



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Unfinished Business

I.1.

8/16/2022

Subject:

Staff Direction, Re: Lease Agreements for Nance Park and Sunrise Park

Fiscal Impact:

None

Dept/Office:

Parks and Recreation

Requested Action:

It is requested that the Board provide staff with direction regarding the transfer of State lease agreements associated with James H. Nance Park and Sunrise Park from the County to the Town of Indialantic.

Summary Explanation and Background:

At the May 3, 2022 Board meeting, the Board directed staff to explore options on transferring State lease agreements for James H. Nance and Sunrise parks to the City of Indialantic.

James H. Nance Park history

- The park was purchased by the County in 1986. The title was transferred to the State of Florida and then leased back to the County.
- In 1986 the County leased the property to the Town of Indialantic.

Sunrise Park history

- The park was purchased by the County in 1986. The title was transferred to the State of Florida and then leased back to the County.
- In 2002 the County leased the property to the Town of Indialantic.

Staff contacted the Florida Department of Environmental Protection (DEP) inquiring if there was a process by which the County could have the Town of Indialantic manage Nance and Sunrise parks under direct lease from the State thereby eliminating the County as the intermediary. Staff received a potentially positive response from DEP along with information and an Application for the Use of State-Owned Uplands.

Staff contacted the Town of Indialantic to discern if the Town would be interested in leasing the two parks directly from the State of Florida. Michael L. Casey, Town Manager, replied that the Town would be interested in leasing the two parks directly from the State.

It is requested that the Board provide direction on the options listed below:

Option 1: Direct staff to submit an application to the State requesting release of lease for Nance and Sunrise parks and work with the Town of Indialantic to directly lease the two parks from the State.

Option 2: Brevard County Parks and Recreation to continue to lease Nance and Sunrise parks from the State of Florida and in turn continue to lease the two parks to the Town of Indialantic.

Clerk to the Board Instructions:

Please send Clerk's Memorandum to Mary Ellen Donner at Maryellen.Donner@BrevardFL.gov
<<mailto:Maryellen.Donner@BrevardFL.gov>>



August 17, 2022

MEMORANDUM

TO: Mary Ellen Donner, Parks and Recreation Director

RE: Item I.1., Staff Direction for Lease Agreements for Nance Park and Sunrise Park

The Board of County Commissioners, in regular session on August 16, 2022, approved providing staff with direction regarding the transfer of State lease agreements associated with James H. Nance Park and Sunrise Park from the County to the Town of Indialantic; approved option I: Directing staff to submit an application to the State requesting release of lease for Nance and Sunrise Parks and work with the Town of Indialantic to directly lease the two Parks from the State; and directed you to preserve the County's right for the use of Beach Renourishment with Town of Indialantic and retain the right for the stormwater infrastructure that the County installed.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/pp

cc: County Manager
County Attorney



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

May 4, 2022

MEMORANDUM

TO: Mary Ellen Donner, Parks and Recreation Director

RE: Item J.2., Lease Agreements for James H. Nance Park and Sunrise Park

The Board of County Commissioners, in regular session on May 3, 2022, directed staff to explore options on transferring State lease agreements associated with James H. Nance Park and Sunrise Park from the County to the Town of Indialantic.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Donna Scott

for Kimberly Powell, Clerk to the Board

/sm

Encl. (1)

cc: Each Commissioner
County Attorney
County Manager



TOWN OF INDIALANTIC

216 Fifth Avenue, Indialantic, Florida 32903
321-723-2242 Fax 321-984-3867

MAYOR

David Berkman

DEPUTY MAYOR

Stuart Glass

COUNCIL MEMBERS

Simon Kemp

Julie McKnight

Doug Wright

Michael L Casey, Town Manager

Rebekah Raddon, CMC, Town Clerk

August 2, 2022

Mary Ellen Donner, Director
Brevard County Parks and Recreation Department
2725 Judge Fran Jamieson Way
Building B, Room 203
Viera, Florida 32940

Dear Mrs. Donner:

Per our discussion last month on Brevard County leasing Nance Park and Sunrise Park from the State of Florida and the Town of Indialantic subleasing Nance Park and Sunrise Park from Brevard County. I have discussed the matter with Council and after our discussion we are in agreement with having Brevard County removed from the agreement and the Town of Indialantic leasing both Nance Park and Sunrise Park directly from the State of Florida.

If you would please look into eliminating Brevard County as the middleman and the Town of Indialantic acquiring the lease from the State of Florida.

