ownership or change in use of the Property occurring prior to the end of the Retention Period. Prior to any improvements to the Property, County shall coordinate with the District to evaluate whether the proposed improvements are consistent with the District's assistance program rules and/or will impair the primary use of the Property for public boating access. In the event of a change of ownership or change in use of the Property in violation of this Restrictive Covenant, the District shall have the right to require the County to reimburse the District's Funds in full.
- 6. Invalidation of one of the provisions of this Restrictive Covenant by judgment of the County shall not affect any of the other provisions of the Restrictive Covenant, which shall remain in full force and effect.
- 7. This Restrictive Covenant shall be filed of record among the Public Records of Palm Beach County, Florida, at the sole cost and expense of the County.
- 8. This Restrictive Covenant is a covenant running with the Property. On the expiration of the Retention Period, this Restrictive Covenant shall lapse and be of no further force and effect.

Remainder of Page Intentionally Left Blank

**IN WITNESS WHEREOF**, the County has caused this Restrictive Covenant 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: Priscilla A. Taylor, Mayor				
Signed and delivered in the presence of:					
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  By: Eric Call, Director				
	Parks & Recreation Department				

### Exhibit "A"

A PARCEL OF LAND LYING IN THE EAST ONE-HALF (E 1/2) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 29, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH 800,00 FEET OF THE SAID EAST ONE-HALF (E 1/2) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 29 WITH THE EASTERLY BOUNDARY OF THE 500.00 FOOT RIGHTOF-WAY OF THE INTRACOASTAL WATERWAY AS RECORDED IN PLAT BOOK 17, PAGE 7, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 16' 14' 11" WEST ALONG THE SAID EASTERLY BOUNDARY OF THE 500.00 FOOT RIGHT-OF-WAY OF THE INTRACOASTAL WATERWAY, A DISTANCE OF 221.72 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 16' 14' 11" WEST ALONG THE SAID EASTERLY BOUNDARY OF THE 500.00 FOOT RIGHT-OF-WAY OF THE INTRACOASTAL WATERWAY, A DISTANCE OF 211.62 FEET, THENCE NORTH 77' 12' 45" EAST, A DISTANCE OF 171.89 FEET; THENCE SOUTH 33°51' 15" EAST, A DISTANCE OF 226.37 FEET; THENCE SOUTH 77° 12' 45" WEST, A DISTANCE OF 240.53 FEET TO THE POINT OF BEGINNING.