

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: **October 8, 2019** ☐ Consent ☒ Regular
☐ Ordinance ☐ 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** a five-year time extension for development of the Cam D. Milani park site located within the Town of Highland Beach from June 1, 2020, to May 31, 2025; and **B) authorize** the Mayor to execute a letter to the Town of Highland Beach providing notification of the time extension.

Summary: On May 18, 2010, the Board approved a stipulated settlement agreement with the Town of Highland Beach regarding the Town's approval, with conditions, of the County's special exception use application for the development of the Cam D. Milani park property. The stipulated settlement agreement was executed by the Town on June 1, 2010. On September 14, 2010, the Board approved an addendum to the stipulated settlement agreement (R2010-1374) to correct scrivener's errors. In the settlement agreement, the County agreed not to proceed with development of the park, other than addressing certain compliance conditions, for a period of 10 years from the date of adoption for the amended development order (June 1, 2010). The settlement agreement also provided the County the right to extend the postponement at its sole option for two periods of five years each for a maximum postponement of 20 years. Should the County determine to extend the postponement period for five additional years, a letter notifying the Town of the extension is required within 6-12 months of the 10 year anniversary of the initial postponement. Inasmuch as the County requires the property to maintain Comprehensive Plan level of service requirements for beach park acres, and funding for the development of the park site has not yet been appropriated due to budgetary constraints and competing priorities, staff recommends postponing development of the Cam D. Milani park site for an additional five-year period. Pending Board approval, the obligatory letter will be sent to the Town outlining the County's intent to extend the postponement of development for an additional five years. Within this timeframe, it is the Department's intent to request design phase funding as part of our five-year Capital Program. District 4 (AH)


Background and Justification: **Background and Justification:** The County purchased two parcels on either side of State Road A1A, totaling 5.39 acres from the Milani family for \$3.9 million in 1987 for future development of a beachfront park. In 2007, the County re-activated a prior development application and submitted it to the Town. On March 4, 2008, the Town's Building Official confirmed that the County's application met the 19 code requirements for issuance of the special exception application. The application was referred to the Town's Planning Board, which heard the matter at three separate workshops in February, March and April of 2009. The Planning Board recommended approval of the special exception application to the Town Commission along with 43 conditions of approval. At the April 27, 2009 Public Hearing, the Highland Beach Town Commission voted to approve the County's special exception application with the 43 conditions of approval that had been recommended.

(continued on page 3)

- Attachments:**
- 1. Time extension letter
 - 2. Summary of Conditions

Recommended by:  9-15-19
Date

Department Director

Approved by:  9/24/2019
Date

Assistant County Administrator

II. FISCAL IMPACT ANALYSIS


A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<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 _____	X _____
Does this item include use of federal funds?			Yes _____	No _____	X _____

Budget Account No.: Fund _____ Department _____ Unit _____
Object _____ Program _____

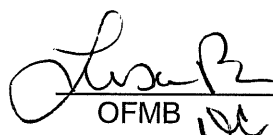
B. Recommended Sources of Funds/Summary of Fiscal Impact:

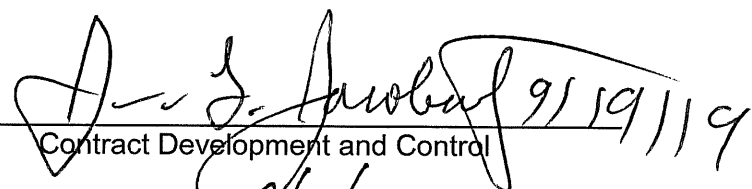
There is no fiscal impact at this time.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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


OFMB 9/17/19
9/16/19 BR 9/17/19


Contract Development and Control
9/18/19 TW

B. Legal Sufficiency:

Anne Delgent 9.23.19
Assistant County Attorney

C. Other Department Review:

Department Director

Background and Justification (Cont'd)

The County felt that a number of the conditions of development approval for the Milani property violated the law or were unconstitutional and petitioned the Court to step in. Staff was able to negotiate a settlement agreement with the Town's staff, under which the Town would modify the challenged conditions of approval to address the County's concerns. The County agreed to delay construction of the park for a period of 10 years, with the potential for two additional five-year extensions on the postponement, at the County's option. The settlement agreement was approved by the BCC on May 18, 2010, and executed by the Town on June 1, 2010. However, the County remained obligated to fulfill pre-development conditions including, 1) some clearing, grubbing, grading and seeding the entire western parcel, 2) installation of a buffer concrete wall, and 3) restoration of the onsite wetland. All of these conditions were accomplished within 12 months and in accordance with the settlement agreement.

