

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 19, 2021

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 approve: the first renewal option to extend the term of the Interlocal Lease Agreement (R97-637D) dated May 20, 1997, with Solid Waste Authority for the continued lease of approximately 448 acres of land within Dyer Park from May 20, 2022 through May 19, 2047, at an annual rental rate of ten (10) dollars.

Summary: Dyer Park was constructed in 1997 by the Solid Waste Authority (SWA) on the former Dyer Landfill site and is currently leased to the Parks and Recreation Department. On May 20, 1997, the Board approved the Interlocal Lease Agreement for a term of twenty-five (25) years, with three (3) extension options for a period of twenty-five (25) years each under the same terms and conditions as the original lease. The current term is set to expire May 19, 2022. Notification to the SWA that the County wishes to exercise this option to renew must be completed at least six (6) months, but not more than nine (9) months prior to the May 19, 2022 expiration date. This first renewal option will extend the term of the Interlocal Lease Agreement from May 20, 2022 through May 19, 2047. The rent will remain at \$10.00 annually. All other terms and conditions of the Agreement shall remain in full force and effect. Parks and Recreation Department will continue to have administrative responsibility for this Agreement. District 7 (AH)

Background and Justification: Dyer Park is a 560 acre regional park located in suburban West Palm Beach. The park presently contains a variety of athletic fields, basketball courts, a golf driving range, mountain bike and walking trails, a playground, fishing, canoe/kayak access, a remote control airplane/helicopter flying facility, restrooms and picnicking. The property was originally developed as the Dyer Boulevard Landfill in 1968 and the SWA assumed management responsibility of the landfill in 1983. The SWA closed the landfill in 1988 and commenced site restoration and reclamation efforts. The park was completed by the SWA in 1997 at a cost of \$5.6 million. SWA subsequently entered into Interlocal Lease Agreement (R97-637D) with the County to operate and manage the regional park.

Attachments:

1. Certified Extension Request Letter
2. Location Map
3. Original Lease Agreement (R97-637D)

Recommended by: 
Department Director

9-20-21
Date

Approved by: 
Assistant County Administrator

10/8/2021
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Operating Costs	<u> 10 </u>	<u> 10 </u>	<u> 10 </u>	<u> 10 </u>	<u> 10 </u>
External Revenues	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Program Income (County)	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
In-Kind Match (County)	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
NET FISCAL IMPACT	<u> 10 </u>	<u> 10 </u>	<u> 10 </u>	<u> 10 </u>	<u> 10 </u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Is Item Included in Current Budget:			Yes	<u> X </u>	No
Does this item include use of federal funds?			Yes	<u> </u>	No
					<u> X </u>

Budget Account No.: Fund 0001 Department 580 Unit 5110
 Object 4401 Program N/A

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

Annual rent payment on this lease is \$10 per year.

C. Departmental Fiscal Review: *[Signature]* 9/20/21

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 9/23/21
 OFMB *9A 9-23-21 DC 9/23* Contract Development and Control
[Signature] 10/17/21
10-17-21 TW

B. Legal Sufficiency:

[Signature] 10/8/21
 Assistant County Attorney
 For *A. Helwig*

C. Other Department Review:

[Signature]
 Department Director

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

ATTACHMENT 1



**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#7019 1120 0000 0865 6138**

**Facilities Development &
Operations Department**

**Property & Real Estate
Management Division**

2633 Vista Parkway

West Palm Beach, FL 33411

Telephone - (561) 233-0217

Facsimile (561) 233-0210

www.pbcgov.com/fdo



**Palm Beach County
Board of County
Commissioners**

Dave Kerner, Mayor

Robert S. Weinroth, Vice Mayor

Maria G. Marino

Gregg K. Weiss

Maria Sachs

Melissa McKinlay

Mack Bernard

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*

October 19, 2021

Solid Waste Authority
Attn: Dan Pellowitz, Executive Director
7501 North Jog Road
West Palm Beach, FL 33412

Re: Exercise First Option to Extend Interlocal Lease Agreement (R97-637D) dated May 20, 1997

Dear Mr. Pellowitz:

Pursuant to the provisions of Section 1.03 of the above referenced Lease, Palm Beach County, as Lessee, is hereby exercising its first option to extend the term of said Lease for an additional period of twenty-five (25) years from May 20, 2022, through May 19, 2047.

