

**F. Consent Agenda - Parks and Recreation Department
ITEM 8.**



**AGENDA REPORT
October 9, 2018**

**Authorization, Re: Termination of Lease with the Housing Authority of the
City of Cocoa re: Pineda Park (D2)**

SUBJECT:

Termination of Lease with the Housing Authority of the City of Cocoa re: Pineda Park - District 2

FISCAL IMPACT:

Approval of this action will result in an annual savings of approximately \$58,000 in Central Area Parks Operations.

DEPT/OFFICE:

Parks and Recreation

REQUESTED ACTION:

It is requested the Board of County Commissioners authorize the termination of the Lease and authorize the County Manager to execute any documents related to the termination of the Lease with the Housing Authority of the City of Cocoa regarding Pineda Park upon Risk Management and County Attorney review and approval.

SUMMARY EXPLANATION and BACKGROUND:

On May 9, 1968, the Board of County Commissioners entered into a 99 year lease with the Housing Authority of the City of Cocoa for the development of and subsequent maintenance and operation of Pineda Park located at 1232 A Street in the City of Cocoa. Development included the installation of a swimming pool.

On August 6, 2018, the Housing Authority of the City of Cocoa submitted a letter requesting termination of the lease in order to develop the property into a three (3) story apartment building built specifically to accommodate residents 62 years of age and older. The apartments would be developed under an affordable housing financing program and open to any person whose income is under the maximum allowable income as set by the Low Income Housing Tax Credits code.

Pineda Pool is utilized by Central Area Parks Operations (CAPO) for three (3) months of the year from May to August each summer. The two (2) primary uses are for weekend open swim for the public and for summer camp swim days at Cocoa West Recreation Complex and Woody Simpson Park. Attendance for open swim has averaged between six (6) and eight (8) patrons per weekend. Summer camp swim for Cocoa West Recreation

Complex and Woody Simpson Park averages 80 swimmers per week. CAPO will transition summer camp swim days from Cocoa West Recreation Complex and Woody Simpson Park to McLarty Park and Joe Lee Smith Park pools.

The expenditures from FY 16/17 totaled \$58,510. Revenue was approximately \$300.00. If termination of the Lease is approved CAPO will retain equipment from the Pineda Pool and move it to the McLarty Park and Joe Lee Smith Park pools.

The lease with the Housing Authority of the City of Cocoa does not include a termination clause. Upon approval by the Board of County Commissioners a termination letter will be prepared, reviewed by the County Attorney and subsequently signed by the County Manager.

ATTACHMENTS:

Description

- ▣ **Pineda Park Lease**
- ▣ **Termination request letter**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

October 10, 2018

M E M O R A N D U M

TO: Mary Ellen Donner, Parks and Recreation Director

RE: Item F.8., Authorization of Termination of Lease with the Housing Authority of the City of Cocoa for Pineda Park

The Board of County Commissioners, in regular session on October 9, 2018, authorized the termination of the Lease with the Housing Authority of the City of Cocoa for Pineda Park; and authorized the County Manager to execute any documents related to the termination of the Lease with the Housing Authority of the City of Cocoa regarding Pineda Park, upon Risk Management and County Attorney review and approval.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

cc: Finance
Budget

LEASE

STATE OF FLORIDA)
)
COUNTY OF BREVARD)

THIS LEASE AGREEMENT, entered into by and between HOUSING AUTHORITY OF THE CITY OF COCOA, FLORIDA, a public body corporate, as lessor, and the BOARD OF COUNTY COMMISSIONERS, BREVARD COUNTY, FLORIDA, as lessee,

WITNESSETH:

1. LEASE-PROPERTY-TERMS: The lessor leases to the lessee for use and operation as a recreational site only that certain real property described as:

PARCEL "A" Begin at the Northwest corner of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 29, Township 24 South, Range 36 East, Brevard County, Florida and run S. 00 deg. 06' 33" W., along the West line of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 29, a distance of 442.98 feet; thence run N. 89 deg. 58' 33" E., parallel with the North line of said Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ a distance of 302.31 feet; thence run N. 00 deg. 03' 00" E., 303.41 feet; thence run N. 89 deg. 58' 33" E., parallel with said North line, a distance of 40.43 feet; thence run N. 00 deg. 03' 00" E., 139.57 feet to said North line; thence run S. 89 deg. 58' 33" W., along said North line, a distance of 342.27 feet to the point-of-beginning, containing 3.20 acres more or less.