On September 14, 2010, the BCC approved an addendum to the stipulated settlement agreement with the Town of Highland Beach to correct some scrivener's errors, including a corrected effective date from 2009 to 2010. A summary of the conditions is included as Attachment 2 to this item.

Considering there is adequate public beachfront park property a short distance to the north and south of the Milani site and based on the competing funding priorities, staff recommends extending the development delay for an additional five years. During this period, staff will request funding for the park design.



**Parks and Recreation
Department**

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PALM BEACH COUNTY



**Palm Beach County
Board of County
Commissioners**

Mack Bernard, Mayor

Dave Kerner, Vice Mayor

Hal R. Valeche

Gregg K. Weiss

Robert S. Weinroth

Mary Lou Berger

Melissa McKinlay

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*

Official Electronic Letterhead

October 8, 2019

Mayor Rhonda Zelniker
Town of Highland Beach
3614 S. Ocean Blvd.
Highland Beach, FL 33487

**RE: Milani Park – Notification of a five-year time extension for
Park development**

Dear Mayor Zelniker:

On May 18, 2010, Palm Beach County entered into a Stipulated Settlement Agreement with the Town of Highland Beach for the development of Milani Park. On September 14, 2010, the Stipulated Settlement Agreement was amended to correct scrivener's errors including a corrected effective date from 2009 to 2010. In the Amendment to the Agreement the County agreed to not proceed with the development of Cam D. Milani Park other than compliance conditions, for a period of 10 years from the date of adoption for the amended Development Order (May 4, 2010). In addition, the Settlement Agreement also provides the County the right to extend the postponement by two additional five-year periods for a maximum postponement of 20 years.

This notification is being provided in accordance with the Settlement Agreement as the County wishes to exercise its initial five-year postponement extension for development of the Park until May 4, 2025. During this five-year extension period, funding will be requested for the design phase of the Park.

The County continues to remain in compliance with all pre-development conditions, and will continue to work cooperatively with Town Administration and law enforcement to address issues, which may arise related to the property.

Please contact the Parks and Recreation Department Director, Eric Call, at 561-966-6613 if you have any questions or need any additional information.

Sincerely,

Mack Bernard, Mayor
Palm Beach County Board of County Commissioners

CC: Robert Weinroth, Commissioner, District 4
Verdenia Baker, County Administrator
Dorritt Miller, Assistant County Administrator
Audrey Wolf, Director, FDO
Eric Call, Director, Parks and Recreation Department
Bob Hamilton, Director, Park Planning and Design
Marshall Labadie, Town Manager

Conditions of Approval for Cam D. Milani Park

Reference: Board of County Commissioners Agenda Item Summary

September 14, 2010 – Agenda Item 3D-3



#	Description	Completion Date	Status	Comments
1.	The Conditions of approval for development of Milani Park (hereinafter the "Subject Property") herein shall apply to Palm Beach County (the County), its successors and assigns			
2.	The County shall comply with Section 30-12 of the Town Code, entitled "Payment for Outside experts by reimbursing the Town for all cost the Town has incurred to date from its hiring of experts, no later than (30) days after receipt of the invoice and supporting documentation, and subject to any resolution regarding the reasonableness of fees. Any additional cost shall be paid by the County prior to issuance of the first building permit authorizing development of the Subject Property.	12/21/2010	Completed	The County issued four payments to the Town of Highland Beach between April 13, 2009 and December 21, 2010 totaling \$123,684.12 ATTACHMENT #2
3.	Following the approval of the Special Exception Resolution and in advance of submitting for any building permit, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit a consolidated package which shall include a Final Site Plan, engineering construction plans, architectural plans (floor plans and elevations), and other documents, drawings, and permits received from outside agencies that are required by the conditions contained in the granting Resolution and are necessary to initiate clearing and construction on the Subject Property. This consolidated package shall also include that documentation which is necessary to demonstrate the County's compliance with all of the conditions of approval contained in the Resolution. These plans and documents shall be collectively referred to hereinafter as "the Compliance Package". The Compliance Package shall be subject to the Town's review to confirm compliance with the conditions and other permitting requirements.	Compliance package - must be complete within two years of County's notice of intent to resume development, and prior to building permit.		Compliance Package will be completed as part of the planning, design and permitting of this project.
4.	As part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit a revised Park Management Plan for the subject property which shall be subject to the Town's review to confirm compliance with the subsections contained within this condition. The revised Park Management Plan shall: a. set forth the County's intended delivery of public safety services to the subject property including lifeguards, park rangers and gatehouse attendants; b. require the County to retain one or more registered professional archeologists (herein after "the archeologists") as also identified in Condition #6 herein address the planning, construction and maintenance measures to protect the archaeological resources on the East Parcel (Parcel "A"). These measures shall be incorporated into the revised Park Management Plan. The Archeologists shall be on the subject Property at #4 Continued: all times during clearing and construction of the East Parcel (Parcel "A") for the park and its improvements to monitor and inspect the activities of the County's contractors, employees and consultants; c. indicate how the County proposes to continually restore and maintain a functioning foredune;	Management Plan - must be complete within two years of County's notice of intent to resume development, and prior to building permit.		Management Plan will be part of the Compliance Package, and will be completed as part of the planning, design and permitting of this project.