Sincerely,

ATTEST:

JOSEPH ABRUZZO
CLERK OF THE CIRCUIT
COURT & COMPTROLLER


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

By: _____
Deputy Clerk

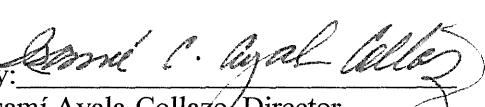
By: _____
Dave Kerner, Mayor

APPROVED AS TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: 

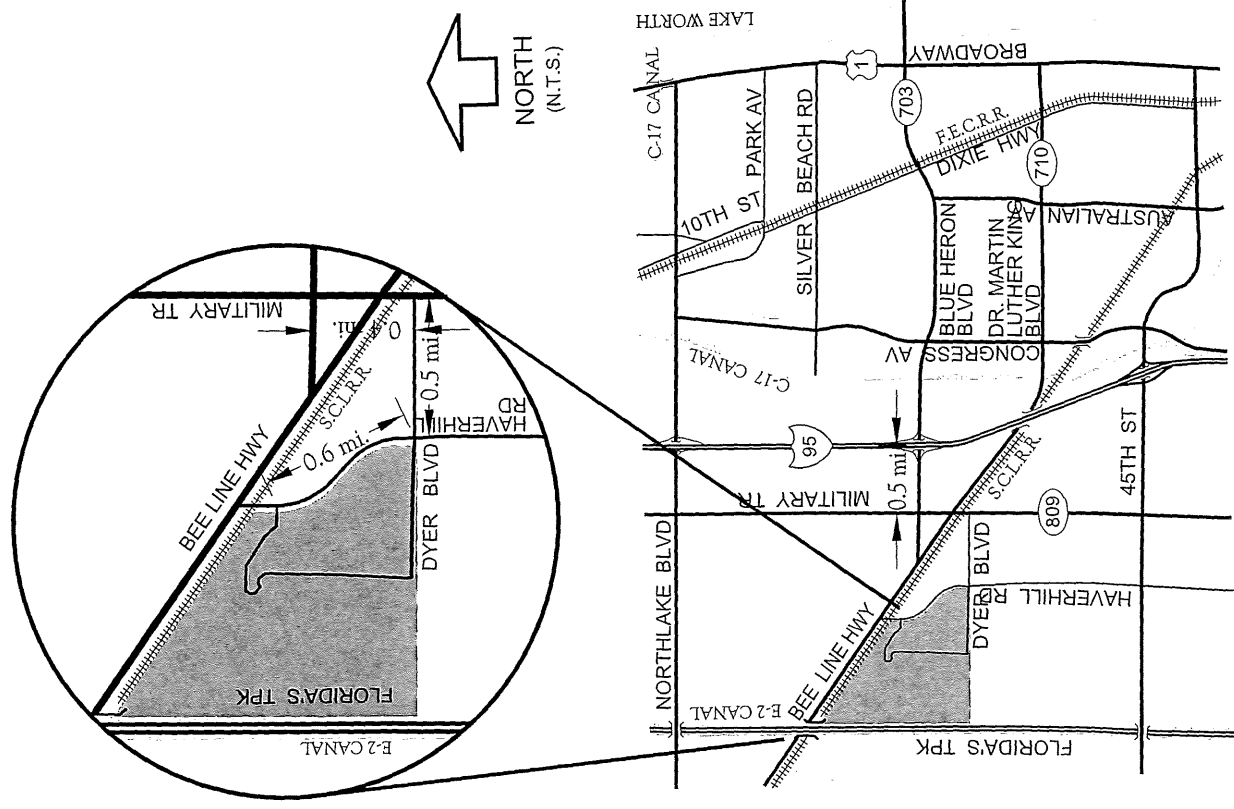
Chief Assistant County Attorney
For A. Helbert

By: 

Isami Ayala-Collazo, Director
Facilities Development & Operations

ATTACHMENT 2

DYER PARK



ATTACHMENT 3

Recd Oct 1, 2007

3M-6

Agenda Item #:

