Agenda Item #: 3H-6

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

Meeting Date:	February 7, 2017	[X] Consent [] Ordinance	[] Regular [] Public Hearing	
				i.
Department:	Facilities Developmen	nt & Operations		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Access Agreement in favor of Palm Worth, Inc., providing access to Kreusler Park.

Summary: The Palm Worth Cooperative is adjacent to the North boundary of Kreusler Park. Residents of the Co-Op have historically accessed the Park through two gates in the Co-op's fence. During a recent Town of Palm Beach site plan approval process for replacement of the Park restroom and lifeguard office building, the Town insisted that the existing meandering pathway be relocated to the north boundary of the Park within an existing 5' beach access easement. This Access Agreement will document and continue the Co-op's historical rights to access the Park through the existing gates in the Co-op's fence onto the relocated pathway. (PREM) District 7 (HJF)

Background and Justification:

Kreusler Park lies on the oceanfront within the Town of Palm Beach just north of the Lake Worth Beach and Casino. When the County acquired the Park property in 1974, the property was subject to a beach access easement along the north 5'. At some point in time, the pathway providing access was relocated, but the County did not obtain formal site plan approval from the Town for relocating the pathway. During the recent site plan modification for the restroom replacement and lifeguard office building project, the location of the beach access pathway became an issue. The La Palma Condominium, one of the beneficiaries of the easement, wanted the pathway placed back in its original location, and questioned the rights of the Co-op to use the easement, claiming that the easement is exclusive. Staff ultimately agreed to the Town's demand that the pathway be relocated. However, Staff does not agree that the easement is exclusive and took no action which would support La Palma's claim. The easement/pathway remains physically open and accessible to all. This access agreement is intended to assure the Co-op that the County will not interfere with the Co-op's access to the Park.

Attachments:

- 1. Location Map
- 2. Access Agreement

Recommended By:	Armywar	1/21/17	!
	Department Director	Date	1
Approved By:	Depaker	1/26/17	
	County Administrator	Date (

II. FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact: A.

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County					
NET FISCAL IMPACT	*				
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current Bu	idget: Yes		No		
	Dej Program		Unit	_ Object _	
B. Recommended Sources of	f Funds/Sumi	mary of Fisc	al Impact:		
* No fiscal impact.					
Fixed Asset Number N/A					
C. Departmental Fiscal Revi	ew:				
	III. <u>REVII</u>	EW COMM	<u>ENTS</u>		
A. OFMB Fiscal and/or Con	tract Develop	oment Comn	nents:		
OFMB Et 1/24 Pt/1/24 B. Legal Sufficiency:		$\frac{1}{Contract De}$	$\frac{1}{\sqrt{17}}$	Control I Control	5117
Assistant County Attorney	26/17				

Agseement not signed by Palm Worth at time of CAO review Other Department Review:

