

Agenda Item #:

34-13

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

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<b>Meeting Date:</b>	<b>June 2, 2020</b>	<input checked="" type="checkbox"/> <b>Consent</b>	<input type="checkbox"/> <b>Regular</b>
		<input type="checkbox"/> <b>Ordinance</b>	<input type="checkbox"/> <b>Public Hearing</b>

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**Department:** **Facilities Development & Operations**

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a Vending Service License Agreement (Agreement) with the State of Florida Department of Education, Division of Blind Services (Division) to provide vending services at sixteen (16) County-owned locations commencing June 2, 2020 through June 1, 2021 with automatic one (1) year renewals at an annual license fee of \$10.

**Summary:** The County and Division entered into three (3) Agreements dated January 23, 1990 (R90-165-D) August 7, 1990 (R90-1327-D), and October 1, 1991 (R91-1379-D) for the provision of vending services at the South County Courthouse, Four Points Center Complex and the Belle Glades Office Complex. The County and Division wish to install vending equipment at thirteen (13) additional County locations. This Agreement will terminate and replace the existing three (3) Agreements and add thirteen (13) locations as set forth below. The initial term will extend for one (1) year, with automatic annual renewals unless terminated by the either party upon 120 days notice. The license fee will be \$10.00 annually.

Four Points Centre Complex	Philip D. Lewis Center
North County Courthouse	North County Senior Center
South County Courthouse	Mid County Senior Center
Mayme Frederick Building	Community Services
Glades Office Complex	West County Senior Center
CROC Administration Building	CROC Operations & Maintenance Building
SROC Operations and Maintenance Building	Customer Service Complex
Southern Region Waste Water Treatment Plant	Water Treatment Plant #9


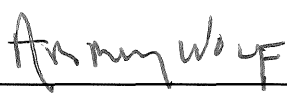

The Facilities Management Division will have administrative responsibility for this Agreement. **(Property & Real Estate Management) Countywide (HJF)**

**Continued on page 3**

**Attachments:**

1. Location Map (16)
2. Vending Service License Agreement (2)
3. Budget Availability Statement

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<b>Recommended By:</b>			<b>5/5/2020</b>
	<b>Department Director</b>		<b>Date</b>
<b>Approved By:</b>			<b>5/25/2020</b>
	<b>County Administrator</b>		<b>Date</b>

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes \_\_\_\_\_ No X

Does this item include the use of federal funds? Yes \_\_\_\_\_ No X

Budget Account Fund 0001 Dept 800 Unit 8001 Revenue 6201  
No: Source  
Program \_\_\_\_\_

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

Fixed Asset Number \_\_\_\_\_

C. Departmental Fiscal Review: [Signature]

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 5/13/2020  
OFMB [Signature] LM 5/17

[Signature] 5/12/2020  
Contract Development and Control  
5/12/2020 TW

B. Legal Sufficiency:

[Signature] 5/13/2020  
Assistant County Attorney

C. Other Department Review:

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

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

**Background and Justification:** The existing Agreements dated January 23, 1990 (R90-165-D), August 7, 1990 (R90-132-D), and October 1, 1991 (R01-1379-D) with the State of Florida Department of Education Division of Blind Services require updating to include current standard County provisions. This Agreement will terminate and replace the existing three (3) Agreements and add thirteen (13) additional locations as listed in “Exhibit A” of the Agreement.

PPM CW-O-032 and PPM CW-F-039 provide that Agreements for vending machines in County owned/leased buildings/property may be recommended for award to the Division of Blind Services without a competitive procurement process. Pursuant to this PPM and previous Board Direction, staff did not issue an RFP, but negotiated directly with Blind Services. The initial term will be for one (1) year, with automatic annual renewals, unless terminated by the either party upon 120 days notice. Division is to provide a selection of healthy snacks and drinks equal to fifty (50%) percent of the total of its product line in accordance with Palm Beach County Health Department protocols and shall not add, remove or relocate any vending equipment without the approval of the County. The Division is responsible for providing maintenance and security for their vending machines. The County will provide electric utility service to the vending equipment, at no cost to the Division.

Florida Statutes Section 286.23 does not require that a Disclosure of Beneficial Interest be obtained when the County leases property to another governmental agency.

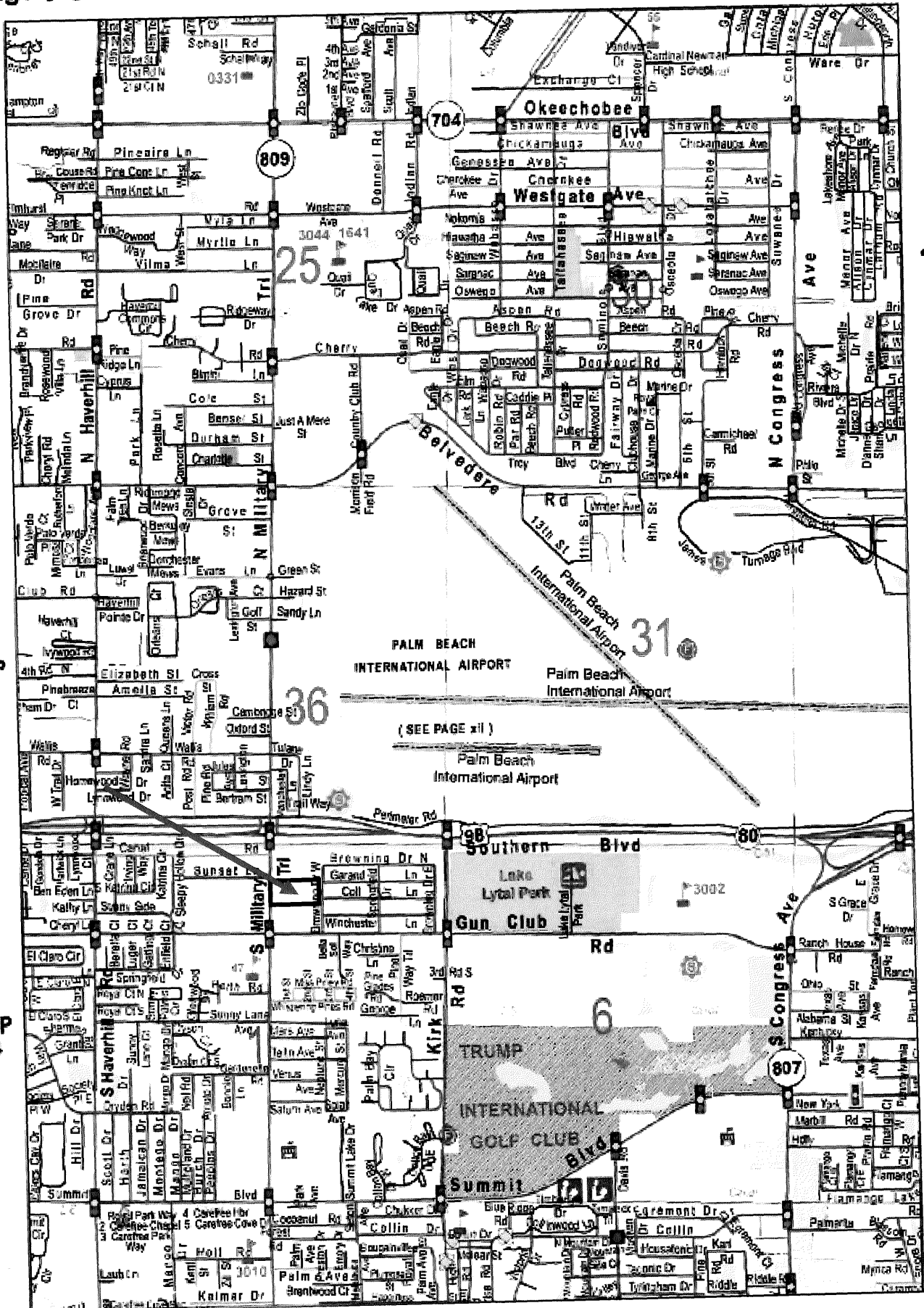
TWP  
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TWP  
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RNG 42

See pg 80

RNG 43

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## LOCATION MAP

Four Points Centre Complex  
50 South Military Trail, WPB

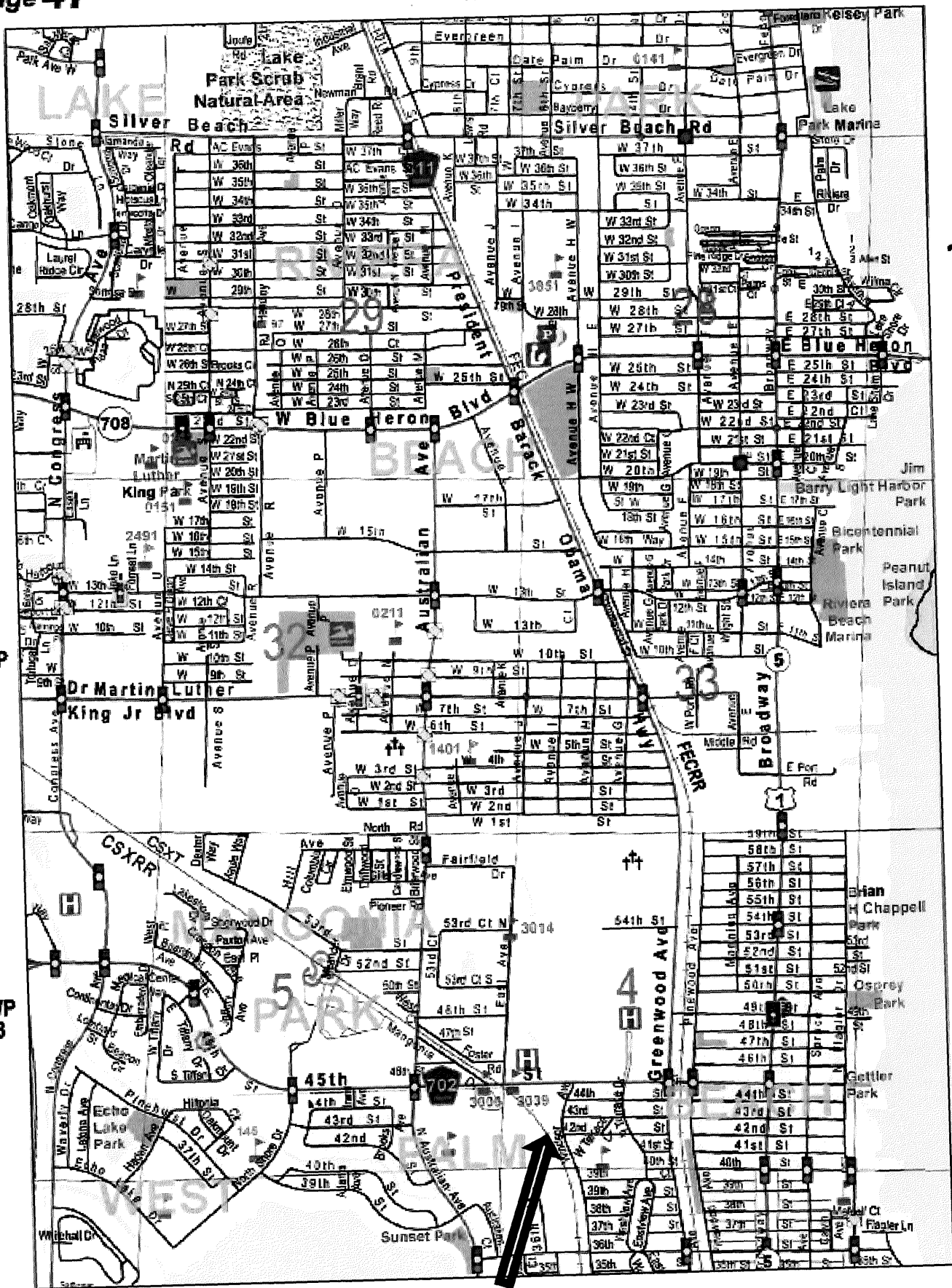
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TWP 43