0002 F/C
M/R
ABS

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

R97-637-D

Meeting Date: May 20, 1997 Consent Regular
 Ordinance Public Hearing

Department: Parks and Recreation Department

1. EXECUTIVE BRIEF

- A. Motion and Title: Staff recommends motion to approve: Interlocal Agreement with the Solid Waste Authority for the lease of Dyer Park.
- B. Summary: This 25 year lease is for a portion of the closed Dyer Landfill that has been developed by the Solid Waste Authority as a recreational park. The Agreement assigns all operation and maintenance responsibilities associated with the Park facilities to the County. The County's estimated annual O&M cost is \$165,000. The partial year funding required to assume this responsibility is in the Parks and Recreation Department's 1996/97 fiscal year budget. The maintenance of non-park areas and those functions related to the permits and regulations governing closed landfills will continue to be the responsibility of the Solid Waste Authority. District 2 (KS)
- C. Background and Justification: In accordance with the requirements of a purchase agreement for portions of the now closed Dyer Landfill, the Solid Waste Authority has converted the property into a recreational park at an approximate cost of \$6,000,000.00. The attached Lease Agreement provides the mechanism by which the operations and maintenance responsibilities of the park facilities are transferred to the Palm Beach County Parks and Recreation Department. This arrangement reflects the initial intent of the two agencies and the County has provided the necessary resources to assume this responsibility in its 1996/97 fiscal budget. The average estimated annual cost of operating this Park is \$165,000.00.

The requirements of the various regulatory agencies pertaining to a closed landfill as well as the maintenance of non-park facilities will continue to be the responsibility of the Solid Waste Authority.

- D. Attachments:
 - 1. Lease Agreement

Recommended by: *Dennis Ellman* 5/8/97
Department Director Date

Approved by: *Jim Cremona* 5/14/97
Assistant County Administrator Date

R97 637 D

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	1997	1998	1999	2000	2001
Capital Expenditures	62,050	-0-	-0-	-0-	-0-
Operating Costs	85,000	180,000	147,000	154,000	165,000
External Revenues					
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	147,050	180,000	147,000	154,000	165,000
# ADDITIONAL FTE POSITIONS (Cumulative)	4	4	4	4	4

Is Item Included in Current Budget? Yes No
 Budget Account No.: Fund 001 Agency 580 Org. 5221 Object various
 Reporting Category _____

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

Electric utility expenses will be reduced by an estimated \$40,000 with the future installation of generators provided by the Solid Waste Authority.

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Dev. and Control Comments:
 All costs and positions are included in the adopted FY 1997 budget and proposed FY 1998 budget.

B. Legal Sufficiency: *[Signature]* 5/14/97
 OFMB Contract Dev. and Control

This Contract complies with our contract review requirements.

Kathleen M. Scallett 5/14/97
 Assistant County Attorney

C. Other Department Review:

 Department Director

REVISED 10/95
 ADM FORM 01

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

G:\USER\DHSS\WP\AGENDAS\DYER.520

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R97 637 D

PALM BEACH COUNTY MAY 20 1997

DYER PARK

INTERLOCAL
LEASE AGREEMENT

between

SOLID WASTE AUTHORITY OF PALM BEACH COUNTY
(Lessor)

and

PALM BEACH COUNTY
(Lessee)

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**INTERLOCAL AGREEMENT BETWEEN
SOLID WASTE AUTHORITY OF PALM BEACH COUNTY AND
BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY
FOR LEASE OF DYER PARK PROPERTY**

THIS LEASE AGREEMENT, made and entered into this _____ day of MAY 20 1997, 1997, by and between SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, a governmental entity created pursuant to Chapter 75-473, Laws of Florida, hereinafter referred to as "Lessor" and the BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, the Florida Legislature created the Lessor and granted to it the responsibility for solid waste management and resource recovery in Palm Beach County, Florida including the closure and maintenance of landfills; and

WHEREAS, Lessor is the owner of certain real property in Palm Beach County, Florida, as said property is legally described in Exhibit "A" attached hereto and by reference made a part hereof (the "Premises") which consists of closed landfill cells and which has been converted to a recreational park; and

WHEREAS, Lessor desires to lease the Premises (Exhibit A) for use as a recreational park as specifically described herein and as set forth in Exhibit "B" attached hereto and by reference made a part hereof (the "Park"); and

WHEREAS, Lessor desires to lease the Premises to Lessee for said purpose; and

WHEREAS, Section 163.01, Florida Statutes, authorizes the Lessor and Lessee to enter into interlocal agreements of this nature.

NOW THEREFORE, in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Lessee to be observed and performed, the Lessor demises and leases to Lessee and the Lessee rents from Lessor the Park hereinafter defined upon the following terms and conditions:

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**ARTICLE I
BASIC LEASE PROVISIONS**

Section 1.01 Park.

