

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 4, 2017

Consent  
 Ordinance

Regular  
 Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to: **A) approve and execute** a Florida Inland Navigation District (FIND) Declaration of Restrictive Covenant dedicating a portion of Waterway Park for public use for 25 years from the date of completion of the construction of the boating facilities; and **B) approve and execute** a Florida Fish and Wildlife Conservation Commission (FFWCC) Notice of Limitation of Use/Site Dedication Waterway Park dedicating a portion of Waterway Park for public use for 20 years from the date of recordation in public records.

**Summary:** The County was awarded Florida Inland Navigation District (FIND) and Florida Fish and Wildlife Conservation Commission (FFWCC) grants to fund a portion of the construction costs associated with the development of Waterway Park. FIND's Waterway Assistance Program (WAP) grants require a Declaration of Restrictive Covenant be recorded in Public Records dedicating the site primarily for use as a public boating facility for a period of (25) twenty-five years from the date of completion of construction. The FFWCC's Florida Boating Improvement Program (FBIP) grant requires a Notice of Limitation of Use/Site Dedication form be recorded in Public Records dedicating the site as a boating access facility for the use and benefit of the general public for a minimum of twenty (20) years from the date of recordation in public records. The Property and Real Estate Management Division has approved both the Declaration of Restrictive Covenant and Notice of Limitation of Use agreements. Construction of the boating facilities have been completed. District 1 (AH)

**Background and Justification:** The County was awarded two FIND-WAP grants totaling \$2,675,000 and a FFWCC-FBIP grant for \$400,000 to fund a portion of the construction costs associated with development of Waterway Park. The grant funding agreements require that a restrictive covenant or site dedication be recorded in the public records that limit the primary use of the property for public boating access. The Property and Real Estate Management division will record the site dedication documents and associated legal description upon execution by the Board.

**Attachments:**

- 1) FIND – Declaration of Restrictive Covenant
- 2) FFWCC – Notice of Limitation of Use Site Dedication

Recommended by:   
Department Director

3-22-17  
Date

Approved by:   
Deputy County Administrator

3/24/17  
Date

**II. FISCAL IMPACT ANALYSIS**

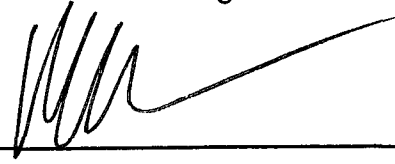
**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>NET FISCAL IMPACT</b>	* <u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_  
 Object \_\_\_\_\_ Program \_\_\_\_\_

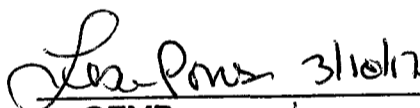
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

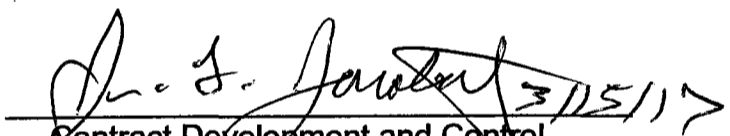
\*There are no fiscal impacts associated with this agenda item.

C. Departmental Fiscal Review:  \_\_\_\_\_

**III. REVIEW COMMENTS**

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

 3/10/17  
 OFMB ET 3/8  
 AK 3/10/17

 3/15/17  
 Contract Development and Control  
 3/15/17 RD

**B. Legal Sufficiency:**

 3-16-17  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

REVISED 10/95  
 ADM FORM 01

Return to:  
Marcel Pessoa, Real Estate Specialist  
Palm Beach County  
Property and Real Estate Management  
2633 Vista Parkway  
West Palm Beach, FL 33411

PCN: 00-43-41-06-52-001-0000 (a portion of)

**DECLARATION  
OF  
RESTRICTIVE COVENANT**

This Declaration of Restrictive Covenants (the "Restrictive Covenant") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by **Palm Beach County**, a political subdivision of the State of Florida (hereinafter the "Project Sponsor") and the **Florida Inland Navigation District**, a special state taxing district (hereinafter the "District").