PARCEL "B" Commence at the Northwest corner of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 29, Township 24 South, Range 36 East, Brevard County, Florida, and run S. 00 deg. 06' 33" W., along West line of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 29, a distance of 442.98 feet to the point-of-beginning; thence continue S. 00 deg. 06' 33" W., 221.54 feet; thence run N. 89 deg. 58' 33" E., parallel with the North line of said Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ a distance of 302.55 feet; thence run N. 00 deg. 03' 00" E., 221. feet; thence run S. 89 deg. 58' 33" W., parallel with said North line, a distance of 302.31 feet to the point-of-beginning, containing 1.54 acres more or less,

for the term of ninety-nine (99) years from May 9th, 1968, 1968, at a rental of NINETY-NINE AND NO/100 (\$99.00) DOLLARS for said term, payable in advance. Receipt of the rental is hereby acknowledged.

2. IMPROVEMENTS: The lessee may at its own cost and expense construct or add to any buildings, recreational apparatus or other structures or improvements upon the property hereby demised, so long as such buildings, apparatus and other improvements are not inconsistent with the uses permitted by this lease. All improvements shall be and become part of the realty and be surrendered to the lessor at the expiration or sooner determination of this lease or any extension thereof.

3. MAINTENANCE: The lessee covenants and agrees that it will, during the term of this lease, at its own expense, keep, preserve and maintain the said premises and any and all buildings and improvements that may at any time be upon said premises, or erected and placed upon said premises, in a proper, safe, good and substantial state of repair and condition, and will, from time to time, make or cause to be made all needful and proper repairs, replacements and improvements, all to be free from any and all mechanics' liens and any and all encumbrances which may be filed or recorded against said premises, or to the land hereby demised, or to the lessor's estate therein.

4. LIABILITY: All personal property placed or moved in or upon the leased premises shall be at the risk of the lessee or other owner thereof and the lessor shall not be liable for any damage thereto or to the lessee or any person arising from any condition of the premises or act of negli-

gence, carelessness or improper conduct of any person whatsoever. The lessee acknowledges that a careful personal inspection reveals the premises to be in a good and safe condition and the lessee acknowledges entire possession, occupancy and control of the premises and assumes responsibility to save the lessor harmless from any accident which may occur on the premises, or any act, condition or occurrence from which any liability may arise.

5. UTILITIES: The lessee shall pay all water, rent and bills for sewage disposal, gas, electricity, fuel, light, heat, power, garbage and trash disposal and other utilities and the like for the leased premises or used by the lessee or others in connection therewith.

6. CLEAN PREMISES-LAWFUL USE: The lessee will keep the leased premises clean and comply with all regulations in that particular established, or to be established, by any governmental authority, and shall use the premises only for recreational purposes, and shall pay to the lessor all sums, fines, or penalties which may lawfully be demanded of the lessor or assessed against the leased premises, by reason of failure to comply with any of the terms and provisions of this lease agreement.

7. USE-ASSIGNMENT-SUBLETTING: The lessee will not permit said premises, or any part thereof, to be used or occupied for any purpose other than as herein specified and shall not assign this lease or let or sublet the premises or any part thereof without the prior written consent of the lessor. Any program operated under this lease shall be for the benefit of all residents of the communities served by the lessee, including residents of public housing.