Condition has been Satisfied



Condition tied to Future Planning, Design and Permitting

Condition Applies During Construction



Condition Applies to Ongoing Operations

	<p>d. Indicate that signage will be installed at the base of the dune stating that beach goers are to keep off vegetated dune area, not disturb the vegetation and that recreational beach activity shall be monitored within an area which is 10 feet from the leading edge of the foredune to minimize degradation;</p> <p>e. Identify how endangered, threatened or species of special concern (in particular the Green Herons and Sea Turtles which were observed on the Site) will be protected before and after development of the Subject Property;</p> <p>f. set forth the County's plan for protecting sea turtle nests from recreational beach users;</p> <p>g. document how Palm Beach County shall comply with the Management Plan included in the reviewing agencies' permit(s) for monitoring and maintenance of the Mangrove Swamp on the West Parcel (Parcel "B");</p> <p>h. indicate how all exotic vegetation will initially be removed, and thereafter how the subject property will be monitored and maintained to protect its environmental integrity;</p> <p>i. document the plans for the collection and disposal of trash and debris from the beach recreation area. Waste collection shall occur a minimum of three times per week;</p> <p>j. set forth how maintenance of the subject property will be done, including but not limited to the parking lot, a guard in the guard house, cleaning of restrooms, and cleaning the beach. Maintenance shall be performed by Palm Beach County; and</p> <p>k. include an on-going training program for park staff for archaeological sensitivity for the Site.</p>			
5.	<p>As part of the Compliance Package, the County shall submit a drawing indicating the type of demarcation fencing or railing (which may include notices or signs attached thereto identifying adjacent private property) which it proposes to install on the beach to create delineation between public and privately owned properties along the northern and southern property lines to the mean higher water line for the East Parcel (Parcel "A"). The placement of the demarcation fencing or railing shall be subject to the County obtaining permits from the appropriate authorities; <u>however, the County shall be excused from compliance with this condition if, after a good faith effort, the County is unable to obtain required permits from the appropriate authorities, including but not limited to the Florida Department of Environmental Protection and the Florida Fish and Wildlife Commission."</u></p>	Compliance package - must be complete within two years of County's notice of intent to resume development, and prior to building permit.		Signage will be researched and included as part of the Compliance Package, and will be completed as part of the planning, design and permitting of this project.
6.	<p>The County shall retain one or more Registered Professional Archaeologists (hereinafter "the Archaeologists"), who are members or meet the standards of the Register of Professional Archeologists (ROPA) agreeable to the County and the Town, who will work toward the development of the Park Management Plan to address the planning, construction and maintenance measures to protect the archaeological resources on the Subject Property. These measures shall be incorporated into the Park Management Plan for the subject property as required in #4b, above. The Archaeologists shall be on the Archaeological Site (the East Parcel – Parcel "A") <u>of the Subject Property</u> at all times during clearing and construction to monitor and inspect the activities of the County's contractors, employees and consultants. <u>If the Town finds the County's archaeological consultant unacceptable, the Town may choose to hire its own archeological consultant to review the work performed under this condition and the County shall reimburse the town for reasonable expenses incurred as part of the Town's archaeologist's review."</u></p>	Management Plan must address protection of archaeological resources, and must be complete within two years of County's notice of intent to resume development,		Underlined and strike out language are included as part of 2010 stipulated settlement agreement. BCC May 18, 2010 (SB-3)