**RECITALS**

**WHEREAS**, the Project Sponsor has received Florida Inland Navigation District – Waterway Assistance Program grant funding to cover a portion of the construction costs associated with the development of Waterway Park located at 3550 East Indiantown Road, Jupiter, Florida as more particularly described in Exhibit "A", attached hereto (the "Property"); and

**WHEREAS**, the Waterway Assistance Program Funding Agreement requires the Property to be dedicated for public use as a boat launching facility for a period of twenty-five (25) years from the date of completion and further requires Project Sponsor to record a Restrictive Covenant in the public records of Palm Beach County, Florida.

**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 Project Sponsor does hereby establish and agree to be bound by this Restrictive Covenant, which shall run with the land and be binding on Project Sponsor as follows:

Section 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.

Section 2. The Property shall be for public use for public boating access.

Section 3. Construction of the boat launching facility was completed on \_\_\_\_\_ ("Project Completion"). The term of this Restrictive Covenant shall commence upon the Project Completion date and shall extend for a period of 25 years ("Retention Period"). This Restrictive Covenant shall be effective upon recordation in the

Palm Beach County public records and remain in full force and effect and shall be binding upon Project Sponsor during the Retention Period.

Section 4. Project Sponsor 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, Project Sponsor 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. Failure to abide with these restrictions shall require Project Sponsor to replace the area and facilities at its own expense with District's approved project of comparable or greater scope and quality. In lieu of such replacement, District may require return of grant funds disbursed to the project sponsor. Grant funds shall be refunded with interest, calculated at two (2) percent over the prevailing prime rate as reported by the Federal Reserve.

Section 5. Invalidation of one of the provisions of this Restrictive Covenant shall not affect any of the other provisions of the Restrictive Covenant, which shall remain in full force and effect.

Section 6. 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 Project Sponsor.

Section 7. This Restrictive Covenant is a covenant running with the Property. At the end of the Retention Period, this Restrictive Covenant shall lapse and be of no further force and effect.

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ATTEST:

SHARON R. BOCK  
CLERK & COMPTROLLER

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

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

COUNTY:

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

By: \_\_\_\_\_  
Paulette Burdick, Mayor

APPROVED AS TO TERMS AND  
CONDITIONS


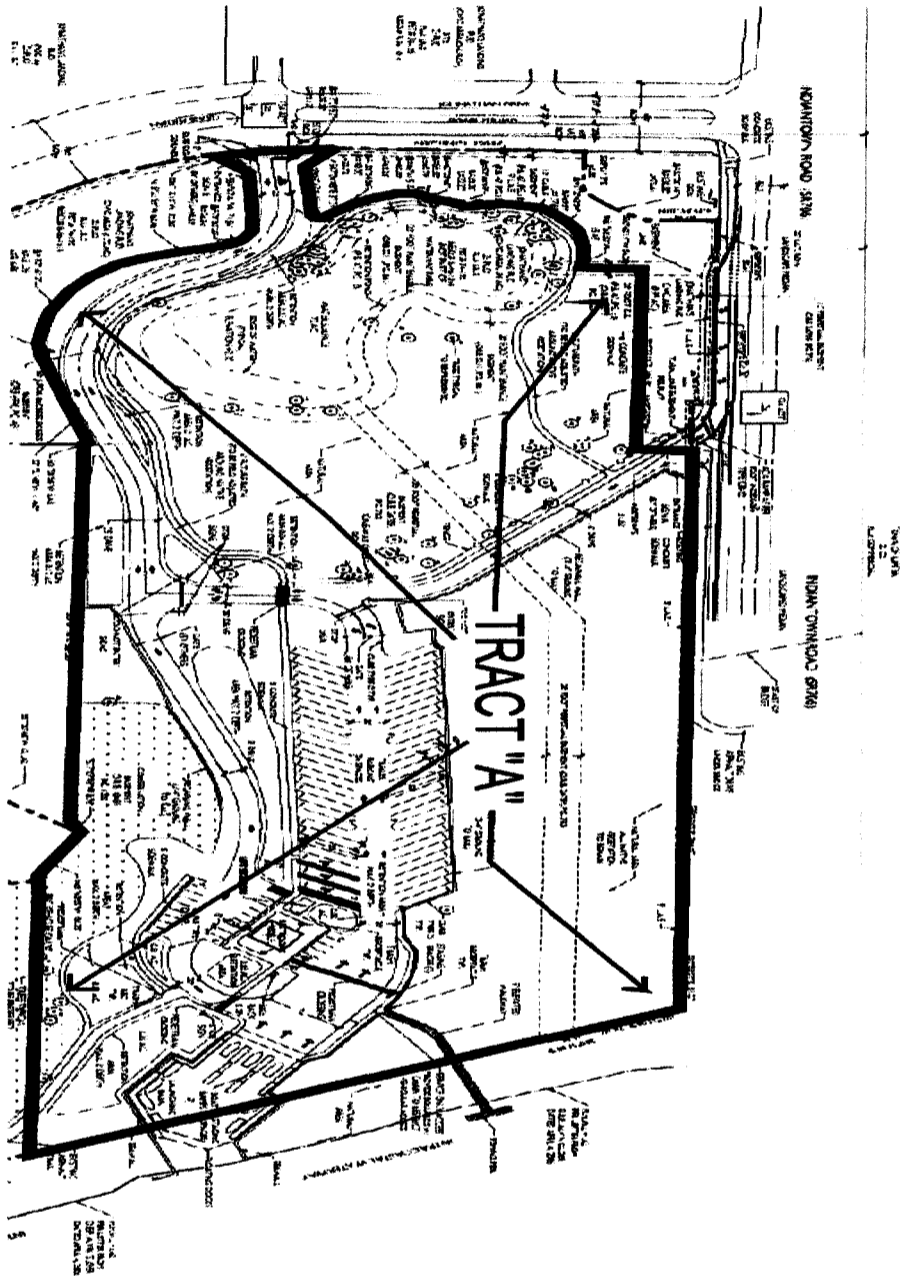
By:   
Eric Call, Director  
Parks & Recreation Department