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RNG 43

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RNG 43

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# LOCATION MAP

Philip D. Lewis Center  
1000 45<sup>th</sup> Street, West Palm Beach

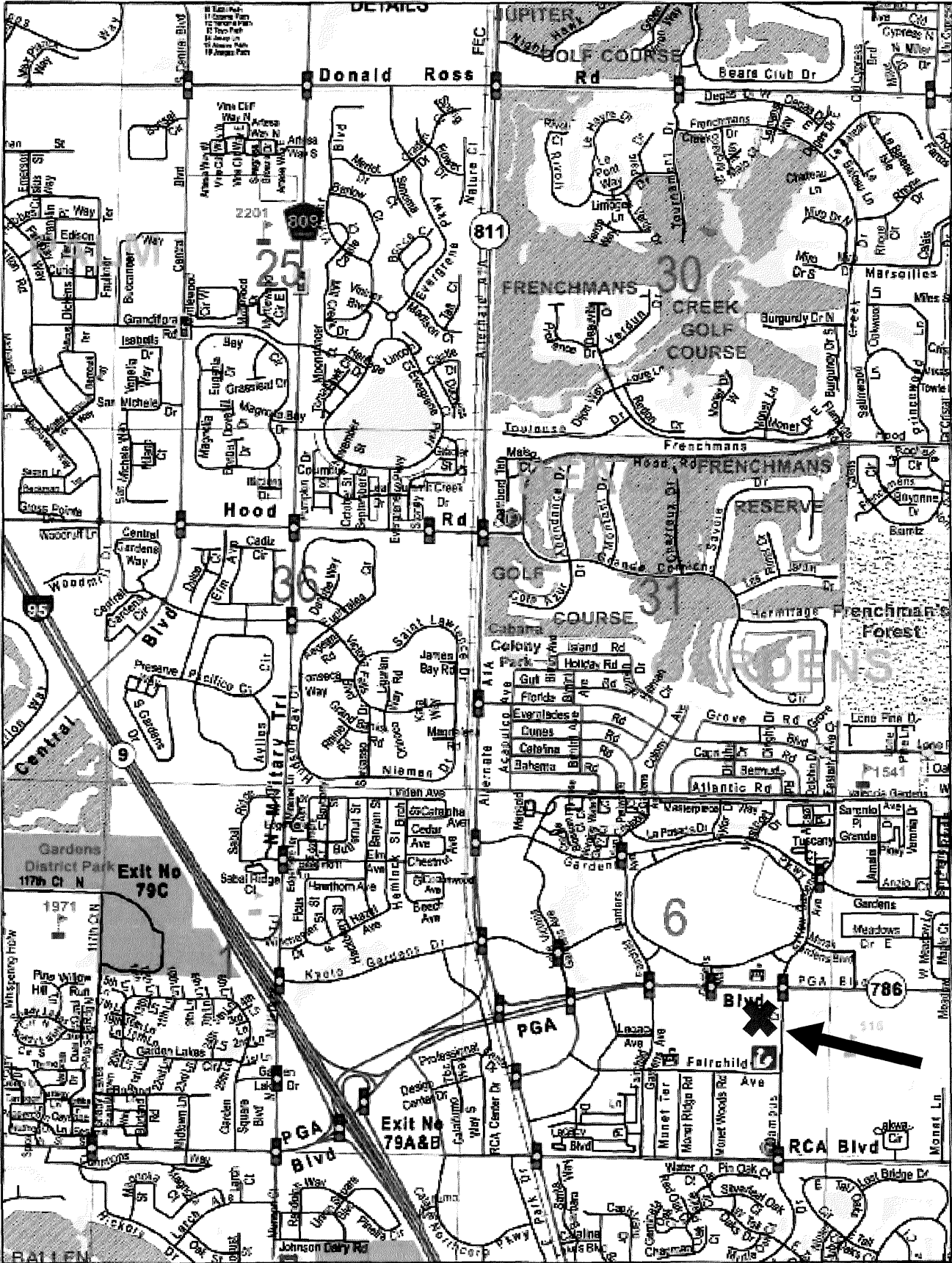
TWP  
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TWP  
42