8. PERFORMANCE-ENFORCEMENT: The lessee covenants that in case the premises shall cease to be used for recreational purposes, or in case any of the covenants herein to be done or performed by the lessee be broken or not performed according to the true intent and meaning of this agreement, then the lessor may re-enter and repossess itself of said premises as of its former estate and without waiving any of its statutory, common law, or contractual rights or liens. The lessor may bring proceedings at law or in equity to enforce said covenants or collect any sums due it hereunder. The lessee expressly agrees that in the event of a violation of any of the terms of this lease, the lessor, its agents or attorneys, may immediately re-enter said premises and dispossess lessee without legal notice or the institution of any legal proceeding whatsoever.

9. EXPENSES OF ENFORCEMENT: The lessee shall pay all costs, expenses and charges, including reasonable attorney's fees, incurred by the lessor in proceedings begun or had to enforce the provisions of this lease, or in collecting any sums secured hereby, or in defending the validity or existence of this lease, and the sums shall become a part of such sums so secured.

10. NON-DISCRIMINATION: The lessee shall not discriminate against any person or persons for reason of race, color, creed, national origin or sex in the operation of this lease.

11. TIME OF ESSENCE: Time is of the essence of all the terms and conditions of this agreement.

12. PARTIES: This lease shall be binding upon and shall inure to the benefit of the successors and assigns of

the parties hereto.

IN WITNESS WHEREOF, the lessor and lessee have executed this agreement, in duplicate, this 9th day of May, 1968.

LESSOR:

HOUSING AUTHORITY OF CITY OF COCOA, FLORIDA

By [Signature]
As Chairman

ATTEST:

By [Signature]
As Secretary

LESSEE:

BOARD OF COUNTY COMMISSIONERS BREVARD COUNTY, FLORIDA

By [Signature]
As Chairman

(SEAL)

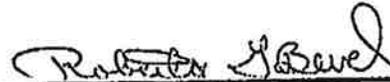
ATTEST:
By [Signature]
As Clerk of the Circuit Court

(SEAL)

STATE OF FLORIDA
 COUNTY OF BREVARD

I, hereby certify, that on the 9th day of May,
 1968, personally appeared Lee Wenner and
Curtis R. Barnes, to me well known as the persons
 described in and who executed the foregoing instrument, and acknowledged
 that they, as Chairman of the Board of County Commissioners of Brevard
 County, Florida, and Clerk of the Circuit Court of Brevard County, Florida,
 executed the same for the purpose therein expressed as the free act and deed
 of the Board of County Commissioners of Brevard County, Florida, and that
 the said instrument is the act and deed of the Board of County Commissioners
 of Brevard County, Florida.

IN WITNESS WHEREOF, I have hereunto affixed my hand and official seal
 at Titusville, Florida this 9th day of MAY, 1968.


 Notary Public

(SEAL)

My Commission Expires:

Notary Public, State of Florida at large
 My Commission Expires March 25, 1969
 Bonded by American F & C Surety Co.

STATE OF FLORIDA
COUNTY OF BREVARD

I, hereby certify, that on the sixteenth day of May,
1968, personally appeared J. M. Ellington and
Lloyd Ranshure, to me well known as the persons
described in and who executed the foregoing instrument, and acknowledged that
they, as Chairman and Secretary of the Housing Authority of the City of Cocoa,
Florida, executed the same for the purpose therein expressed as the free act
and deed of the Housing Authority of the City of Cocoa, Florida, and that the
said instrument is the act and deed of the Housing Authority of the City of
Cocoa, Florida.

IN WITNESS WHEREOF, I have hereunto affixed my hand and official seal
at Cocoa, Florida this sixteenth day of May, 1968.

Neil P. Peterson
Notary Public

(SEAL)

My Commission Expires:
January 16, 1971

March 22, 1968

CO

Department of Housing and Urban Development
Housing Assistance Administration
Peachtree-Seventh Building
50 Seventh Street, N.E.
Atlanta, Ga. 30325

Re: Legal:WDF

Gentlemen:

Enclosed you will find a form of Lease. This document was prepared by the local Housing Authority Attorney for the purpose stated therein.