Condition has been Satisfied



Condition tied to Future Planning, Design and Permitting

Condition Applies During Construction



Condition Applies to Ongoing Operations

7.	Prior to the issuance of any clearing, excavation or other permits necessary to fill the East Parcel (Parcel "A") of the subject property the Archaeologists shall be consulted in regard to planning and monitoring all removal of vegetation, structures and features. Native vegetation shall be left in place so to avoid any disturbance to the midden.	Archaeologists must be consulted prior to clearing, excavation or fill or removal of structures.		
8.	The County shall use materials devoid of cultural resources and contaminants (hereinafter "the Fill") and shall place same over any area to be developed, including but not limited to, areas where boardwalks and pedestrian walkways, kiosks, restrooms and/or lifeguard buildings are located. The Fill shall be in sufficient quantities to bury and preserve archaeological resources. The placement of the Fill shall be done at the direction of the Archaeologists.	Construction condition		
9.	The Site shall be interpreted. The Archaeologists shall consult with the State Historic Preservation Officer (SHPO), and offer the opportunity to comment to the Miccosukee and Seminole Tribes, to develop text, concepts, and recommendations for interpretative signage which shall be located on the eastern parcel. The signage shall, focus on (1) the Jeaga, Ais, Tequesta, Miccosukee, Creeks and Seminole Tribes; (2) Spanish, British and other European and Japanese Yamato Colony's presence in Palm Beach County or whatever is deemed most appropriate by the SHPO and Tribes.	Condition will be address during planning, design and permitting.		
10.	Within one (1) year of the <u>County's notice of intent to resume development</u> adoption of the Resolution , the County shall apply for National Register of Historic Places (NRHP) designation of the <u>Archaeological Site</u> . Immediately upon receipt of the NRHP determination the County shall provide evidence of its receipt of the determination to the Town. If the <u>Archaeological Site</u> is nominated, Palm Beach County will agree to accept the nomination.	County must apply for NRHP within one year of County's notice of intent to resume development		Underlined and strike out language are included as part of 2010, stipulated settlement agreement. BCC May 18, 2010 (Regular BCC Agenda 5B-3). Christian Davenport PBC Archaeologist sent a letter dated February 21, 2008, to Frederick Gaske, Director Division of Historical Resources requesting an evaluation for eligibility for inclusion in NRHP. Mr. Gaske responded on February 28, 2008, stating County is eligible to be considered for listing NRHP. ATTACHMENT #10
11.	No clearing (Except for hand removal of exotic vegetation) shall occur on the East Parcel (Parcel "A").	Operational		
12.	Prior to the issuance of any building permit, except those required to construct the improvements identified in Conditions 20 and 24, those structural features which remain on the East Parcel (Parcel "A") from the former Weir homestead, and that are determined by the Town Building Official to be structurally unstable or unsafe, shall be removed from the East Parcel (Parcel "A") unless, in the opinion of the Town Building Official and the Archaeologists, their removal would destabilize the archeological site, expose artifacts, promote erosion, disturb human remains, or otherwise be adverse to the preservation of the archeological site. Unstable or unsafe structural features shall be tested if required to determine their integrity, and their removal monitored by the Archeologists. In the event that a structural feature is determined by the Town Building Official to be structurally unstable or unsafe, and removal would destabilize that archeological site, the County shall not remove the structural feature, but shall secure the structural feature to the satisfaction of the Building Official.	Prior to building permit		