EXHIBIT "A"

A PORTION OF TRACT "A", WATERWAY PARK, A PORTION OF  
JONATHAN'S LANDING P.U.D., RECORDED IN PLAT BOOK 116,  
PAGE 197, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY,  
FLORIDA, AS DEPICTED BELOW



**WATERWAY PARK**  
PALM BEACH COUNTY, FLORIDA

Return to:  
Marcel Pessoa, Real Estate Specialist  
Palm Beach County  
Property and Real Estate Management  
2633 Vista Parkway  
West Palm Beach, FL 33411

PCN: 00-43-41-06-52-001-0000 (a portion of)

**NOTICE OF LIMITATION OF USE/SITE DEDICATION  
WATERWAY PARK**

This Notice of Limitation of Use/Site Dedication gives notice that the Real Property identified on the boundary map, attached hereto as **Exhibit "A"** (the "Property"), has been developed with financial assistance provided by the Florida Fish and Wildlife Conservation Commission, under the grant program called the Florida Boating Improvement program (FBIP). The Property is hereby dedicated for a period of 20 years from the date hereof for the use and benefit of the public for public boating access. This Notice of Limitation of Use/Site Dedication is not intended to convey title to the public. Title to the Property shall remain vested in the County. The Property is subject to all applicable terms of the statute and rules cited herein.

ATTEST:

SHARON R. BOCK  
CLERK & COMPTROLLER

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

Signed, Sealed, and delivered  
In the presence of:

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

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

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
County Attorney

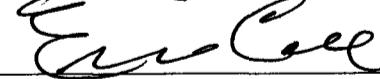
DEDICATOR:

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

By: \_\_\_\_\_  
Paulette Burdick, Mayor  
Palm Beach County  
Board of County Commissioners