The Premises, as described in Exhibit "A", consists of approximately 448 acres of land located at Haverhill Road and State Road 710, Palm Beach County, Florida. The Park, as described in Exhibit "B", includes all existing park buildings, athletic facilities, utilities, roadways, asphalt paved bike paths, horse trails, mountain bike trails, and grounds, irrigation, and landscaping within ten (10) feet of either side of the centerline of such paths or trails.

Section 1.02 Length of Term and Commencement Date.

The Term of this Lease shall commence upon the date of full execution of this Lease (the "Commencement Date") and shall extend for a period of twenty-five (25) years thereafter, unless sooner terminated pursuant to the provisions of this Lease (the "Term"). Notwithstanding anything in this Lease to the contrary, during the twenty-fifth (25th) year of the initial Term of this Lease or any extension of the Term of this Lease, the Lessor and Lessee shall each have the right to cancel this Lease for any reason upon nine (9) months prior written notice to the other.

Section 1.03 Option to Extend.

(a) Lessee is hereby granted the option to extend the Term of this Lease for three (3) additional periods of twenty-five (25) years each (the "Extended Terms") under the same terms and conditions specified herein.

(b) Lessee shall exercise its options as to each Extended Term in the following manner. At least six (6) months, but not more than nine (9) months, prior to the expiration of the initial Term, or the applicable Extended Term, Lessee shall notify Lessor in writing of its election to exercise Lessee's option to extend the Term of this Lease.

**ARTICLE II
RENT**

Section 2.01 Annual Rent.

The rental for the Park shall be ten dollars (\$10.00) per annum and shall be payable by Lessee in advance upon the Commencement Date and each anniversary thereof.

Section 2.02 Assessments.

Lessee shall pay, before delinquency, all assessments which may be levied by any governmental authority against the Park or the Improvements constructed on the Park during the Term of this Lease, to the extent that Lessee is not exempt by law from said assessment.

**ARTICLE III
CONSTRUCTION OPERATION AND MAINTENANCE**

Section 3.01 Acceptance of Premises by Lessee.

Lessee certifies that Lessee has inspected the Park and accepts same "As Is", in its existing condition as of the Commencement Date of this Lease. No repair work, alterations, or remodeling of the Park is required to be done by Lessor as a condition of this Lease.

Section 3.02

(a) Construction, Operation, Maintenance and Improvement of Park. Lessee agrees to perform all work at its own cost and expense which is necessary to additionally equip the Park and/or the Premises and maintain the Park for the lawful use of the Park as specified in this Lease. Any additions or modifications to the Park and/or Premises shall be done solely and completely at Lessee's cost and expense and Lessor shall have no responsibility or liability for any costs or expense in regard to the use, operation, maintenance, replacement, modification, improvement or expansion of the Park or the Premises after the Commencement Date, except as may be otherwise specifically set out in this Agreement.

(b) Approval of Alterations. Lessee shall not make any improvements, additions, modifications or alterations to the Premises (hereinafter collectively referred to as "Alterations") without the prior written consent of Lessor in each instance. Lessee shall submit detailed plans and specifications for all such Alterations to Lessor for Lessor's written approval prior to Lessee's commencing work on same. Lessee acknowledges and agrees that all Alterations, whether pursuant to this Section or otherwise, shall be performed and accomplished solely for the benefit and convenience of Lessee, and not for the benefit of Lessor, such Alterations being nevertheless subject to each and every provision of this Lease. All work done by Lessee in connection with any Alterations, repairs and maintenance shall be done in a good and workmanlike manner and shall be diligently prosecuted to completion strictly in accordance with the plans and specifications therefor.

Lessee specifically acknowledges that no underground excavation of any kind shall be done under any circumstances (except for life threatening emergency) without first obtaining written authorization from the Lessor. An appropriate form for request will be supplied by Lessor.

(c) Lessor's Consent. Lessor shall authorize Lessee to act as Lessor's agent to obtain any government approvals or permits required to construct any Alterations approved by Lessor.

(d) Construction Liens. Lessee shall comply with the Construction Lien Law, Florida Statutes Chapter 713, Part I, in the construction of any Alterations to the

Premises, and shall where required, obtain a Public Performance Bond in accordance with Florida Statutes 255.05 prior to commencing any such Alterations.