The plans for development of Pineda Park by the Cocoa-Rockledge County District #4 Recreation Board, on land which forms a portion of Project FLA-19-5, have been reviewed by the local Housing Authority Commissioners and by officials in the Region III HAA Office. Tentative approval of the plans has been given.

The plans for the park include installation of a swimming pool by the Recreation Department. The Department has already awarded a contract for this pool and it will be built elsewhere if there is too much delay in reaching a satisfactory agreement for leasing this property.

Please let us have your comments so we may proceed at the earliest date possible to execute this agreement.

Sincerely yours,

W. L. PELHAM, Jr.
Acting Executive Director

Enc.



"Exploring New Horizons to Create Better Communities"

HOUSING AUTHORITY OF THE CITY OF COCOA

828 Stone Street; Cocoa, FL 32922

(321) 636-8535 Fax: (321) 631-8666

www.haccfl.com

COMMISSIONERS

Joe Robinson, Chairman
Thomas Cole, Vice Chairman
Scott Buzzell
Marian T. Jackson
Chenita Joiner

EXECUTIVE DIRECTOR

Herbert Hernandez

August 6, 2018

Terry Lane, Operations Manager
Brevard County Parks and Recreation
Central Area Parks Operations
840 Forrest Avenue
Cocoa, FL 32922

Dear Mr. Lane:

As you recall, Herb Hernandez and I met with you, Director Masson and the Brevard County Parks and Recreation staff in the fall of 2016 to discuss the possibility of terminating the lease agreement between the Cocoa Housing Authority ("CHA") and Brevard County. The CHA staff had begun researching the possibility of building additional housing on all land owned by CHA, so the meeting was to discuss whether the County would have interest in terminating the lease. The lease is a 99 year lease which was effective on May 9, 1968. We just passed the 50 year anniversary of the lease.

The CHA development team has always thought the site being discussed, where the Pineda park and pool are currently located, would be a nice location for a three story apartment building built specifically to accommodate residents 62 and over. The apartments would be developed under an affordable housing financing program established under Section 42 of the IRS code, Low Income Housing Tax Credits ("LIHTC"). Though the building would be in close proximity to our existing housing, it would be an independent development and open to any person or persons whose income is under the maximum allowable income as set by the LIHTC affordable housing program.

A mix of family and senior apartments can make for a nice residential neighborhood, where elderly residents can live independently but have family members close for visits and assistance. The location is also convenient for other area families who would also have the luxury of living in close proximity to their senior family members. The building will include a community room that would not only be utilized for ongoing activities and educational

opportunities specific for seniors but will hopefully be a designated location for the *Seniors at Lunch* weekday group dining program provided by Aging Matters of Brevard. Additionally, because the site is adjacent to Endeavor Elementary School it creates a wonderful opportunity to work with the school officials and establish programs which would benefit both the seniors and the children, such as gardening and reading programs. These types of activities are mutually beneficial for the young children and the seniors.

We are at a point in our planning where we need to formalize our development plan and pursue financing. The Low Income Housing Tax Credit program is governed by the State's Florida Housing Finance Corporation. There are various funding cycles throughout the year but a housing authority is only eligible for a couple of the application opportunities. Site control is a critical threshold item that must be met at the time of application submission. Though the Cocoa Housing Authority does own the land, the current ground lease is an impediment to demonstrating full site control. Therefore, at this time we would like to formally ask if the County Board of Commissioners would be amenable to terminating the lease and allowing the Cocoa Housing Authority to resume full control of the site.

Please feel free to contact me at extension 115 or Herb Hernandez, Executive Director of the Cocoa Housing Authority, at extension 103, if you have questions or if there is any documentation you need. We welcome any questions regarding the lease termination or with regard to the development plans and timeline.

Thank you for your assistance.

Respectfully,

A handwritten signature in cursive script, appearing to read "Shauna Ginn", followed by a long horizontal line extending to the right.

Shauna Ginn
Director of Development