RNG 42

See pg 34

RNG 43

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# LOCATION MAP

North County Courthouse  
3188 PGA Blvd., Palm Beach Gardens



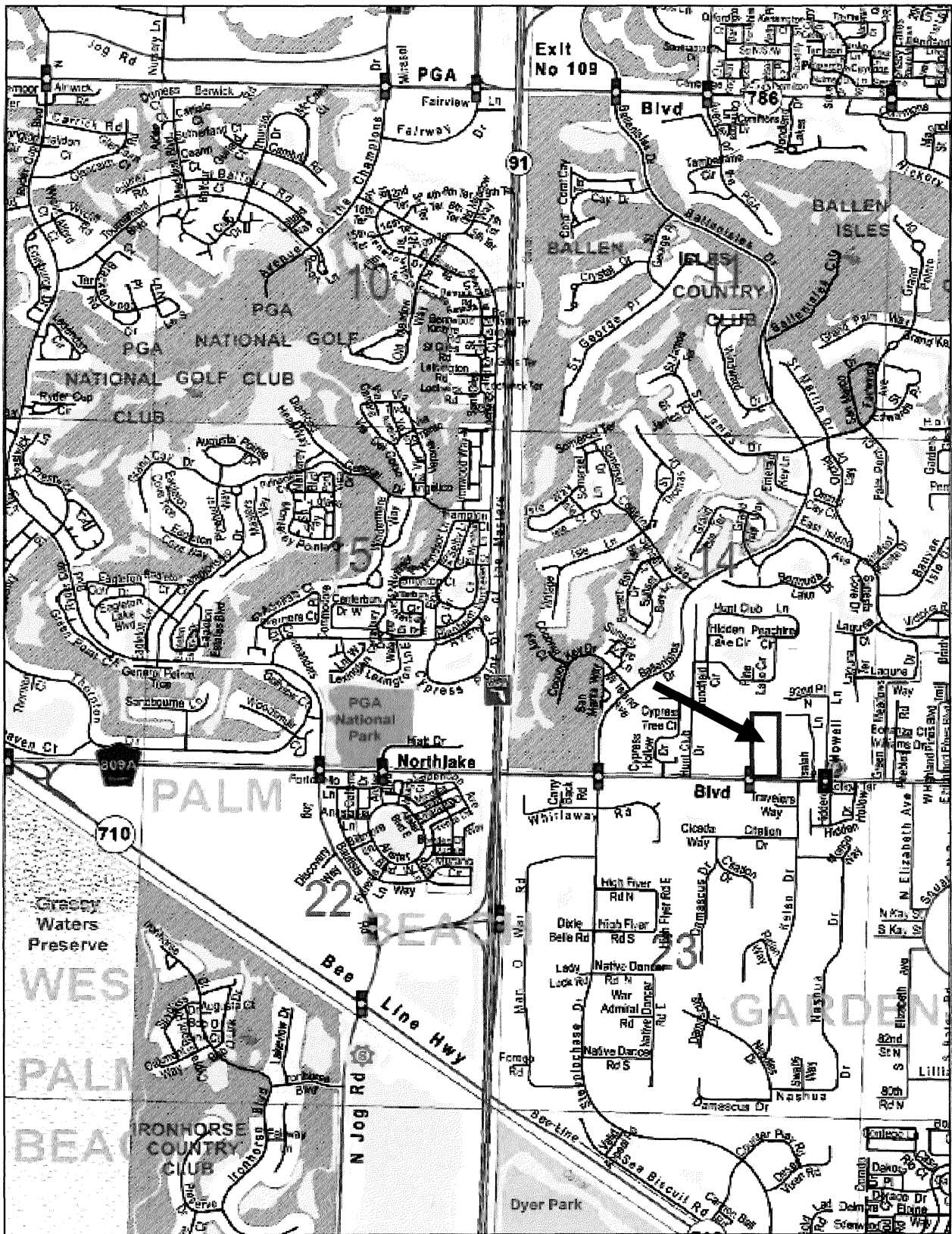
TWP 42

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RNG 42

See pg 45

RNG 42

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## LOCATION MAP

North County Senior Center  
5217 Northlake Blvd., Palm Beach Gardens



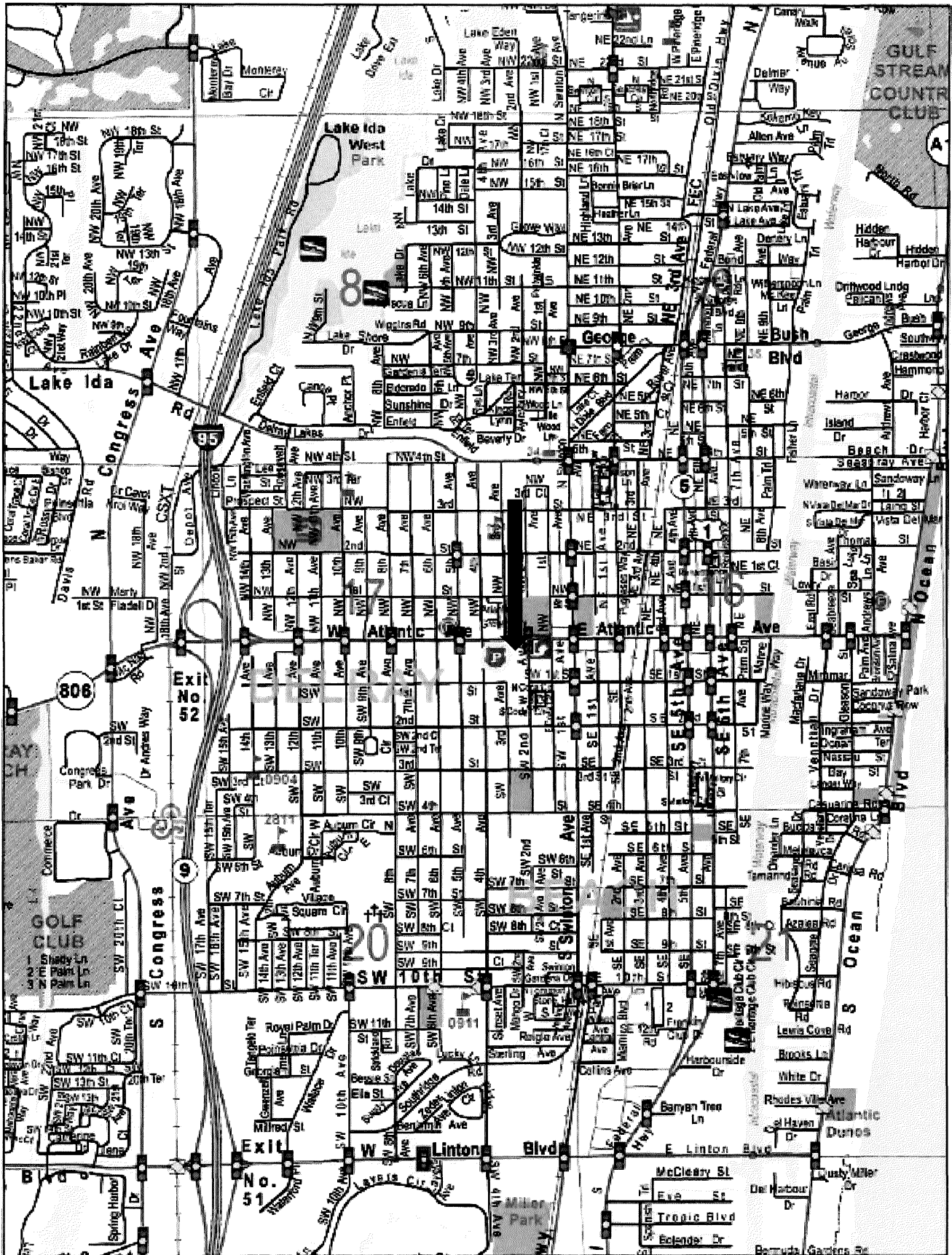
TWP 46

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RNG 43

See pg 118

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## LOCATION MAP

South County Courthouse  
200 West Atlantic Ave, Delray Beach





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RNG 42

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RNG 43

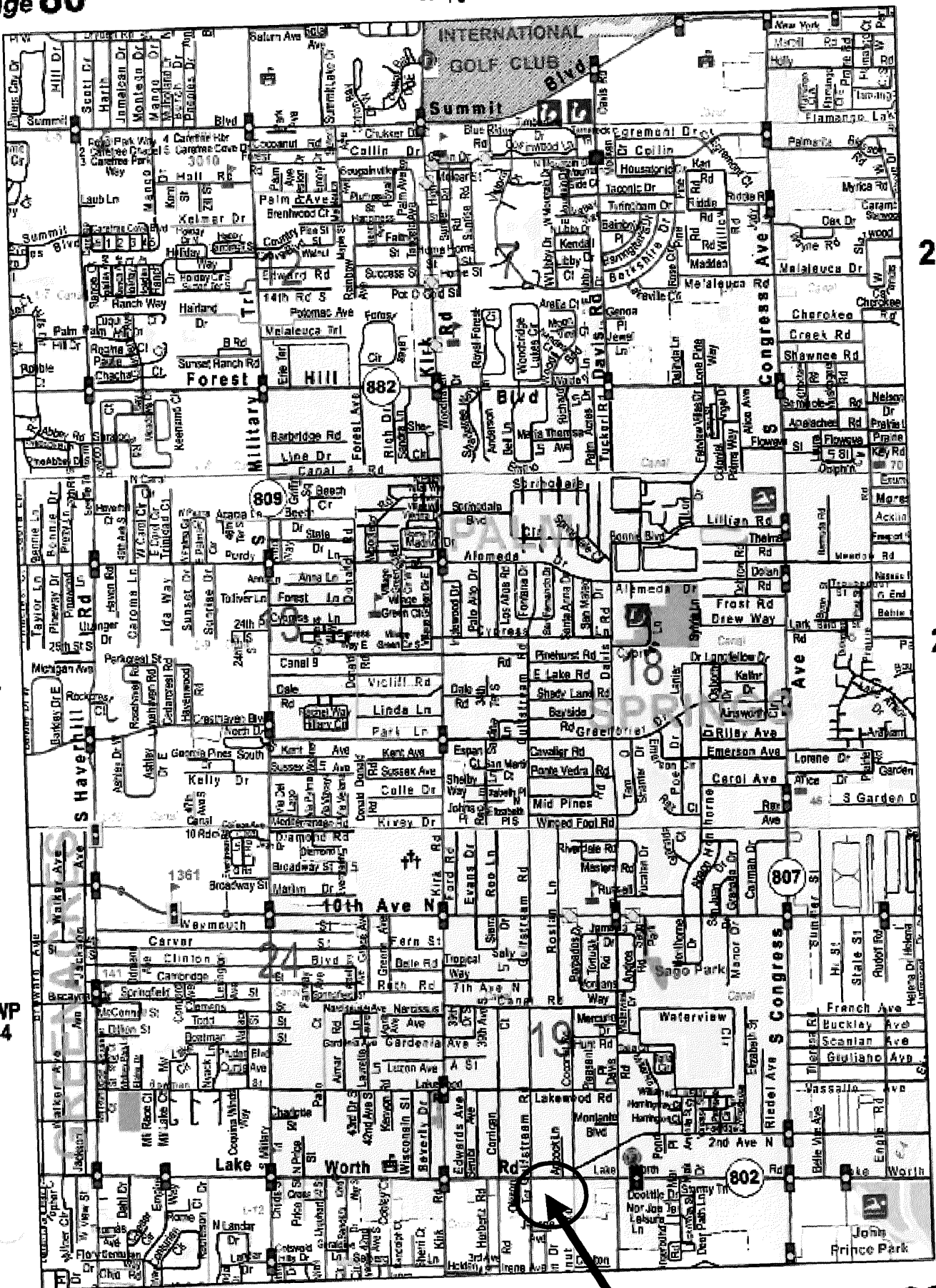
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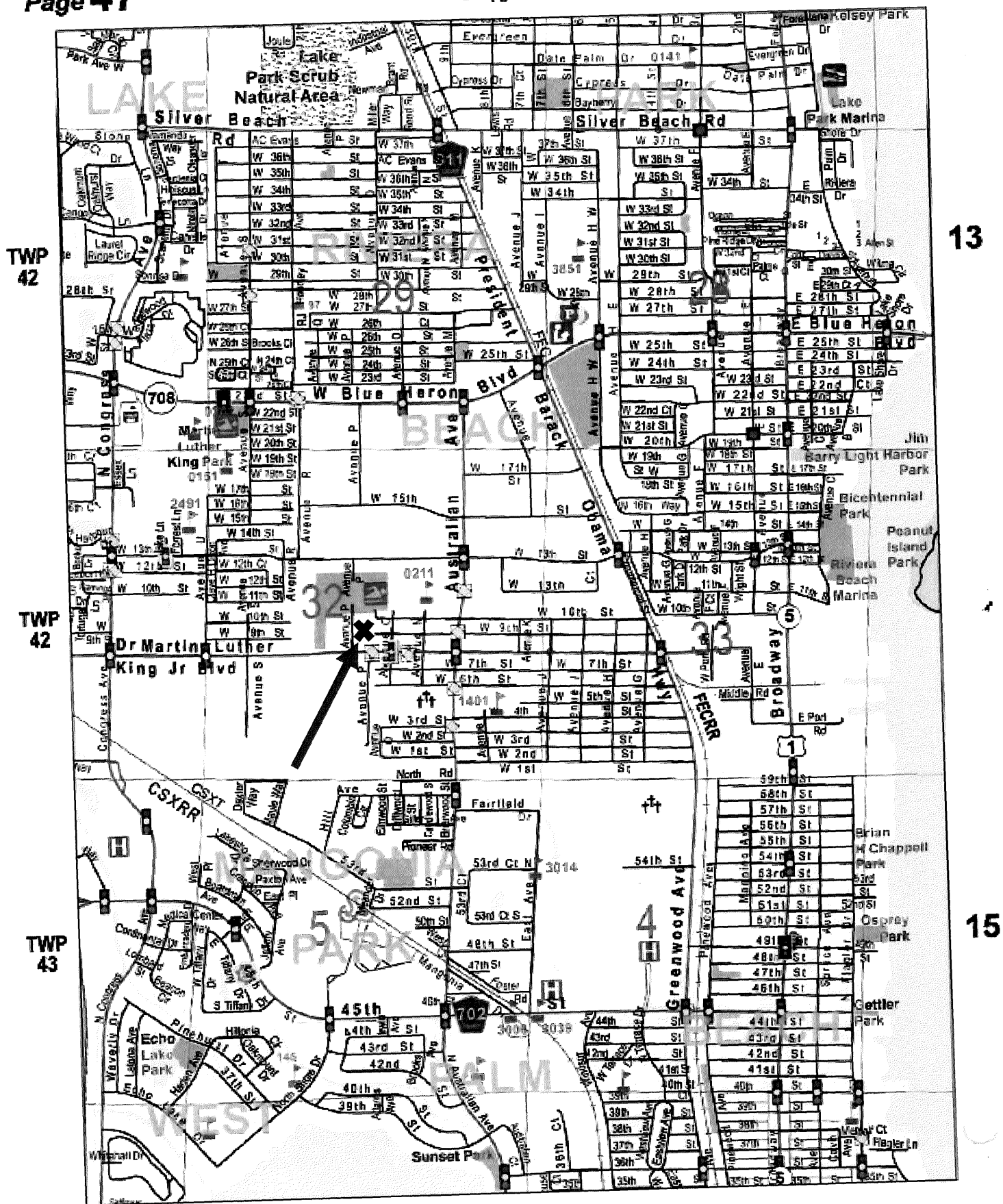
# LOCATION MAP