In the event a lien is filed against the Premises in connection with any work performed by or on behalf of the Lessee, the Lessee shall promptly take action to have the lien removed from the Premises. Further, the Lessee agrees to indemnify, defend and save the Lessor harmless from and against any damage or loss incurred by the Lessor as a result of any such construction lien.

ARTICLE IV CONDUCT OF BUSINESS AND USE OF PREMISES BY LESSEE

Section 4.01 Lessee's Use of Park, Maintenance, and Hours of Operation.

Lessee shall use the Park solely and exclusively for a recreational park for the people of Palm Beach County, Florida. Lessee shall be in full control of the operation and maintenance of the Park and shall set and establish the times of operation, and the rules and regulations for the use of the Park. However, Lessee shall ensure that all park facilities and access to the Park are locked and secured outside of normal operation hours, and shall insure that access to the Maintenance Area and Lessors secured areas (as shown on Exhibit B) remain locked and secured at all time except during actual access and use by Lessee's employees or agents. Lessor shall have no control or responsibility with regard to the use of the Park, except as is otherwise set out in this Agreement.

Lessor shall have the right to require such modification or change to Lessee's use of the Park or its rules or regulations as Lessor in its sole discretion determines is necessary to comply with any current or future local, state or federal rule, regulation, permit, or deed covenant. In the event that Lessee fails to timely make such modifications or changes, Lessor shall have the right to enter upon the Park and make such modifications or changes at Lessee's expense as Lessor in its sole discretion determines is necessary to meet such compliance. Such discretion will not be unreasonably exercised.

Section 4.02 Lessor's Continuing Use, Maintenance, and Improvement of Premises.

The parties acknowledge and agree that the Premises as described in Exhibit "A" include lands and areas in addition to the Park, and that portions of the Premises are reserved to the Lessor for its exclusive use, and that some portions of the Park have been leased to other users, or are subject to easements or rights of use by other parties. The Premises consists of a closed landfill which has been closed by Lessor in accordance with governing Florida and Federal statutes and regulations and will continue to be governed by these statutes and regulations in the future, including but not limited to the jurisdiction of the Florida Department of Environmental Protection.

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4. Operate and maintain all groundwater, surface water, and gas monitoring facilities with the Premises and the Park.
5. Perform any and all other functions required by local, state, and federal regulations applicable to the closed landfill facilities.

The specific areas as designated on Exhibit "B" as "not a park facility" shall be accessible to and used exclusively by Lessor, and Lessee shall use its best efforts to prevent any users of the Park from entering, accessing, disturbing or damaging any such Lessor exclusive areas, and shall notify Lessor immediately if any of the above occur.

The Lessor shall have the right to enter upon and access the Park at any time Lessor in its sole discretion deems necessary for the purpose of fulfilling any of Lessor's responsibilities and liabilities under this Agreement, but Lessor hereby agrees that it will use its best efforts not to interfere with Lessee's use, operation and maintenance of the Park except as is reasonably necessary.

Section 4.04 Waste or Nuisance.

Lessee shall not commit or suffer to be committed any waste upon the Park or any nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect Lessor's fee interest in the Premises. Lessee shall not use or dispose of any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents used or produced in Lessee's operations, on the Premises, in any manner not permitted by law. All refuse is to be removed from the Park at Lessee's sole cost and expense and Lessee will keep such refuse in proper fireproof containers on the interior of the Park until removed. Lessee will keep access to the Park, the parking areas and other contiguous areas to the Park free and clear of obstruction. Lessee, at its sole cost and expense, will keep the Park Improvements free of rodents, vermin and other pests.

Section 4.05 Governmental Regulations.

Lessee shall, at Lessee'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 Lessee or its use of the Park. Lessee shall, to the extent permitted by law, indemnify, defend and save Lessor harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Lessee's failure to perform its obligations in this Section.

Section 4.06 Surrender of Premises.

Upon termination or expiration of this Lease, Lessee, at its sole cost and expense, shall surrender the Park to the Lessor in the similar condition the Park was in as of the Commencement Date of this Lease, reasonable wear and tear excepted.

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**ARTICLE V
INSURANCE AND INDEMNITY**

Section 6.01 Liability Insurance.

Lessee shall, during the entire Term hereof, provide Lessor with a certificate evidencing self-insurance coverage for comprehensive general liability in the amount of \$100,000 per person and \$200,000 per incident or occurrence. In the event the Legislature should change the Lessee's exposure by Statute above or below the sums insured against, the Lessee shall provide insurance to the extent of that exposure.