Sincerely,

Michael L. Casey, Town Manager

Donner, Mary Ellen

From: Sircy, Jay <Jay.Sircy@FloridaDEP.gov>
Sent: Tuesday, June 28, 2022 10:24 AM
To: Donner, Mary Ellen
Subject: Lease 3485
Attachments: APPLICATION FOR THE USE OF STATE OWNED UPLANDS.pdf
Categories: Red Category

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello Mary Ellen,

My supervisor requested that I reach out to you in response to the letter you sent dated June 14, 2022 regarding releasing lease 3485 and having the town of Indialantic manage the parcels under a direct lease. Please complete the attached application, one request from Brevard County requesting a release of lease and one application from the Town of Indialantic requesting a release of sublease. Each application will need to include a letter on letterhead requesting the release, a map of the parcels to be release form lease and sublease and a sketch and legal description of the area to be released. The parcels will then be noticed for a period of 60 days for a direct lease of the parcels to state agencies, colleges and universities. If no interest is received to manage the parcels from a state agency, college or university the Town of Indialantic can request a lease of the parcels.

Please let me know if you have any questions.

Thanks,

Jay Sircy
Bureau of Public Land Administration, M.S. 130
DEP-Division of State Lands
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
Phone: (850) 245-2625



APPLICATION FOR THE USE OF STATE OWNED UPLANDS

**BOARD OF TRUSTEES
OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA**

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Instructions and general guidance for completing this application:

**Please be advised that the information requested herein, is to provide DEP the necessary information to complete the requested authorization.*

This application is comprised of two (2) separate sections that are outlined and described as follows:

Section 1 – General Information

This section is used to indicate what type of upland authorization is requested. It is also used for contact information relative to the applicant and/or their representative. In addition, some general property information should be entered.

Section 2 – Other Specific Information

This part requests specific information relative to the type of upland authorization requested.

What Section(s) or Part(s) must be completed?

The table below depicts the applicable section(s) or part(s) that must be completed before submitting the application:

| Type of Authorization Requested | Section(s) or Part(s) to be completed | | | | | |
|---------------------------------|---------------------------------------|-----------|--------|--------|--------|--------|
| | Section 1 | Section 2 | | | | |
| | | Part A | Part B | Part C | Part D | Part E |
| Lease | ✓ | ✓ | | | | |
| Sublease | ✓ | | ✓ | | | |
| Easement | ✓ | | | ✓ | | |
| Use Agreement | ✓ | | | | ✓ | |
| Conveyance | ✓ | | | | | ✓ |
| Other* | ✓ | | | | | |

**This includes types such as Letter of Consent, Estoppel, Affidavit, etc.*

PRIOR TO COMPLETING THIS APPLICATION, PLEASE BE ADVISED THAT:

Any application to use state land which would result in significant adverse impact to state land or associated resources shall not be approved unless the applicant demonstrates there is no other alternative and proposes compensation or mitigation acceptable to the Board of Trustees pursuant to paragraph 18-2.018(2)(i), Florida Administrative Code. Any requested use of state land which has been acquired for a specific purpose, such as conservation and recreation lands, shall be consistent with the original specified purpose for acquiring such land pursuant to paragraph 18-2.018(2)(c), Florida Administrative Code.

SPECIAL NOTE TO ALL APPLICANTS: SUBMITTAL OF A COMPLETE APPLICATION SHALL NOT OPERATE TO CREATE ANY RIGHTS OR CONSTITUTE ANY GROUNDS FOR THE DEPARTMENT TO RECOMMEND APPROVAL OF ANY REQUESTED USE OF STATE LAND. THE BOARD OF TRUSTEES HAS THE AUTHORITY AND RESERVES THE RIGHT TO DENY ANY APPLICATION. ALL COSTS INCURRED BY APPLICANTS COMPLYING WITH THE REQUIREMENTS OF THIS APPLICATION SHALL BE AT THEIR OWN RISK. COSTS ASSOCIATED WITH OBTAINING AN AUTHORIZATION ARE NON-REFUNDABLE AND SHALL BE ASSUMED BY THE APPLICANT INCLUDING, BUT NOT LIMITED TO, ALL APPRAISALS, ALL SURVEYS, ALL TITLE SEARCHES, AND ALL RECORDING FEES.

Completed Applications with any and all required attachments shall be electronically submitted to Upland.Applications@dep.state.fl.us. Please be advised that applications deemed incomplete will be immediately returned to the Applicant with a request to provide any outstanding items.