Mid County Senior Center  
3680 Lake Worth Road, Lake Worth

Attachment 1

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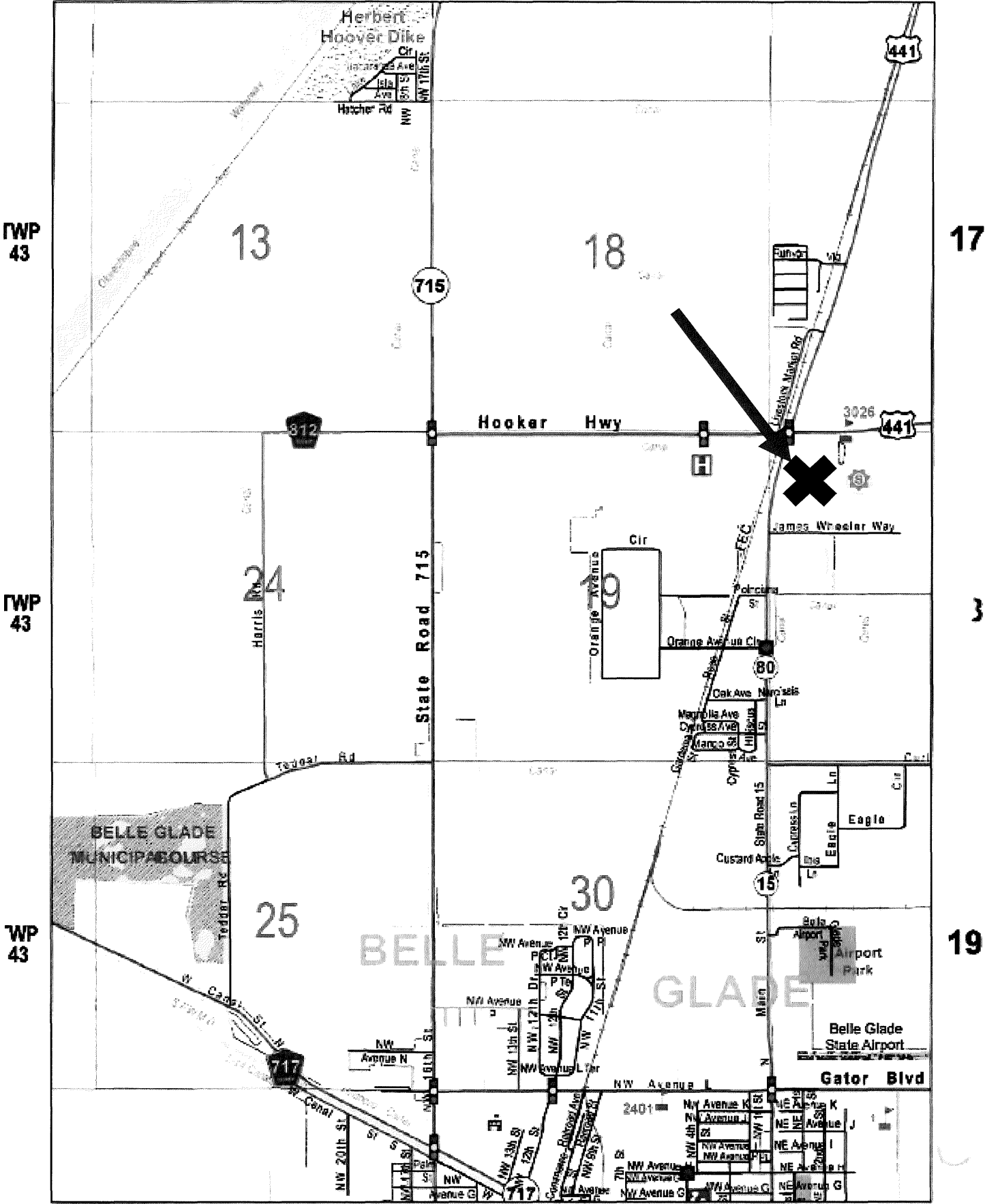




# LOCATION MAP

Mayme Frederick Building  
1440 W. Martin Luther King Jr. Blvd, Riviera Beach





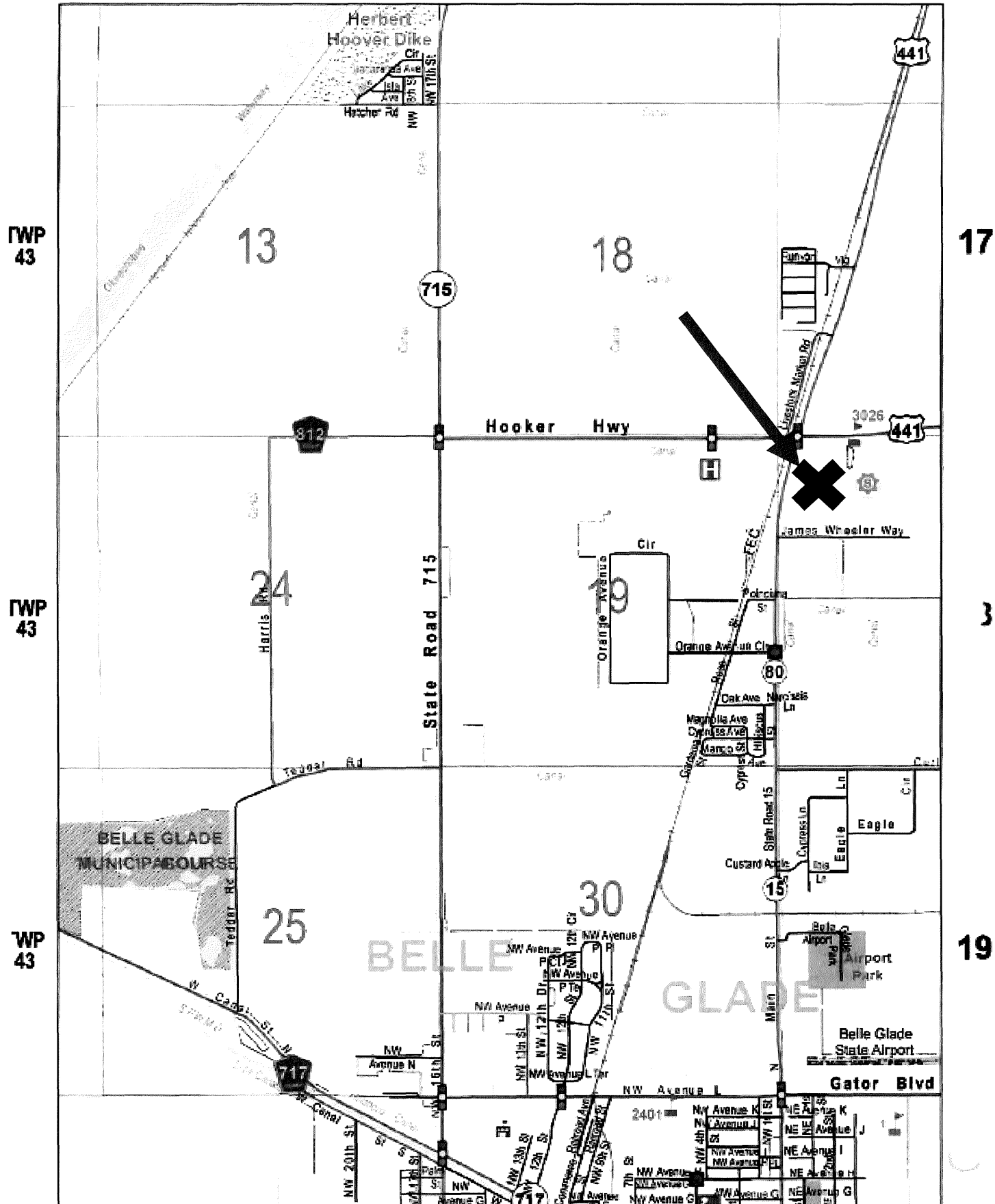
RNG 36

See pg 157

RNG 37

LOCATION MAP

Glades Office Complex  
2916 SR 15, Belle Glade



RNG 36

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RNG 37

LOCATION MAP

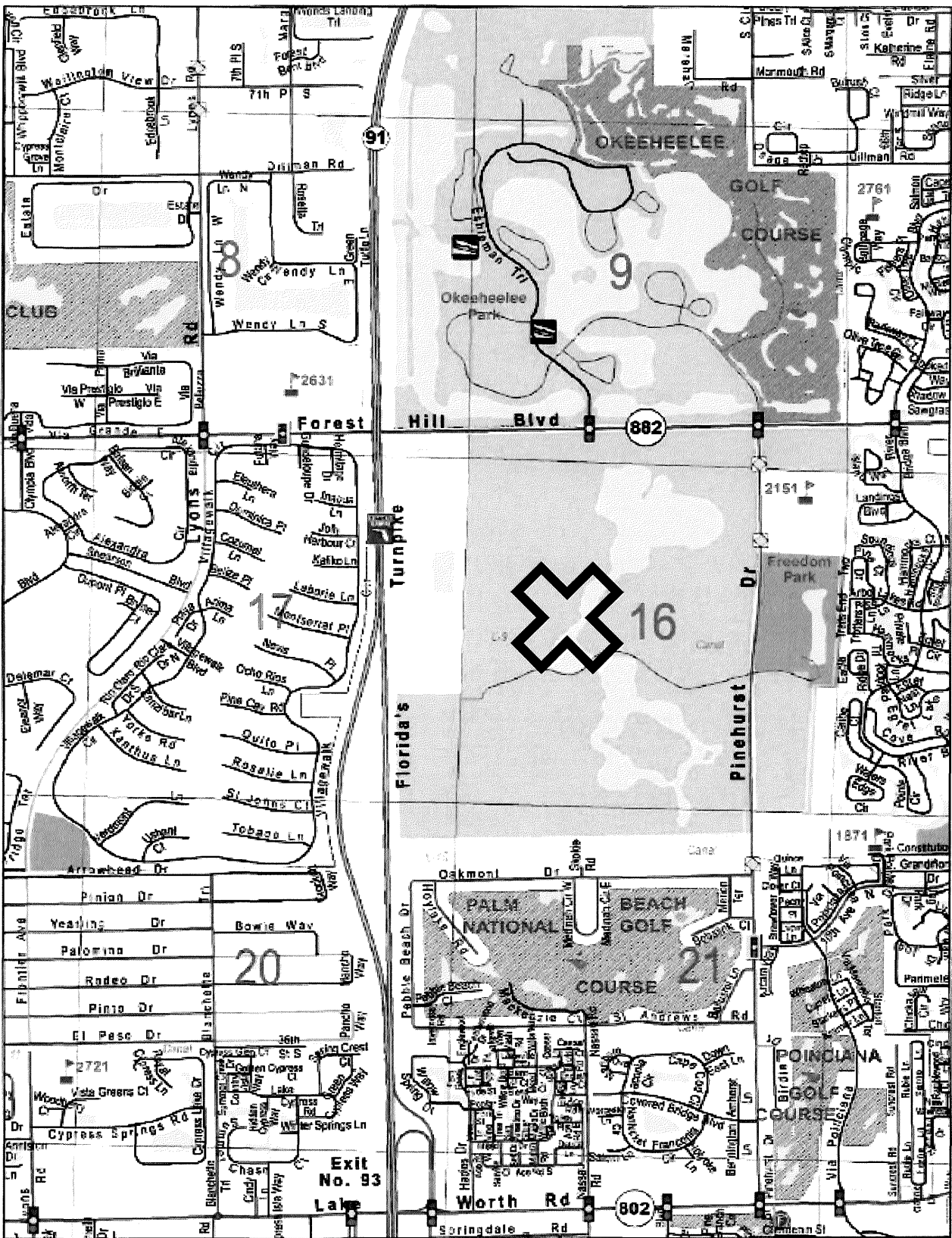
West County Senior Center  
2916 SR 15, Belle Glade