Section 6.02 Indemnification.

"Park Use Litigation" for purposes of this section means any and all claims, suits, actions, damages, and/or causes of action arising during the Term of this Lease for any personal injury, loss of life, and/or damages to personal property sustained in the Park by reason or as a result of the use, occupancy, or control of the Park by the Lessee, its agents, employees, licensees, and invitees.

Indemnification by Lessee: Lessee shall, to the extent permitted by law, indemnify and save harmless Lessor from and against Park Use Litigation, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney fees, expenses and liabilities incurred in and about the defense of any Park Use Litigation. In the event Lessor shall be made a party to any Park Use Litigation commenced against Lessee or by Lessee against any Third Party, then Lessee shall protect and hold Lessor harmless and pay all costs and attorneys fees incurred by Lessor in connection with such Park Use Litigation, and any appeals thereof. Nothing herein shall constitute a waiver of the sovereign immunity of either party, as provided in Florida Statutes 768.28 as amended.

Indemnification by Lessor: Lessor shall, to the extent permitted by law, indemnify and save harmless Lessee from any and all claims, suits, actions, damages and/or causes of action that relates in any way to the Park or the Premises, and that is not Park Use Litigation, including without limitation any claim or suit arising out of the use of the Premises as a Landfill, any closure and/or post closure requirements and/or activities, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney fees, expenses, and liabilities incurred in and about the defense of any such litigation. In the event Lessee shall be made a party to any such litigation commenced against Lessor or by Lessor against any Third party, then Lessor shall protect and hold Lessee harmless and pay all costs and attorney fees incurred by Lessee in connection with such litigation, and any appeals thereof. Nothing herein shall constitute a waiver of the sovereign immunity of either party, as provided in Florida Statutes 768.28, as amended.

**ARTICLE VI
DESTRUCTION OF LESSEE'S ALTERATIONS**

In the event any of the Improvements are destroyed, damaged or injured by fire or other casualty during the Term of this Lease, or any extension thereof, Lessee shall commence restoration or removal thereof within ninety (90) days and thereafter diligently pursue the restoration or removal to completion. Notwithstanding the foregoing, in the event of any such casualty, Lessee shall have the right, to be exercised in its sole discretion, to terminate this Lease. In the event Lessee elects to terminate this Lease, Lessee shall first place the Park in a safe and sightly condition in compliance with all Building, Fire and other applicable codes and shall at the request of the Lessor remove any Park improvements which are materially damaged.

**ARTICLE VII
UTILITIES AND SERVICES**

Lessee shall make arrangements for the supply to the Park of any and all utilities and services required by Lessee for additional Park improvements by contracting directly with the utility or other companies furnishing such utilities and services to the Premises. Lessee shall be solely responsible for and promptly pay directly to the utility or other provider of such service all charges and assessments for water, gas, electricity, trash collection and removal or any other utility used or consumed on the Park. In no event shall Lessor be liable for an interruption or failure in the supply of any such utilities to the Park unless Lessor is the supplier of such utility.

**ARTICLE VIII
ASSIGNMENT AND SUBLETTING**

Lessee may not assign, mortgage, pledge or encumber this Lease in whole or in part, nor sublet all or any portion of the Park, without the prior written consent of the Lessor. However, the parties acknowledge that there presently exist two leases to other parties of portions of the Park and that these leases shall be assigned to Lessee by separate assignment at the time of execution of this Lease. The lessee's under said leases are the R.C. "BUSH PILOTS and the CHILDREN'S GOLF FOUNDATION, INC. All easements including, but not limited to, utility easements are expressly prohibited without the prior written approval of Lessor, which approval shall not be unreasonably withheld. Any easement, assignment, or sublease not approved in writing by Lessor shall be void and without legal effect.

**ARTICLE IX
DEFAULT OF LESSEE**

Section 10.01 Events of Default.

The occurrence of any one or more of the following shall constitute an Event of Default by Lessee under this Lease: (i) Lessee shall fail to perform or observe any of the agreements, covenants or conditions contained in the Lease on Lessee's part to be performed or observed and such failure shall continue for more than thirty (30) days after the notice from Lessor; (ii) Lessee shall vacate or abandon the Park; or (iii) Lessee's leasehold estate shall be taken by execution, attachment or process of law. If any Event of Default occurs, then, at any time thereafter while in the Event of Default continues, Lessor shall have the right to give Lessee notice that Lessor intends to terminate this Lease upon a specified date not less than three (3) days after the date of notice is received by Lessee, and this Lease shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Lease. If, however, the default is cured within the three (3) day period and the Lessor is so notified, this Lease will continue.