Condition has been Satisfied



Condition tied to Future Planning, Design and Permitting



Condition Applies During Construction



Condition Applies to Ongoing Operations

13.	<p>Prior to the issuance of any building permit, except those required to construct the improvements identified in Conditions 20 and 24, the Archaeologists identified in condition #6 shall undertake a Cultural Resource Assessment Survey (CRAS) (also known as Phase 1 Survey) in compliance with 1A-46.001 FAC and the Florida Division of Historical Resources "Cultural Resource Management Standards & Operations Manual" to recover</p> <p>#13 Continued:</p> <p>information present at the Archeological Site so as to expand the understanding of the Site's significance to Florida's past, its first inhabitants, and explorers, as well as its early European and Japanese settlers. The County shall submit the assessment to the Town as part of the Compliance Package.</p>	Prior to building permit		
14.	<p>The County shall <u>make reasonable efforts to negotiate and enter into a Memorandum of Agreement (MOA) with the SHPO, the Miccosukee, the Seminole Tribe of Florida, the Seminole Nation of Oklahoma, and the Town of Highland Beach regarding what steps will be taken to protect the Subject Property during its development. The Memorandum of Agreement shall generally be in the form of and include the content of the attached Exhibit "A". The County shall be considered to have made reasonable efforts to negotiate the MOA if it seeks participation by each of the parties by sending by regular and certified mail, a letter generally in the form and included in the content of the attached Exhibit "B" which is incorporated herein, and the parties fail to respond within 90 days of the written invitation. Regardless of whether or not any of the third parties referenced hereinabove decline to enter into the MOU, the County agrees to make reasonable efforts to negotiate and enter into a MOA with those third parties that do not agree to participate.</u></p>	Condition will be addressed during planning, design and permitting.		Underlined and strike out language are included as part of 2010 stipulated settlement agreement. BCC May 18, 2010 (5B-3)
15.	<p>As part of the Compliance Package, the County shall submit its engineering and construction plans and drawings showing that the restroom and lifeguard building will be located entirely within the "footprint" of the remnants of the swimming pool and any existing concrete deck poured over existing footers. In the event the restroom/lifeguard building cannot be located entirely within the footprint of the swimming pool and deck, Palm Beach County may alter the footprint of the building upon proof to the Town in consultation with the SHPO that any encroachment of the proposed building will not displace or disturb archaeological resources or human remains. If in the opinion of the Town in consultation with the SHPO this can not be accomplished, the County shall relocate this structure to the West Parcel (Parcel "B").</p>	Compliance package must be complete within two years of County's notice of intent to resume development and prior to building permit.		Plans and Specifications will be included in the Compliance Package will be completed as part of the planning, design and permitting of this project.
16.	<p>As a result of the Cultural Resource Assessment Survey (CRAS) identified in condition # 13 above, and as part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall identify the routes of any and all utility lines, sidewalks, walkways, boardwalks and/or facilities that may impact any archaeological deposits or human remains. Once the routes have been determined and permits applied for and obtained, the routes shall be excavated by hand.</p>	Prior to building permits		Prior to the issuance of any building permit.
17.	<p>The storm water system shall be designed such that there is no impact to facilities in a 5 year 24 hour storm event.</p>	Condition will be addressed in Park's design		Stormwater will be addressed during planning, design and permitting.



Condition has been Satisfied



Condition tied to Future Planning, Design and Permitting

Condition Applies During Construction



Condition Applies to Ongoing Operations

18.	As part of the Compliance Package the County shall submit copies of all applications submitted and permits received from DEP/ACOE regarding the development of the subject property.	Compliance Package must be complete within two years of County's notice of intent to resume development, and prior to building permit.		Compliance Package will be completed as part of the planning, design and permitting of this project.
19.	As part of the Compliance Package, the Landscape Plan shall provide for plantings within the 25' wetland buffer between the paved parking area and the Mangrove Swamp on the West Parcel (Parcel "B"). The landscaping shall be subject to the Town's review and approval for plant material selection that is consistent with wetland species and character.	Compliance Package must be complete within two years of County's notice of intent to resume development, and prior to building permit.		Compliance Package will be completed as part of the planning, design and permitting of this project.
20.	Within one hundred-eighty (180) days of the adoption date of the Resolution approving the Special Exception use, the County shall prepare a perimeter landscaping plan for the western and southern perimeters of the West Parcel (Parcel "B") consistent with the conceptual landscape plans submitted as part of the Special Exception application, and as outlined in Condition #43 contained herein. The perimeter landscaping plan, once approved by the Town, shall be installed within an additional 90 days.	January 14, 2011	Completed	Must be completed within one year of execution of the 2010 Settlement Agreement. Plans completed on July 28, 2010, Town of Highland Beach issued a Certificate of Completion on January 14, 2011 for landscaping, fence and irrigation. Project completed by Anzco, Inc. \$240,495. ATTACHMENT #20
21.	The County shall provide for the following improvements at the entrance to the parking lot, west of AIA on the subject property: a. Re-stripe AIA to provide a left hand turn lane south approach at the entrance to the parking lot. b. A minimum four car stacking distance to the payment window at the guard house. The County shall not prevent access to the residential properties east of AIA, south of the subject property, by extending the northbound left hand turn lane into the park's parking lot, such that vehicles traveling south on AIA will not be able to legally enter the driveway of these two residential properties. The County shall notify these two property owners of the restriping of AIA and the proposed left hand turn lane south of the entrance to the parking lot. These property owners shall be provided notice of any FOOT meetings or applications regarding the park's turn lane or any effect to their current ingress/egress at their properties.	Condition will be addressed in Park's design		Parking and road improvements will be addressed during the planning, design and permitting for this project.
22.	As part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit an executed true and correct copy of the permit for the subject property from the United States Army Corp of Engineers (COE) and/or the Florida Department of Environmental Protection (FDEP). The ACOE permit application shall include an updated Jurisdictional Wetland Determination.	Prior to building permits		Must be completed within one year of execution of the 2010 Settlement Agreement.
23.	As part of the Compliance Package, the County shall provide the Town with a Phase 1 Environmental Assessment for the West Parcel (Parcel "B"). If the Phase 1 Assessment indicates possible contamination, a Phase 2 Environmental Assessment that addresses soil and/or groundwater quality beneath the parcel will be provided. The documentation shall be subject to the review of the Town for compliance with conditions in the granting Resolution. If it is determined that there are contaminants that need to be remediated, the affected soil	Compliance Package must be complete within two years of County's notice of intent to resume development, and prior to building permit.		A Phase I Environmental Assessment and if necessary a Phase II Environmental Assessment will included in the Compliance Package.