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TWP 44



RNG 42

See pg 68

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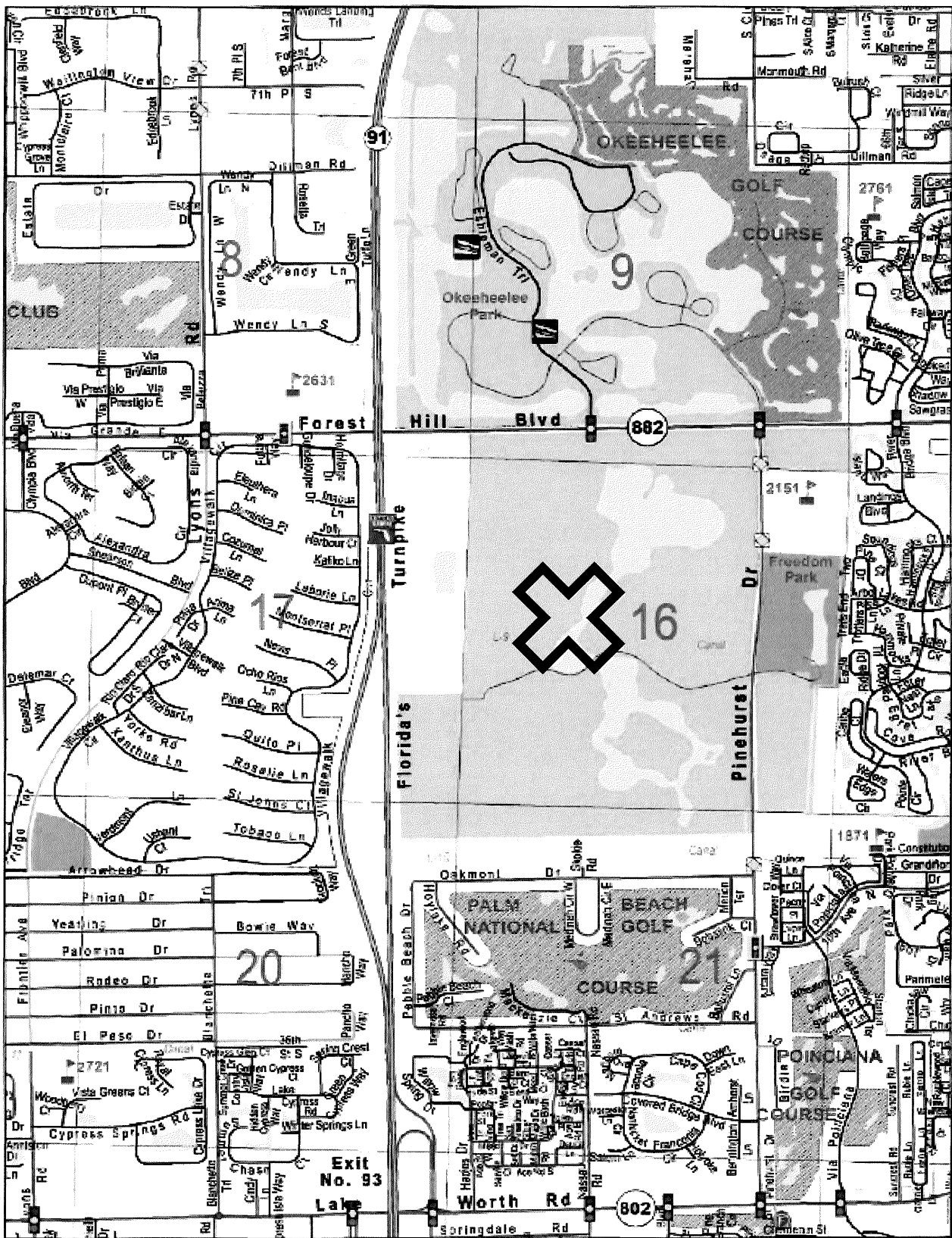
# LOCATION MAP