If unable to send electronically, mail (1) one hard copy to the address below:

Department of Environmental Protection
Division of State Lands
Bureau of Public Land Administration
3800 Commonwealth Boulevard, MS 130
Tallahassee, Florida 32399-3000



Section 1 – General Information

REQUESTED ACTION

- | | | |
|------------------------------------|--|--|
| <input type="checkbox"/> New | <input type="checkbox"/> Release | <input type="checkbox"/> Assignment/Assumption |
| <input type="checkbox"/> Amendment | <input type="checkbox"/> Partial Release | |

AUTHORIZATION REQUESTED

- | | | |
|-----------------------------------|--|---------------------------------------|
| <input type="checkbox"/> Lease | <input type="checkbox"/> Easement | <input type="checkbox"/> Conveyance |
| <input type="checkbox"/> Sublease | <input type="checkbox"/> Use Agreement | <input type="checkbox"/> Other: _____ |

TYPE OF ENTITY REQUESTING AUTHORIZATION

- ☐ State Agency
☐ Federal, Regional or Local Agency
☐ Private – Please indicate if commercial: ☐ YES ☐ NO

| | | |
|---|------------|--------|
| <u>Applicant Information</u> | | |
| Legal Name of Lessee/Grantee: | | |
| Contact Name: | Title: | |
| Address: | | |
| City: | State: | Zip: |
| Phone (1): | Phone (2): | Fax: |
| Email Address: | | |
| <u>Billing Information</u> (if same as above check here <input type="checkbox"/>) | | |
| Name: | | |
| Title: | Company: | |
| Address: | | |
| City: | State: | Zip: |
| Phone (1): | Phone (2): | Fax: |
| Email: | | |
| <u>Representative Information:</u> (Only complete if someone will be handling this transaction on your behalf) | | |
| Name: | | |
| Title: | Company: | |
| Address: | | |
| City: | State: | Zip: |
| Phone (1): | Phone (2): | Fax: |
| Email Address: | | |
| <u>Management Plan or Land Use Plan Contact Information</u> (for Leases/Subleases only) | | |
| Name: | | Title: |
| Phone (1): | Phone (2): | Fax: |
| Email Address: | | |



Section 1 – General Information (cont'd)

Estimated construction commencement date (if applicable): _____

| | | |
|------------------------------------|--|--------|
| <u>Property Information</u> | | |
| County: | Property Appraiser's Parcel ID Number: | |
| Section: | Township | Range: |
| Approximate Acres: | | |
| Zoning Designation: | | |
| Location Address: | | |
| City | State: | Zip |

Descriptive Narrative describing the intended use of the property. Narrative shall include the following:

*Narrative can be attached as a separate page(s).

- a) The requested term, which shall not be greater than is necessary to provide for the reasonable use of the state land and shall not be greater than the parent lease term.
- b) The need for the proposed use of state lands and written evidence that all other alternatives to the use of state lands have been denied.
- c) Projected revenue to be generated from the use of state lands.
- d) Whether the intended use is public or private and the extent of public access for such use.
- e) A statement describing the public benefits that will occur as a result of the proposed use of state lands.

[illegible]

Section 1 – General Information (cont'd)

Required Attachments

The following must be completed and attached for all types of authorization requests:

- ☐ A recent aerial photograph with the boundaries of the proposed project.
- ☐ A county tax map identifying the parcel(s).
- ☐ A letter from the applicable local planning agency stating that the proposed use of state lands is consistent with the local government comprehensive plan.
- ☐ Non-refundable \$300 application fee per 18-2.019(4), F.A.C. *(does not apply to State/Federal agencies)*
- ☐ A certified survey* or sketch of description**, which contains the boundaries, legal description(s), and acreage of the property.
- *The Department, at its discretion and if deemed necessary, can require a boundary survey for the action requested.*
- **If the applicant chooses to submit a sketch of description it must include a note of what field methods were used to complete the sketch.*



Section 2 – Other Specific Information

A) Leases:

Parent Lease number (if existing): _____

- ☐ A statement describing the public benefits that will occur as a result of the proposed lease; how the lease will impact local resources and the general public; and how the proposed lease of state land will not be contrary to the public interest.
- ☐ A written statement from the managing agency agreeing to lease the state-owned parcel(s).
- ☐ For Leases subject to Section 253.0341(7), F.S., provide a business plan with the pertinent information required by Statute.