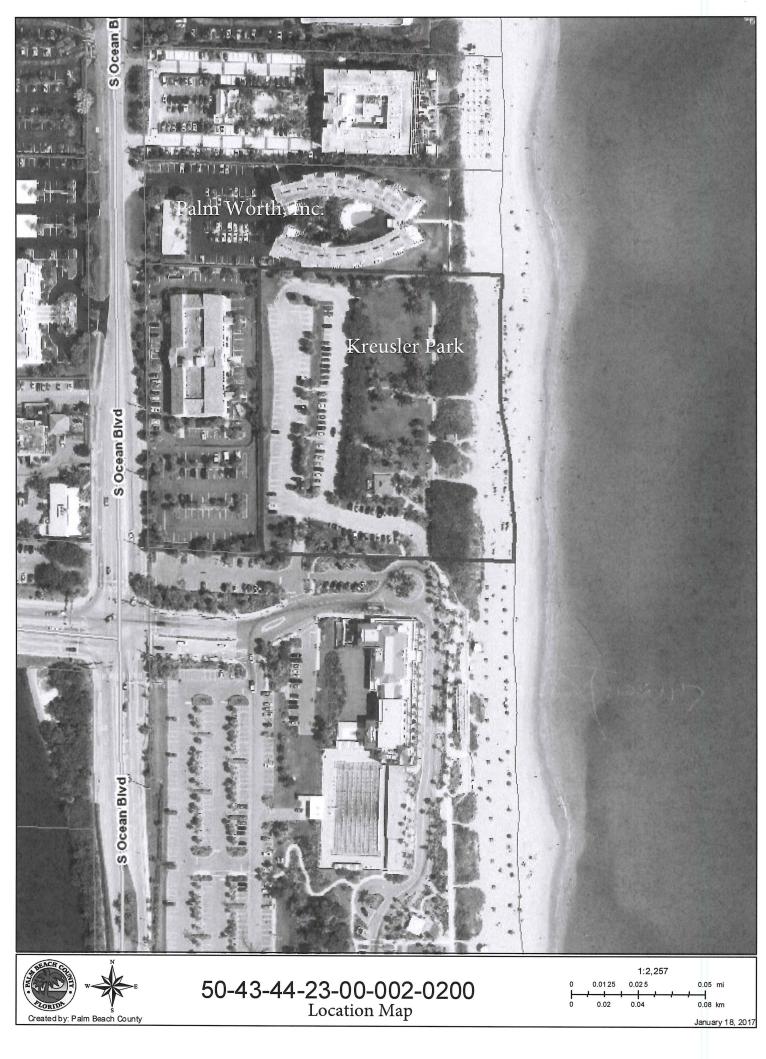
С.

Department Director

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

G:\PREM\AGENDA\/FY 2017/2-7/Palm Worth Access Agr..docx

Attachment 1



ACCESS AGREEMENT

THIS ACCESS AGREEMENT is made and entered into on ______ by and among Palm Worth, Inc. a Florida corporation ("Palm Worth"), and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners ("County").

Recitals:

WHEREAS, the County is the fee simple owner of real property located at 2882 South Ocean Boulevard known as R.G. Kreusler Park (the "Park").

WHEREAS, Palm Worth owns and/or controls the Cooperative development contiguous to the Park (the "Cooperative") along the northern boundary of the Park.

WHEREAS, the residents of the Cooperative have historically accessed the Park through gates in Palm Worth's fence running along the property line between the Condominium and the Park.

WHEREAS, both the County and Palm Worth desire to maintain access to the Park by residents of the Cooperative.

NOW THEREFORE, in consideration of the promises, covenants, terms and conditions contained herein, and other goods and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

<u>Agreement</u>

- 1. The above recitals are true and correct and are hereby incorporated by this reference.
- 2. The County hereby agrees to allow residents of the Cooperative unimpeded access during normal Park operating hours to the Park through Palm Worth's two existing gates as depicted on the site plan attached as Exhibit "A" hereto for so long as County continues to operate the Park.
- 3. This Access Agreement shall be recorded in the Public Records to provide public notice of its existence.

IN WITNESS WHEREOF, Palm Worth, Inc. and the County have caused this Access Agreement to be executed as of the date first set forth above.

Signed, sealed and delivered presence of:

	PALM WORTH, INC. , a Florida in the corporation
Witness Signature (Required)	By: Juanita Leary, President
Witness Name Printed or Typed	
Witness Signature (Required)	(CORPORATE SEAL)
Witness Name Printed or Typed	
STATE OF COUNTY OF	
to me, or has produced executed the foregoing instrument as Pr corporation, and severally acknowledge instrument as such officer of said compa- deed of said company.	, who is personally known as identification, and who resident of Palm Worth, Inc., a Florida ed to and before me that he executed such any, and that said instrument is the free act and
" interest my name and official scar uns_	day 01, 20
	Notary Signature
(Stamp/Seal)	Notary Public State of
	Print Notary Name
	Commission Number My Commission Expires:

Attest:

By:

SHARON R. BOCK CLERK & COMPTROLLER

By: _____ Deputy Clerk

COUNTY:

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

By:

Paulette Burdick, Mayor

APPROVED AS TO TERMS AND CONDITIONS

By:

Assistant COUNTY Attorney

APPROVED AS TO FORM

AND LEGAL SUFFICIENCY

By: <u>AAMy Wor</u> Department Director

G:PREM/Dianne/Kreusler Park/Access Agreement PW 1.18.17