CROC Administration Building  
8100 Forest Hill Blvd, West Palm Beach

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TWP 44



RNG 42

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# LOCATION MAP

CROC 8100 Operation & Maintenance Building  
Forest Hill Blvd, West Palm Beach



TWP 46

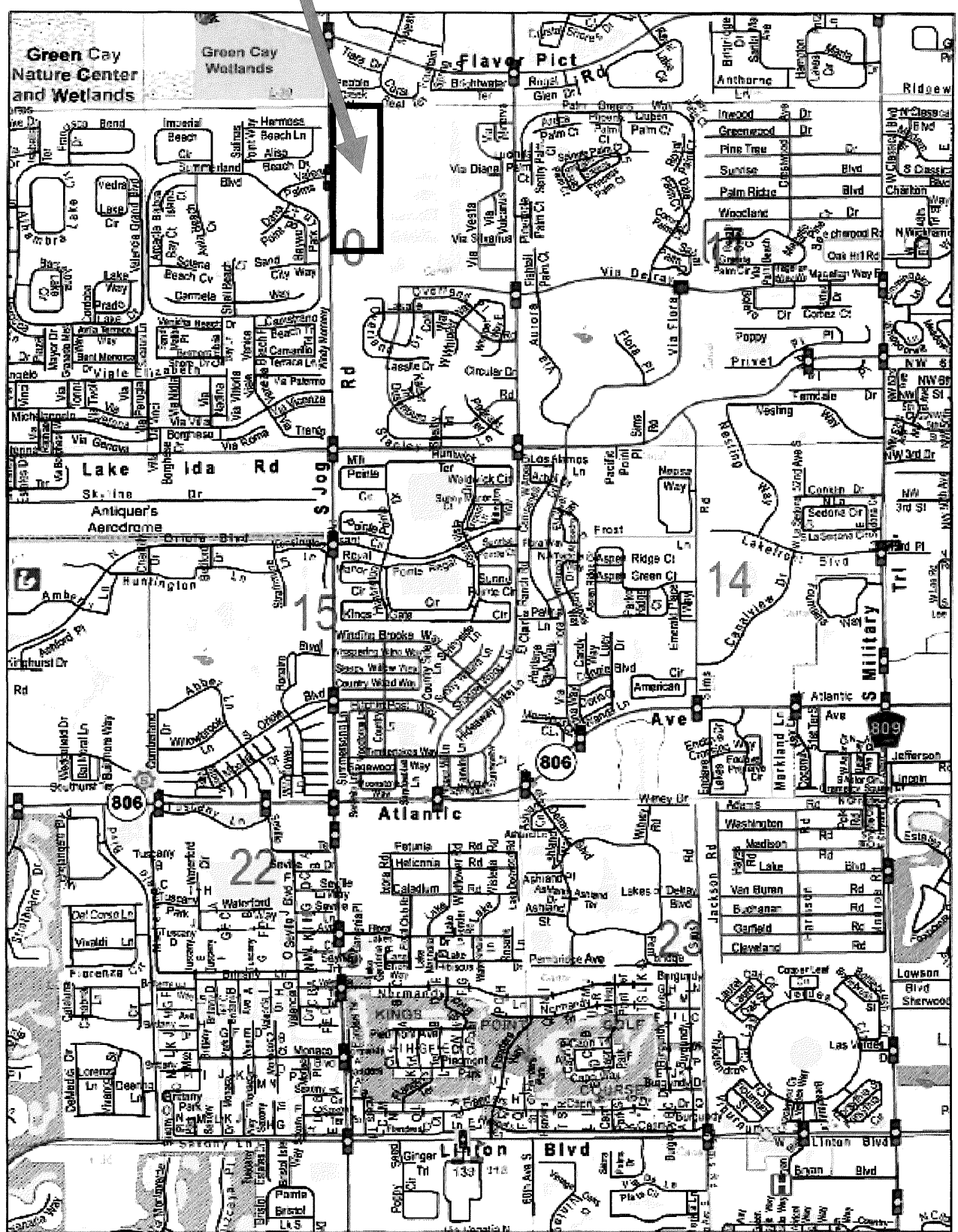
TWP 46

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RNG 42

See pg 116

RNG 42

# LOCATION MAP

SROC Operations and Maintenance Building  
13026 S Jog Road, Delray Beach



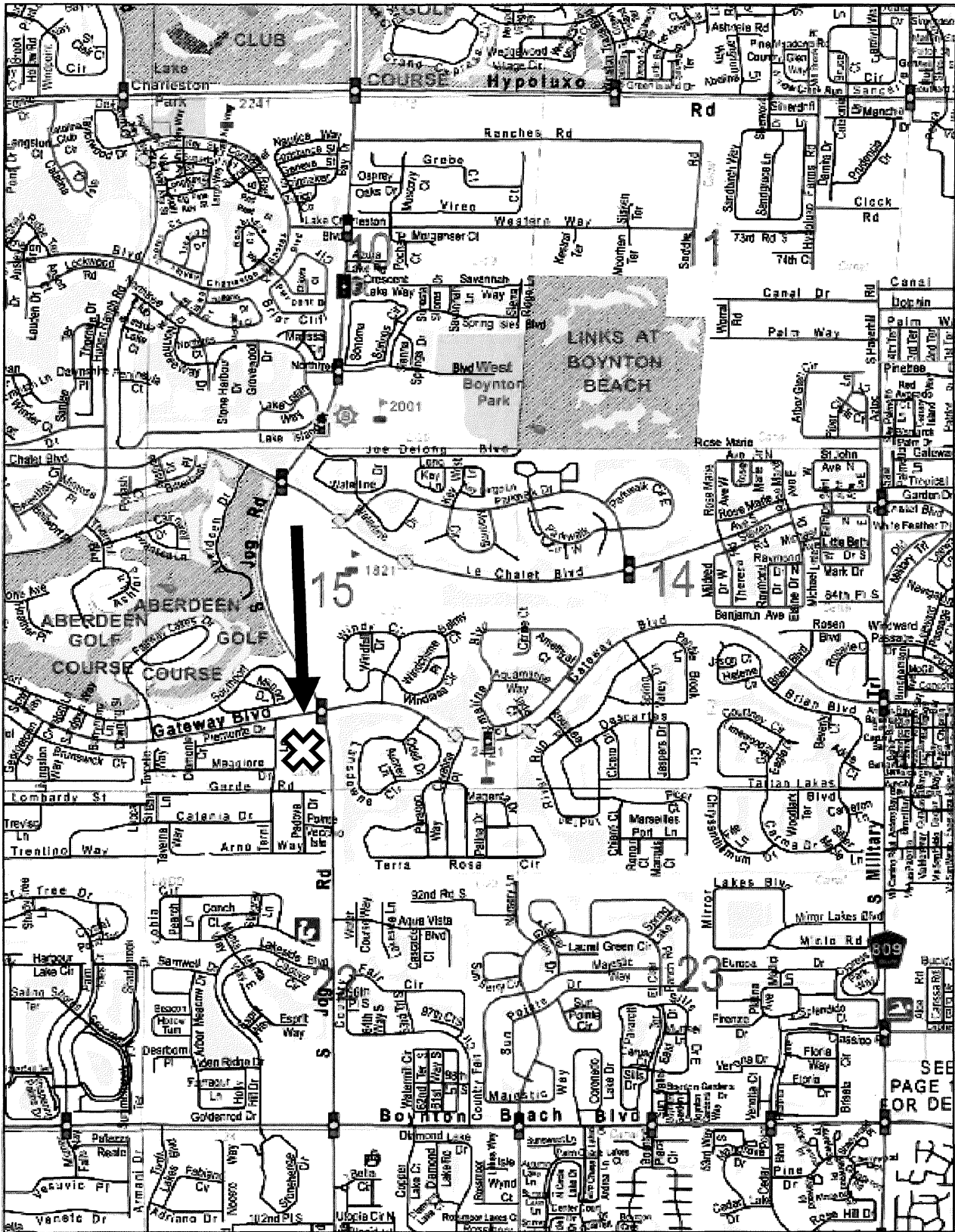
TWP 45

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RNG 42

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# LOCATION MAP

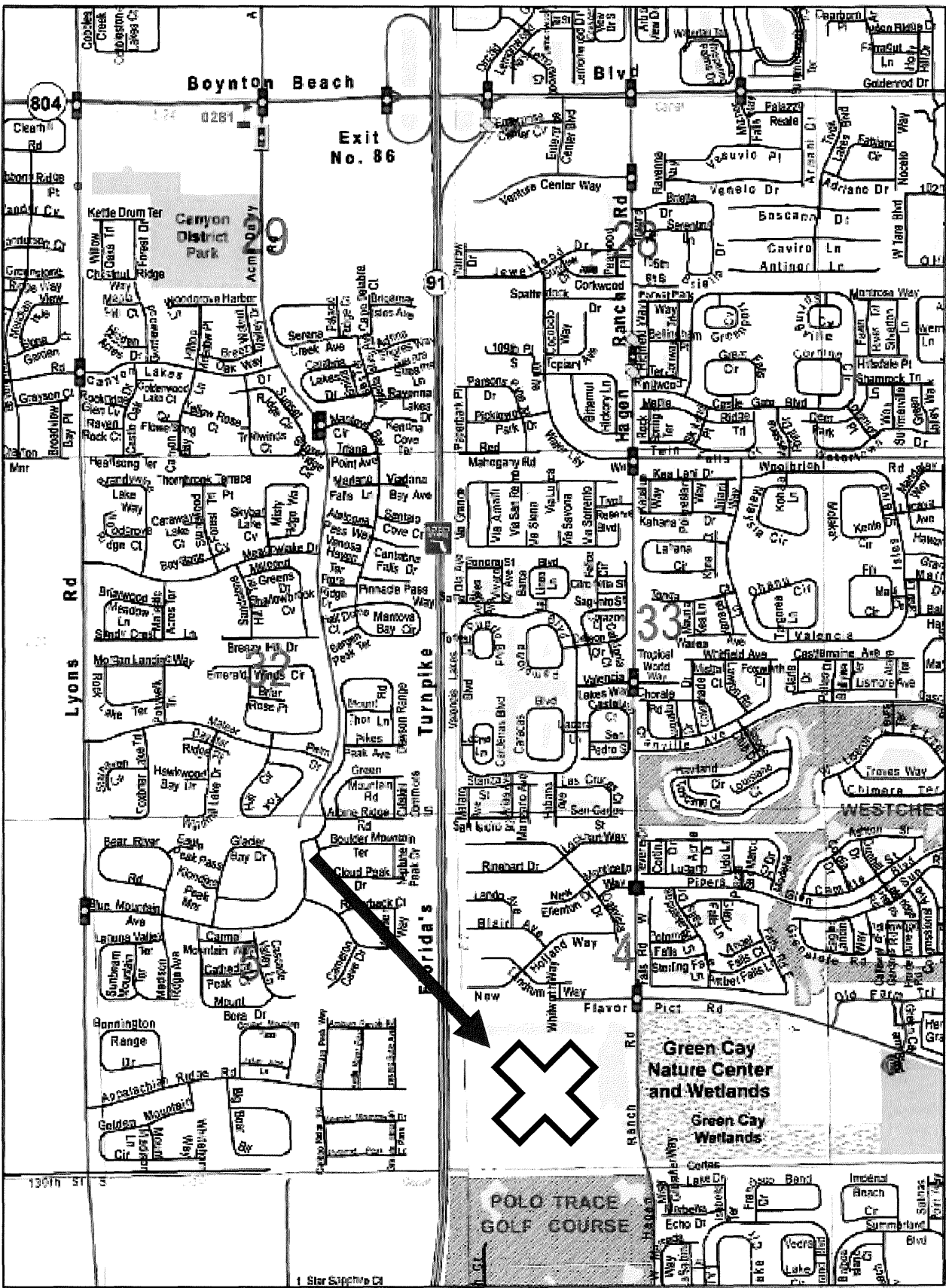
Customer Service Complex  
9045 S Jog Road, Boynton Beach





TWP 45

TWP 46



RNG 42

See pg 108

RNG 42

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LOCATION MAP

Southern Region Waste Water Treatment Plant  
12751 Hagen Ranch, Boynton Beach



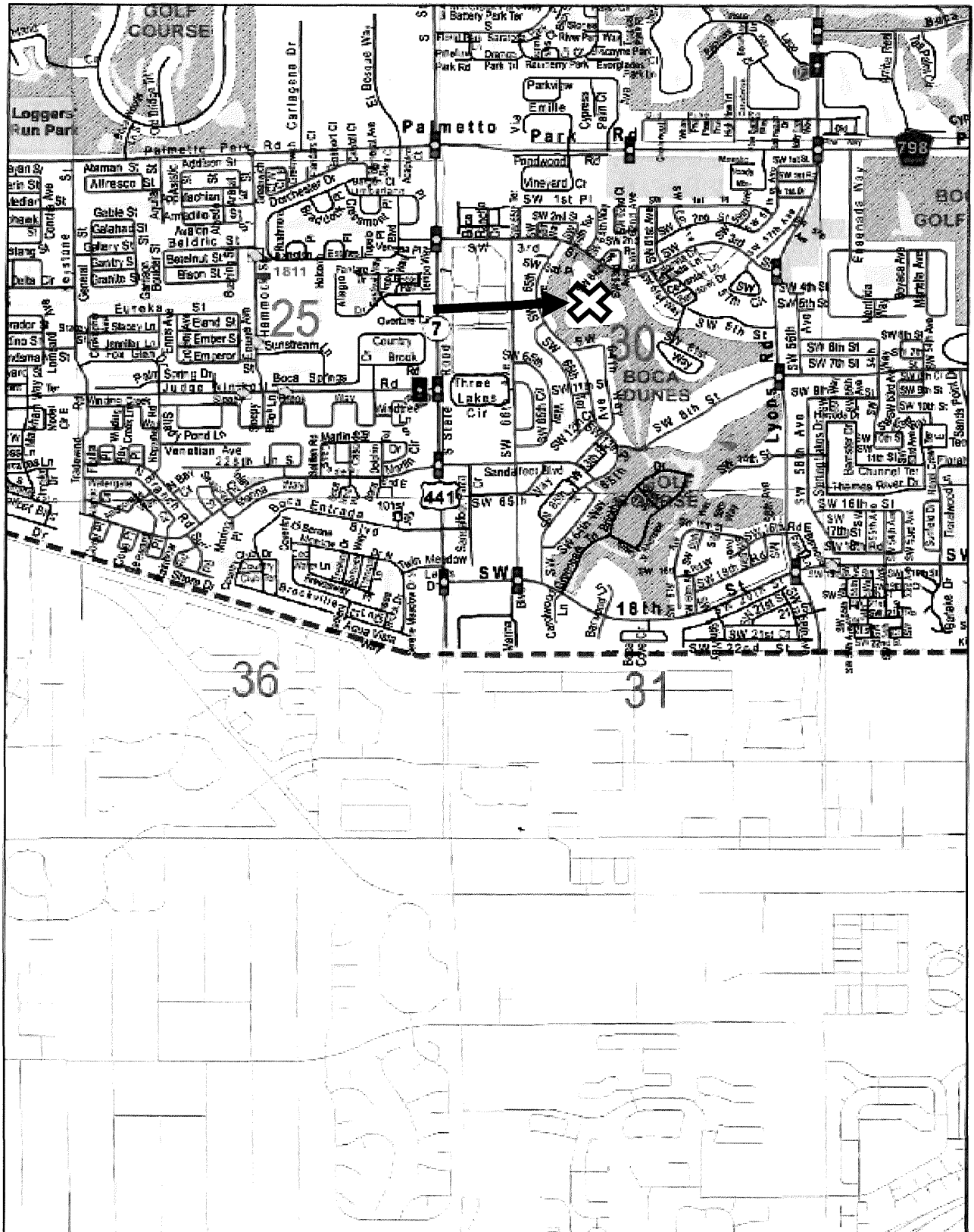
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TWP  
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RNG 41

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RNG 42

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## LOCATION MAP

Water Treatment Plant #9  
22530 SW 65<sup>th</sup> Avenue, Boca Raton

Attachment 1

Page 16 of 16

Attachment #2  
Vending Service License Agreement – 2 @ (18 pages each)

**PALM BEACH COUNTY**  
**VENDING SERVICE LICENSE AGREEMENT**

**Between**

**PALM BEACH COUNTY**  
**A POLITICAL SUBDIVISION OF THE**  
**STATE OF FLORIDA,**  
**BY AND THROUGH ITS**  
**BOARD OF COUNTY COMMISSIONERS**  
**(COUNTY)**

**And**

**FLORIDA STATE**  
**DEPARTMENT OF EDUCATION**  
**DIVISION OF BLIND SERVICES**  
**(DIVISION)**

## **VENDING SERVICE LICENSE AGREEMENT**

**THIS VENDING LICENSE SERVICE AGREEMENT**, hereinafter referred to as “Agreement” made and entered into \_\_\_\_\_, by and between **PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as “COUNTY” and the **DEPARTMENT OF EDUCATION, DIVISION OF BLIND SERVICES**, an agency of the State of Florida, hereinafter referred to as “DIVISION”.

### **WITNESSETH:**

**WHEREAS**, COUNTY is the owner of various real properties where DIVISION desires to locate vending equipment; and

**WHEREAS**, COUNTY is willing to allow the location and operation of vending equipment on such property by DIVISION according to the terms and conditions set forth herein; and

**WHEREAS**, COUNTY and DIVISION entered into those certain vending service agreements dated January 23, 1990 (R90-165-D), August 7, 1990 (R90-1327-D), and October 1, 1991 (R91-1379D), (the “Vending Service Agreements”), for the provision of vending machine services at the South County Courthouse, Four Points Center Complex and the Glades Office Complex; and

**WHEREAS**, the Terms of the Vending Service Agreements automatically renew; and

**WHEREAS**, the parties wish to install vending equipment at additional County locations; and

**WHEREAS**, COUNTY and DIVISION agree to terminate and replace Vending Service Agreements R90-165D, R90-1327-D and R91-1379D with this Agreement.

**NOW THEREFORE**, in consideration of the payments, covenants and agreements hereinafter reserved and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### **ARTICLE I BASIC AGREEMENT PROVISIONS**

#### **Section 1.01 Services**

In consideration of the payments, covenants and agreements hereafter reserved and contained on the part of the DIVISION to be observed and performed, COUNTY hereby grants Division a license to install vending equipment at the locations listed on **Exhibit “A”**, attached hereto and incorporated herein (the “Premises”). DIVISION through its licensed blind vendors, shall provide vending machines services which consist of providing and maintaining vending

equipment on COUNTY property that sells non-alcoholic beverages (carbonated and non-carbonated soft drinks, fruit drinks and water) and food products (snack items).

#### **Section 1.02 Length of Term and Commencement Date**

The term of this Agreement shall commence upon the Effective Date, as hereinafter defined (the "Commencement Date") and shall extend for a period of one (1) year (the "Initial Term"), unless sooner terminated pursuant to the provisions of this Agreement.

#### **Section 1.03 Option to Renew**

The Term of this Agreement shall be automatically renewed for successive one (1) year periods, each under the same terms and conditions of this Agreement and commencing upon the expiration of the initial Term of this Agreement or any renewal thereof, unless either party hereto provides the other with written notice of its intent not to renew this Agreement at least 120 days prior to the expiration of the then current Term of this Agreement.