Condition has been Satisfied



Condition tied to Future Planning, Design and Permitting



Condition Applies During Construction



Condition Applies to Ongoing Operations

	or groundwater shall be managed in accordance with the recommendations of the Phase 2 Environmental Assessment and the applicable regulatory requirements			
24.	Within one hundred-eighty (180) days of the adoption date of the Resolution, the County shall submit an application to the reviewing agencies requesting to remove all exotic vegetation within the Mangrove Swamp on the West Parcel (Parcel "B"). The environmental quality of this area shall be enhanced by replanting the area to comply with the restoration plan approved by the reviewing agencies as part of the permit.	December 13, 2000	Completed	On December 6, 2000, the consultant submitted a letter to the Army Corps of Engineers with an attached survey defining the limits of the Jurisdictional wetlands. The Army Corps responded on December 13, 2000 approving the wetlands boundary. In May 2005 the County hired Environmental Management and Engineers at a cost of \$30,470 to remove exotic vegetation. ATTACHMENT #24
25.	As part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit a Conservation Easement in favor of the Town for the area encompassing the Mangrove Swamp. The form of the easement shall be subject to the review and approval of the Town Attorney. Once approved, the County shall record the Conservation Easement and provide the Town with a certified copy of same with the recording information thereon.	Prior to building permit		Prior to building permits
26.	The County shall comply with the Town's Sea Turtle Protection Ordinance.	Operational		
27.	Beach cleaning by mechanical means shall be limited during sea turtle nesting season in accordance with Chapter 161, Florida Statutes.	Operational		
28.	All exotic vegetation to be removed from the East Parcel (Parcel "A") shall be hand cleared. Replanting will occur only in those areas where existing native vegetation will not re-establish within a reasonable time. The Archaeologist's shall be on the Site during both the clearing and replanting of the vegetation to continuously monitor and inspect the areas being cleared and replanted. If during either the clearing or replanting any significant archaeological materials or features are encountered, the Archaeologists shall immediately notify the Town and the SHPO and cease further work until any and all materials or features have been documented to the satisfaction of the Town and the SHPO. If any human remains are uncovered while either clearing or replanting, then the provisions of Section 872.05, Florida Statutes shall be followed and implemented without delay.	During construction		
29.	In the event an underground storage tank should still be present on the Subject Property, the County shall notify the Town and appropriate environmental agencies; and manage it in accordance with Chapter 62-761, F.A.C.	During construction		
30.	As part of the Compliance Package and prior to the issuance of any development permits, the County shall identify the exact location of any utility lines to be located on site. If the County proposes to locate any utility lines in areas which would require excavation the County shall as part of its Park Management Plan identify any protected vegetation that will be adversely affected and, if appropriate identify any mitigation proposed as a result thereof.	Compliance Package must be complete within two years of County's notice of intent to resume development, and prior to building permit.		Prior to building permit