Date: \_\_\_\_\_  
Date of Notice of Limitation  
of Use/Site Dedication

APPROVED AS TO TERMS AND  
CONDITIONS

By:   
Department Director

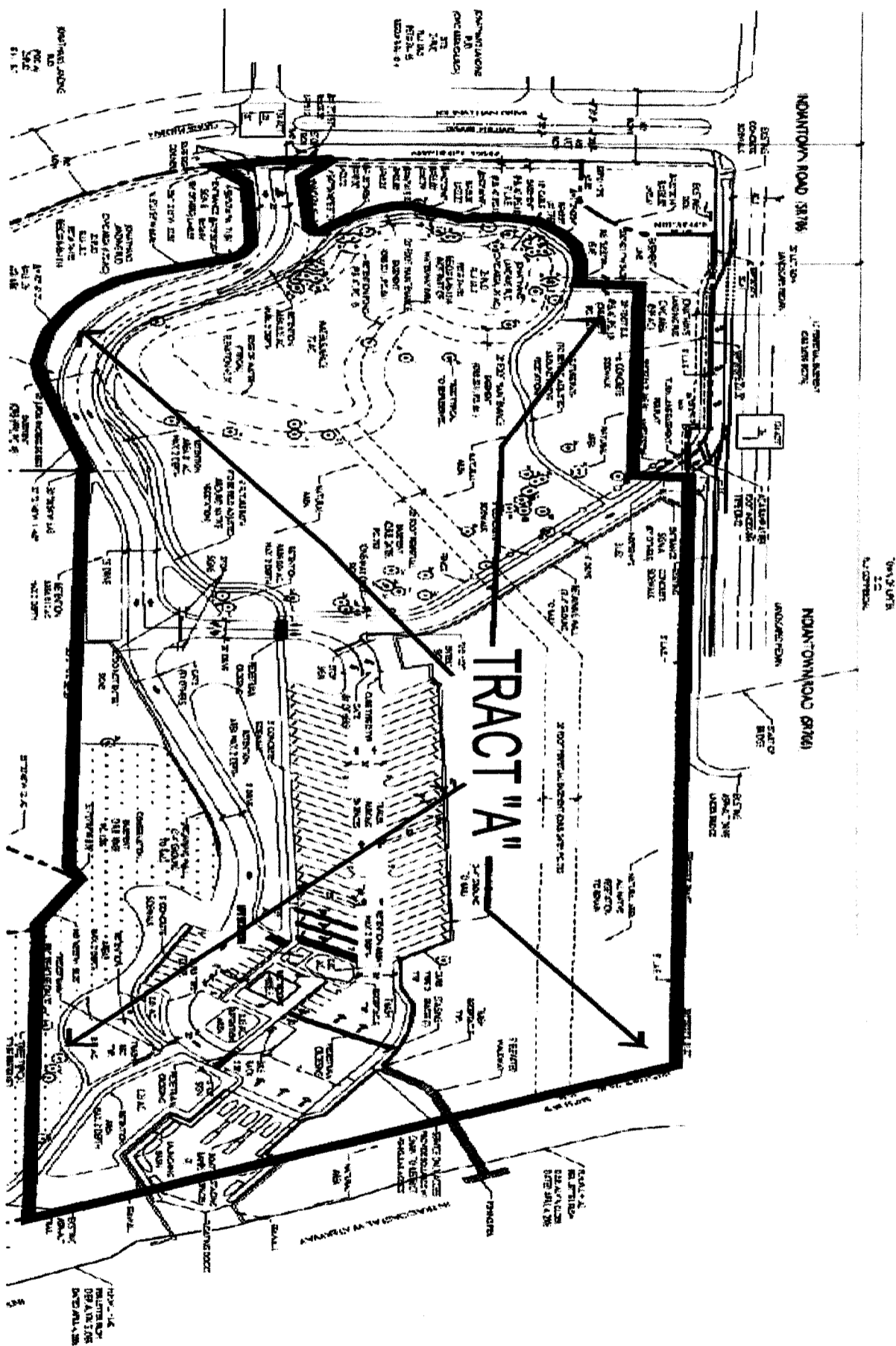
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by \_\_\_\_\_, ( ) who is personally known to me or ( ) who produced \_\_\_\_\_ as identification.

Stamp: \_\_\_\_\_  
Notary Public, State of Florida

EXHIBIT "A"

A PORTION OF TRACT "A", WATERWAY PARK, A PORTION OF JONATHAN'S LANDING P.U.D., RECORDED IN PLAT BOOK 116, PAGE 197, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AS DEPICTED BELOW



**WATERWAY PARK**  
PALM BEACH COUNTY, FLORIDA