#### **Section 1.04 Customer Service**

DIVISION is responsible for all problems associated with the vending equipment which result in a complaint from a consumer, including providing refunds for malfunctions or on merchandise past its sale date.

DIVISION shall provide the DIVISION's vendor contact information on the vending equipment advising users how to contact the DIVISION's vendor regarding requests for refunds, or problems with the vending equipment or merchandise past its sale date.

### **ARTICLE II LICENSE FEE**

#### **Section 2.01 License Fee**

DIVISION shall pay COUNTY an annual License Fee of \$10.00 Ten Dollars, payable without notice on the Commencement Date and each subsequent anniversary thereof. The check shall be made payable to the Palm Beach County Board of County Commissioners and shall be delivered to the Palm Beach County Finance Department, Revenue Section, P.O. Box 4036, West Palm Beach, Florida 33402.

### **ARTICLE III CONDUCT OF BUSINESS AND SERVICES OF CONCESSIONAIRE**

#### **Section 3.01 Vending Equipment**

DIVISION shall provide vending equipment at the locations listed on **Exhibit "A"** of this Agreement. DIVISION shall provide active manufacturer vending equipment only. DIVISION shall provide vending equipment which is in excellent physical and mechanical condition, aesthetically pleasing and clean, and equipped with both dollar and coin changers.



DIVISION shall not add any vending equipment to a location on **Exhibit "A"** or locate any vending equipment at a new COUNTY location without the approval of the COUNTY.

DIVISION shall not remove vending equipment subject to this Agreement from COUNTY property without the approval of the COUNTY.

The COUNTY shall evaluate each request from the DIVISION to remove equipment and permission shall not be unreasonably withheld. Isolated cases of vandalism or a downturn in sales on a seasonal basis shall not be considered valid reasons for the removal of vending equipment, but a sustained inability to generate a profit shall be considered a valid reason to remove or change the location of vending equipment.

### **Section 3.02 Vending Products**

DIVISION shall provide to employees and visitors for sale a variety of articles as are typically found in vending machines, including, but not limited to, soft drinks, water, juices, chips, candy bars, crackers, pastries, and gum. The DIVISION agrees to provide a selection of healthy snacks and drinks equal to fifty (50) percent of the total of its product line in accordance with Palm Beach County Health Department Protocols. The protocols can be found at their website: ([http://palmbeach.floridahealth.gov/programs-and-services/clinical-and-nutrition-services/nutrition/\\_documents/vending-protocols.pdf](http://palmbeach.floridahealth.gov/programs-and-services/clinical-and-nutrition-services/nutrition/_documents/vending-protocols.pdf)).

DIVISION shall charge prices for merchandise that does not exceed retail prices and shall provide the COUNTY with a list of its prices charged for food, beverages and other items upon request.

### **Section 3.03 Vending Services**

DIVISION shall monitor and maintain the product inventory of all vending equipment. DIVISION shall keep the vending equipment supplied with fresh merchandise, with unexpired dates of sale, at all times. DIVISION shall remove all expired merchandise no later than the printed expiration date if not sold. Sale of stale or expired merchandise shall be considered default of this Agreement. If the DIVISION repeatedly allows one or more pieces of vending equipment to be out of inventory, the COUNTY may terminate this Agreement with ten (10) days written notice to DIVISION.

DIVISION shall collect all revenue from each piece of vending equipment on a regular basis which is defined as at least once every ten (10) calendar days. DIVISION shall ensure that all of its employees have been provided with the safety standards for the vending equipment and are trained to operate the vending equipment in a safe manner. The DIVISION shall provide instructions on the vending equipment advising users how to operate the vending equipment safely and properly.

The DIVISION shall equip all vending equipment located outdoors with vandal-proof enclosures or cages. The enclosure or cage, however, is subject to COUNTY approval prior to installation.

**Section 3.04 Operation of Business**

DIVISION shall operate its business during the Term of this Agreement and any extension thereof with due diligence and efficiency and in a manner prudent and in accord with generally accepted business techniques within the locale of DIVISION's business.

DIVISION shall obtain all licenses and permits necessary to operate the vending equipment at DIVISION's own expense. The DIVISION shall conduct operations in such a manner as to meet all applicable health standards and codes and shall maintain the vending equipment in a clean and sanitary condition. DIVISION shall remove all packing materials, commercial garbage and debris generated by the DIVISION from the COUNTY's property. Under no circumstances shall the DIVISION dispose of any debris, refuse or garbage in COUNTY provided trash receptacles.

The DIVISION and DIVISION's staff, when on COUNTY property, shall wear attire which, in the sole determination of the COUNTY, is appropriate, and conduct themselves in a professional manner at all times.

**Section 3.06 Waste or Nuisance**

DIVISION shall not commit any waste upon COUNTY property, or commit any nuisance or other act or thing which may disturb the quiet enjoyment of visitors of COUNTY property, or which may result in damage or depreciation of value of COUNTY property or which results in an unsightly condition.

**Section 3.07 Governmental Regulations**

DIVISION shall, at DIVISION's sole cost and expense, comply with all ordinances, laws, statutes and regulations promulgated thereunder of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to DIVISION or DIVISION's services.

**Section 3.08 Non-Discrimination**

The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the DIVISION warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all individuals shall be treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Contract. DIVISION warrants that in the event the facilities operated upon the Premises are public facilities the same shall be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis as to residents of the municipality in which the Premises are located.

**Section 3.09 Removal of Equipment**

Upon termination or expiration of this Agreement, DIVISION, at its sole cost and expense, shall remove DIVISION's personal property and equipment from COUNTY property.

### **Section 3.10 Hazardous Substance**

DIVISION shall not use, maintain, store or dispose of any contaminants including, but not limited to, Hazardous Materials or toxic substances, chemicals or other agents used or produced in DIVISION's service, on COUNTY property, or any adjacent land in any manner not permitted by Environmental Laws. Furthermore, DIVISION shall not cause or permit the disposal of Hazardous Materials upon COUNTY property or upon adjacent lands and shall operate on COUNTY property in compliance with all Environmental Laws. For purposes hereof, Hazardous Materials shall mean any hazardous or toxic substance, material, waste of any kind, petroleum product or by-product, contaminant or pollutant as defined or regulated by Environmental Laws. Disposal shall mean the release, storage, use, handling, discharge or disposal of such Hazardous Materials. Environmental Laws shall mean any applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restrictions.

Any disposal of a Hazardous Material, whether by DIVISION or any third party, shall be reported to COUNTY immediately upon DIVISION's becoming aware of such disposal. DIVISION shall be solely responsible for the entire cost of remediation and clean up of any Hazardous Materials disposed of or discovered upon COUNTY property, or emanating there from onto adjacent lands, as a result of the use of COUNTY property by DIVISION, or DIVISION's agents, licensees, invitees, subcontractors or employees.

### **Section 3.11 Security**

DIVISION acknowledges and accepts full responsibility for the security and protection of the vending equipment and its inventory placed on or installed in or upon COUNTY property. DIVISION expressly acknowledges that any security measures deemed necessary or desirable for protection of the vending equipment shall be the sole responsibility of DIVISION at no cost to COUNTY. Notwithstanding the above, DIVISION shall immediately notify COUNTY of any losses incurred or security incidents.

DIVISION shall be solely responsible for any loss or damage to the vending machines, including merchandise, proceeds in the vending machines and loss of future proceeds, irrespective of cause.

Furthermore, COUNTY reserves the right to subject DIVISION's employees to fingerprint-based background checks to the extent permitted by law and to deny access rights to any DIVISION employee in accordance with adopted laws, policies and procedures. DIVISION shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if DIVISION's employees or subcontractors are required under this Agreement to enter a "critical facility" as identified in Resolution R-2003-1274. The DIVISION acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the DIVISION shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030. DIVISION shall have no recourse or claim against COUNTY for denied access rights.

## **ARTICLE IV SIGNAGE**

### **Section 4.01 Signs**

DIVISION shall not place any sign or advertising matter on COUNTY property or the DIVISION's vending equipment without first obtaining the written approval of the COUNTY. DIVISION further agrees that such signs or advertising matter or other things, as may be approved, shall be maintained in good condition and repair at all times.

## **ARTICLE V REPAIRS AND MAINTENANCE OF MACHINES**

### **Section 5.01 Responsibility of Division**

DIVISION shall maintain all vending equipment in a clean and sanitary condition. DIVISION shall maintain all vending equipment in working order at all times except due to circumstances beyond the DIVISION's control, such as during periods of electrical power outages. DIVISION shall repair or replace any machine that is damaged or unsightly within three (3) business days of verbal notice from the COUNTY.

DIVISION shall immediately notify the COUNTY of any possible health, safety and/or security hazards that may exist within the vending equipment location so corrective actions can be determined and implemented.

COUNTY shall not be obligated or required to make or conduct any maintenance or repairs to any vending equipment.

## **ARTICLE VI UTILITIES**

### **Section 6.01 Utilities**

COUNTY shall provide electric utility service to the vending equipment, at no cost to the DIVISION, from existing outlets. COUNTY shall also provide any improvements necessary to expand existing electrical outlet locations if such improvements are deemed necessary in the sole discretion of the COUNTY. In no event shall COUNTY be liable for an interruption or failure in the supply of electric utility service to the vending equipment.

## **ARTICLE VII INSURANCE AND INDEMNITY**

### **Section 7.01 Indemnification**

Without waiving the right to sovereign immunity as provided for in Florida Statute, Section 768.28, DIVISION shall indemnify the COUNTY from any claim, suit, judgment, debt, or damages, arising out of performance or failure to perform or negligent or wrongful acts or omissions under this Agreement of any of the DIVISION's employees, servants, or agents while acting in the scope of their employment. Neither Party waives its sovereign immunity, except to the extent provided by law. Nothing in this Agreement may be construed as the consent of either

Party to be sued by third parties in any matter arising out of this Agreement. This section shall survive the termination of this Agreement.

#### **Section 7.02 Insurance**

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the DIVISION represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If DIVISION is not self-insured, DIVISION shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the Statute.

Should DIVISION purchase excess liability coverage, DIVISION agrees to include COUNTY as an Additional Insured.

The DIVISION agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes.

Should DIVISION contract with a third-party (Contractor) to perform any service related to the Agreement, DIVISION shall require the Contractor to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include DIVISION and COUNTY as Additional Insureds. DIVISION shall also require that the Contractor include a Waiver of Subrogation against COUNTY.
- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the DIVISION shall provide COUNTY an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the DIVISION of its liability and obligations under this Agreement.

### **ARTICLE VIII DESTRUCTION OF EQUIPMENT**

#### **Section 8.01 Destruction of Equipment**

In the event COUNTY property containing the DIVISION's vending equipment shall be damaged or injured by fire, the elements, unavoidable accident or other casualty, during the Term



of this Agreement or any extension thereof, the COUNTY shall not be liable for any damage to DIVISION’s equipment or merchandise.

**ARTICLE IX  
ASSIGNMENT**

**Section 9.01 Assignment**

DIVISION may not subcontract or assign any rights, responsibilities or obligations of this Agreement.