Section 10.02 Waiver, Accord and Satisfaction.

The waiver by Lessor of any default of any term, condition and covenant herein contained shall not be a waiver of such term, condition or covenant, or any subsequent default of the same or any other term, condition or covenant herein contained. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent to or approval of any subsequent similar act by Lessee.

**ARTICLE X
ANNUAL BUDGETARY FUNDING/TERMINATION**

This Agreement and all obligations of Lessee hereunder are subject to and contingent upon annual budgetary funding by the Board of County Commissioners of Palm Beach County. A failure of the Board of County Commissioners to provide funding to operate and maintain the Park under this Lease shall be grounds for either party to terminate this Lease upon ninety (90) days notice in writing to the other party.

**ARTICLE XI
QUIET ENJOYMENT**

Section 12.01 Lessor's Covenant.

Upon the observance and performance of all the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the Park for the Term, and any extensions thereof, hereby demised

without hinderance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under the Lessor, subject, nevertheless, to the terms and conditions of this Lease.

**ARTICLE XII
MISCELLANEOUS**

Section 13.01 Entire Agreement.

This Lease and any Exhibits attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between Lessor and Lessee concerning the Park and Premises. All representations, either oral or written, shall be deemed to be merged into this Lease. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced in writing and signed by them.

Section 13.02 Notices.

Any consents, approvals and permissions by the Lessor shall be effective and valid only if in writing and any notice by either party to the other shall be in writing and shall be deemed to be duly given only if mailed prepaid by certified mail return receipt requested, addressed:

(a) If to the Lessee at:

Palm Beach County Parks and Recreation Department
Attention: Director
2700 Sixth Avenue South
Lake Worth, Florida 33461

with a copy to:

Palm Beach County
Attention: County Attorney
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401

(b) If to the Lessor at: Solid Waste Authority
Attention: Executive Director 7501 Jog Road
West Palm Beach, Florida 33412

with a copy to:

Solid Waste Authority
Attention: General Counsel 7501 Jog Road
West Palm Beach, Florida 33412

Either party hereto may change the address for service of notices required or permitted hereunder upon ten (10) days prior written notice. All notices given hereunder shall be effective and deemed to have been duly given only upon receipt by the party to which notice is being given, said receipt being deemed to have occurred upon such date as the postal authorities shall show the notice to have been delivered, refused, or undeliverable, as evidenced by the return receipt, or upon verification of facsimile transmission to, and receipt by, the other party.

Section 13.03 Severability.

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

Section 13.04 Captions.

The captions in this Lease are included for convenience only and shall not be taken into consideration in any construction or interpretations of this Lease or any of its provisions.

Section 13.05 Recording.

Lessee shall not record this Lease, or any memorandum or short form thereof, without the written consent and joinder of Lessor, but it shall be filed with the county clerk as required by F.S. 163.01.

Section 13.06 Governing Law.

The Lease shall be governed by and interpreted according to the Laws of the State of Florida and venue shall be in Palm Beach County, Florida.

Section 13.07 Time of Essence.

Time is of the essence with respect to each provision of this Lease which requires that action be taken by either party within a stated time period, or upon a specified date. Any reference to a certain number of days shall be deemed to be calendar days. Any time period provided herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. EST of the next business day.

Section 13.08 Benefit and Binding Effect.

This Lease shall be binding upon and inure to the benefit of the heir, successors, legal representatives and assigns of the parties hereto.

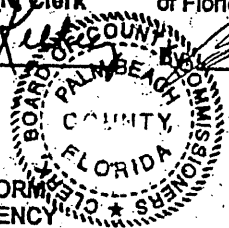
IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written.

ATTEST:

DOROTHY H. WILKEN, Clerk

By: Sharon Skelton
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF
PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State
of Florida



[Signature] MAY 20 1997
Chair

R97 637 D

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

[Signature]
County Attorney

ATTEST:

[Signature]
Authority Clerk

SOLID WASTE AUTHORITY OF PALM BEACH
COUNTY

By: [Signature]
Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
Authority Counsel

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