Condition has been Satisfied



Condition tied to Future Planning, Design and Permitting

Condition Applies During Construction



Condition Applies to Ongoing Operations

31.	The County shall construct all facilities using strategies identified in a recognized green building standard, and in particular, construction shall be consistent with 255.252 FSS and 255.253 FSS.	Will be addressed during design.		Green building standards will be address during the planning, design and permitting of this project.
32.	As part of the Compliance Package the County shall submit the FDOT's Vehicular Access Connection (VAC) letter supporting the design of the proposed vehicular and pedestrian access configuration shown on the site Plan.	Will be addressed during design.		Vehicular access will be address during the planning, design and permitting of this project.
33.	The parking lot area west of AIA, (Parcel "B") shall be operated from sunrise to sunset, and shall be gated to prevent vehicular traffic from entering the parking lot before or after the park's hours of operation. The Compliance Package shall depict how pedestrian access is restricted. As for the property east of AIA, (Parcel "A") the site plan shall reflect that all pedestrian access points to and from AIA have pedestrian gates.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
34.	No commercial retail uses, including concession stands, are permitted on the Subject Property.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
35.	A minimum fee of \$4.00 per day or \$6.00 per weekend day shall be charged for parking. This fee may be adjusted at the discretion of Palm Beach County.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
36.	During the hours of park operation, an attendant shall staff the guardhouse in the parking lot.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
37.	The park shall only be open from dawn to dusk, including the parking lot.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
38.	No commercial vehicles or commercial trucks shall be permitted in the parking lot. Authorized vehicles performing park maintenance are exempt from this restriction.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
39.	Palm Beach County shall provide security patrols during park operating hours and the Palm Beach County Sheriffs Office, Parks Enforcement Unit shall respond to calls 24 hours per day/7 days per week.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
40.	The County shall monitor and address any vehicles remaining in the parking lot after the park closes as follows: a. The gate will be locked if no vehicles remain. If a vehicle remains, the Park Ranger will provide a 15-30 minute grace period until the gate is locked. b. If there is a vehicle remaining in the lot after the gate is locked, a Park Ranger shall place a sticker with a phone number on it for the Visitor to call so the Park Ranger can come back and unlock the gate for the visitor to leave.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
41.	The parking lot perimeter that is surrounded by a wall or fence shall have locked gates, secured from dusk to dawn.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.



Condition has been Satisfied



Condition tied to Future Planning, Design and Permitting


Condition Applies During Construction





Condition Applies to Ongoing Operations


42.	No pets shall be permitted on either parcel in the park.	Operational		Condition takes effect upon completion of the project and is an ongoing part of operations.
43.	The perimeter landscaping plan for the western perimeter of the West Parcel (Parcel "B") called for in condition #20 shall include a 6' high (above grade) concrete decorative wall rather than a 6' high (above grade) opaque vinyl fence for the western property line of the West Parcel (Parcel "B") as originally proposed in the Conceptual Landscape Plan dated October 16, 2008. <u>The six foot high (above grade) concrete decorative wall for the western property line of Parcel B shall be constructed and completed within one year of the execution of this Settlement Agreement. Additionally, on the eastern boundary of Parcel "B" of the Subject Property, the County shall install a means of physically restricting vehicular access to the West Parcel as shown on Exhibit C. The perimeter landscaping plan for the southern and western perimeters of the West Parcel (Parcel "B") and the access restrictions on the eastern boundary of Parcel "B" shall be depicted in the Landscaping Plan, which is attached hereto as Exhibit C. To the extent that the requirements of condition #43 and #20 conflict, the terms of this amended Condition #43 shall prevail.</u>	January 14, 2011	Completed	<p>Underlined and strike out language are included as part of 2010 stipulated settlement agreement. BCC May 18, 2010 (5B-3).</p> <p>Must be completed within one year of execution of the 2010 Settlement Agreement.</p> <p>Town of Highland Beach issued a Certificate of Completion on January 14, 2011 for landscaping, fence and irrigation. Project completed by Anzco, Inc. \$240,495.</p> <p>ATTACHMENT #43</p>

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 Condition has been Satisfied

 Condition tied to Future Planning, Design and Permitting

 Condition Applies During Construction

 Condition Applies to Ongoing Operations