**ARTICLE X  
RULES AND REGULATIONS**

**Section 10.01 Rules and Regulations**

DIVISION, its representatives and employees shall adhere to all county and state laws and regulations relating to the use of COUNTY facilities, including the rules and regulations appended to this Agreement as **Exhibit “B”**, and hereby made a part of this Agreement, and DIVISION agrees to comply with and abide by same. DIVISION’s failure to keep and observe said rules and regulations may result in the suspension or termination of this License Agreement. . COUNTY reserves the right from time to time to amend and supplement the rules and regulations, and to impose additional rules and regulations. Notice of such rules and regulations and amendments and supplements thereto, if any, shall be given to the DIVISION. DIVISION agrees to comply with all additional and supplemental rules and regulations upon notice of same from COUNTY.

**ARTICLE XI  
TERMINATION**

**Section 11.01**

The County may terminate this Agreement at any time upon written notice to the DIVISION. Upon DIVISION’s receipt of written notice from the County, this Agreement shall terminate and County shall be relieved of all further obligations hereunder accruing subsequent to the date of such termination. DIVISION may terminate this Agreement upon written notice to the County. Notwithstanding such termination, DIVISION shall remain obligated to surrender and restore the Premises as required by this Agreement and for any obligations arising prior to such termination.

**ARTICLE XII  
MISCELLANEOUS**

**Section12.01 Entire Agreement**

This Agreement and any Exhibits attached hereto constitute all agreements, conditions and understandings between COUNTY and DIVISION and supersedes all other negotiations, representations, or agreement, written or oral, relating to this Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Agreement shall be binding upon COUNTY or DIVISION unless reduced to writing and signed by them.

**Section 12.02 Amendments**

This Agreement may be modified and amended only by written instrument executed by the parties hereto.

**Section 12.03 Notices**

All notices, consents, approvals, and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service (provided in each case a receipt is obtained), or on the date of transmission with confirmed answer back if telecopier or fax if transmitted before 5 P.M. on a business day and on the next business day if transmitted after 5 P.M. or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

If to the County at:

Facilities Management Division  
Attention: Director  
2633 Vista Parkway  
West Palm Beach, Florida 33411-5605  
Telephone 561-233-0200  
Email: MOsinga@pbcgov.org

With copies to:

Palm Beach County Attorney Office  
Attn: Real Estate  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 33401  
Telephone 561-355-2225  
Fax 561-355-4398

If to the Division at:

Attn: Bureau Chief, Bureau of Business Enterprise  
325 West Gaines Street, Suite 1114  
Tallahassee, FL 32399  
Telephone 850-245-0300  
Fax 850-245-0364

Any party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other parties.

**Section 12.04 Severability**

If any term of this Agreement or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**Section 12.05 Recording**

DIVISION shall not record this Agreement, or any memorandum or short form thereof, in the public records of Palm Beach County. Any such recording shall constitute a default hereunder and shall result in immediate termination of this Agreement.

**Section 12.06 Waiver of Jury Trial**

THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH PROCEEDINGS OR COUNTER CLAIMS BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN CONNECTION WITH THIS AGREEMENT OR DIVISION'S USE AND OCCUPANCY OF THE PREMISES.

**Section 12.07 Governing Law and Venue**

This Agreement shall be governed by and interpreted according to the laws of the State of Florida. Venue shall be in a State court of competent jurisdiction in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**Section 12.08 Time of Essence**

The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

**Section 12.09 Waiver, Accord and Satisfaction**

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party(s) waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver. The waiver by COUNTY of any default of any term, condition or covenant herein contained shall not be a waiver of such term, condition or covenant, or subsequent default of the same or any other term, condition or covenant herein contained. The consent or approval by COUNTY to or of any act by DIVISION requiring COUNTY's consent to or approval shall not be deemed to waive or render unnecessary COUNTY's consent to or approval of any subsequent similar act by DIVISION. The receipt of payment after default or condition broken,

or delay on the part of COUNTY to enforce any right hereunder, shall not be deemed a waiver of any proceeding default by DIVISION of any term, covenant or condition of this Agreement, or a waiver of the right of the COUNTY to terminate this Agreement.

**Section 12.10 Construction**

No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**Section 12.11 Incorporation by Reference**

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

**Section 12.12 Survival**

Notwithstanding any early termination of this Agreement, DIVISION shall remain obligated hereunder to perform any duty, covenant or obligation imposed upon DIVISION hereunder arising prior to the date of such termination; subject to the availability of funds.

**Section 12.13 Effective Date of Agreement**

This Agreement 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.

**Section 12.14 Successors**

All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and permitted assigns of the said parties.

**Section 12.15 Public Entity Crimes**

As provided in Section 287.131-133, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, DIVISION certified that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date hereof. This notice is required by Section 287.133(3) (a), F.S.

**Section 12.16 Liens**

The DIVISION shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The DIVISION further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

**Section 12.17 Independent Contractor Relationship**

The DIVISION is, and shall be, in the performance of all work, services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to Concessionaire's sole direction, supervision and control. The DIVISION shall exercise control over the means and manner in which it and its employees, agents or vendors perform the work, and in all respects the DIVISION's relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The DIVISION does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

**Section 12.18 Paragraph Headings**

The headings of the various articles and sections of this Agreement are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement.

**Section 12.19 Inspector General**

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 -2- 440, as amended. 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 to audit, investigate, monitor, and inspect the activities of the DIVISION, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with of impending any investigation shall be in violation of the Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**Section 12.20 Division Posture**

It is understood that, although DIVISION is a direct party to this Agreement for vending services, DIVISION contracts separately with one of its licensed blind vendors (DIVISION licensees) by means of a Licensed Operator Facility Agreement (LOFA), who is directly responsible thereunder to DIVISION for the administration of the vending services to be provided under and according to this Agreement.

**Section 12.21 Radon**

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

**Section 12.22 No Third Party Beneficiary**

No provision of this Agreement 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 Agreement, including but not limited to any citizens of Palm Beach County or employees of COUNTY or DIVISION.

**Section 12.23 Surrender of Premises**

Upon termination of each use of the Premises by the DIVISION, DIVISION, at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to the County in at least the same condition the Premises were in at the start of each period of use.

(the remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

WITNESS:

[Signature]  
(Witness signature)

Jamie Welsh  
(Print witness name)

[Signature]  
(Witness signature)

Latasha Bissell  
(Print witness name)

DIVISION:

DEPARTMENT OF EDUCATION,  
DIVISION OF BLIND SERVICES, an  
agency of the State of Florida

By: [Signature] **J. Alex Kelly**  
Richard Corcoran, Commissioner of Education **Chic Rd**  
**St RR**

Date: 4/10/20

Approved as to Form and Legal Sufficiency:

By: [Signature] **James L. Richmond**  
for Brent McNeal, Assistant General Counsel

Date: 4/10/20



ATTEST:

SHARON R. BOCK  
CLERK & COMPTROLLER

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

\_\_\_\_\_  
(Witness signature)

\_\_\_\_\_  
(Print witness name)

\_\_\_\_\_  
(Witness signature)

\_\_\_\_\_  
(Print witness name)

COUNTY:

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

By: \_\_\_\_\_  
Dave Kerner, Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

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

APPROVED AS TO TERMS  
AND CONDITIONS:

By:  \_\_\_\_\_  
Department Director

G:\PREMPM\In Lease\Blind Services Vending Machines\Vending Machine Blind Services HF approved 02-27-2020, 03-10-2020.docx

**EXHIBIT “A”**

**PALM BEACH COUNTY  
PREMISES**

Four Points Centre Complex, 50 South Military Trail, West Palm Beach - 00-42-44-01-00-000-1270

Philip D. Lewis Center, 1000 45<sup>th</sup> Street, West Palm Beach - 74-43-43-04-15-000-0094

North County Courthouse, 3188 PGA Blvd, Palm Beach Gardens - 52-43-42-06-24-000-0010

North County Senior Center, 5217 Northlake Blvd, Palm Beach Gardens - 00-42-42-14-00-000-5100

South County Courthouse, 200 West Atlantic Ave, Delray Beach - 12-43-46-17-47-000-0000

Mid County Senior Center, 3680 Lake Worth Road, Lake Worth - 00-43-44-30-01-011-0010

Mayme Frederick Building, 1440 Martin Luther King Jr. Blvd, Riviera Beach - 56-43-42-32-00-000-7070

Community Services, 810 Datura Street, West Palm Beach – 74-43-43-21-01-035-0041

Glades Office Complex, 2916 SR 15, Belle Glade - 00-37-43-20-00-000-3010

West County Senior Center, 2916 SR 15, Belle Glade - 00-37-43-20-00-000-3010

CROC Administration Building, 8100 Forest Hill Blvd., West Palm Beach – 00-42-43-27-05-015-0490

CROC Operations and Maintenance Building, 8100 Forest Hill Blvd., West Palm Beach - 00-42-43-27-05-015-0490

SROC Operations and Maintenance Building, 13026 S Jog Road, Delray Beach – 00-42-46-10-00-000-1020

Customer Service Complex, 9045 S Jog Road, Boynton Beach – 00-42-45-15-01-001-0010

Southern Region Waste Water Treatment Plant, 12751 Hagen Ranch Road, Boynton Beach – 00-42-43-27-05-064-0730

Water Treatment Plant #9, 22530 SW 65<sup>th</sup> Avenue, Boca Raton – 00-42-43-27-05-081-0380

## **EXHIBIT “B”**

### **RULES AND REGULATIONS**

1. DIVISION shall not make, or permit to be made, any unseemly or disturbing noises, or disturb or interfere with employees or visitors of County properties, whether by the use of any musical instrument, radio, television set, or other audio device, musical noise, whistling, singing, or in any other way.
2. There shall not be used on County property, either by DIVISION or by their agents or contractors, in the delivery of merchandise, freight or other matter, any hand trucks or other means of conveyance except those equipped with rubber tires, rubber side guards and such other safeguards as the County may require.



# BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 04/30/20

REQUESTED BY: Della M. Lowery  
Property Specialist, PREM

PHONE: 233-0239  
FAX: 233-0210

PROJECT TITLE: Facilities Management Master Vending Machines – Blind Services

PROJECT NO.: 2020-8.001

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

**\*\* By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.**

## BUDGET ACCOUNT NUMBER

FUND: 0001 DEPT: 800 UNIT: 8001 OBJ: 6201

SUB OBJ:

IS ITEM INCLUDED IN CURRENT BUDGET: YES \_\_\_\_\_ NO X

## **IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)**

- ☐ Ad Valorem (source/type: \_\_\_\_\_)
- ☐ Non-Ad Valorem (source/type: \_\_\_\_\_)
- ☐ Grant (source/type: \_\_\_\_\_)
- ☐ Park Improvement Fund (source/type: \_\_\_\_\_)
- ☐ General Fund ☐ Operating Budget ☐ Federal/Davis Bacon
- ☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_

**SUBJECT TO IG FEE?** ☐ YES ☐ NO

Department: Facilities Development & Operations

BAS APPROVED BY: [Signature] DATE: 4/30/2020

ENCUMBRANCE NUMBER: \_\_\_\_\_