Any **Private entity** applying for a lease, must also include:

- ☐ A written commitment to pay a lease fee based on the appraised market value of the proposed lease.
- ☐ Names and addresses, as shown on the latest county tax assessment roll, of all property owners lying within a 500-foot radius of the state land proposed for lease, certified by the county property appraiser.

Any **Local Governments** applying for a lease, must also include:

- ☐ A formal resolution adopted by the Board of County/City Commissioners requesting the proposed lease.

If applying for a **Full Release** or **Partial Release** of Lease, please complete the items below:

Are there any subleases, sub-sub leases, etc. within the area requesting to be released? ☐ YES ☐ NO
If so, has notification of the intent to release been provided? ☐ YES ☐ NO

- ☐ A written statement confirming that Lessee understands the release will not be executed until the property is leased or sold to another entity. Lessee will remain under lease and will continue to be responsible for the maintenance and upkeep of the property until the release is executed by the Board of Trustee.

B) Subleases:

Sublease number of existing sublease (if applicable): _____

Parent Lease number (if applicable): _____

- ☐ A written statement from the managing agency approving the proposed action, along with a statement describing how the sublease conforms to the management plan or land use plan when the sublease application involves state land that is under lease.

Any **Private entity** applying for a sublease, must also include:

- ☐ A written commitment to pay a sublease fee based on one of the following: (1) appraised market value, (2) negotiated value or (3) competitive bid.

Any **Local Governments** applying for a sublease, must also include:

- ☐ A formal resolution adopted by the Board of County/City Commissioners requesting the proposed sublease.

If applying for a **Full Release** or **Partial Release** of Sublease, please complete the items below:

Are there any sub-sub leases, etc. within the area requesting to be released? ☐ YES ☐ NO
If so, has notification of the intent to release been provided? ☐ YES ☐ NO

- ☐ A written statement confirming that Lessee understands the release will not be executed until the property is leased or sold to another entity. Lessee will remain under lease and will continue to be responsible for the maintenance and upkeep of the property until the release is executed by the Board of Trustee.



C) Easements

**Applicants applying for an easement across state land which is managed for the conservation and protection of natural resources shall be required to provide net positive benefit as defined in subsection 18-2.017(31), Florida Administrative Code, if the proposed easement is approved.*

Parent Lease number (if applicable): _____

☐ A written statement from the managing agency approving the proposed action, along with a statement describing how the proposed easement conforms to the management plan or land use plan (when the easement application involves state land which is under lease or sublease).

Any **Private entity** applying for a private Easement, must also include:

☐ The applicable application fee per 18-2.019(6), F.A.C.

☐ A written commitment to pay an easement fee based on the appraised market value of the proposed easement.

Any **Local Governments** applying for an Easement, must also include:

☐ A formal resolution adopted by the Board of County/City Commissioners requesting the proposed easement.

D) Use Agreements

Parent Lease number (if applicable): _____

Please indicate what type of use agreement is requested:

☐ Well-Monitoring ☐ Beach (Re)Nourishment
☐ Geophysical ☐ Other: _____

☐ A written statement from the managing agency approving the proposed action, along with a statement describing how the proposed use agreement conforms with the management plan or land use plan when the use agreement application involves state land which is under lease or sublease.

E) Conveyances

☐ Release of Deed Restriction(s)

☐ Modification of Deed Restriction(s)

☐ Reverter Deeds

☐ DACS Conveyance (DSL-5) Pursuant to s. 253.025(16)(a), F.S.



**BREVARD COUNTY SHORE PROTECTION PROJECT
TEMPORARY CONSTRUCTION ACCESS & STAGING
CONSENT OF USE**

The Town of Indialantic, Florida, Grantor, hereby grants to the Board of County Commissioners of Brevard County, Florida, Grantee, a Consent of Use as follows:

Grantor grants to Grantee, its agents, successors, and assigns, a temporary access on and across the land described in Schedule A for use by the Grantee, its representatives, agents, contractors, and assigns, as a work area, to move, temporarily store, and remove equipment and supplies; and to erect and remove temporary structures on the land, to park vehicles, and to perform any other work necessary and incident to the construction of the Brevard County Shore Protection Project, together with the right to trim vegetation and to temporarily remove and to replace vegetation, curbing, fencing, relocate trash receptacle and signs, walkovers, and other structures within the limits of the right-of-way; reserving, however, to the Grantor, all such rights and privileges as may be used without interfering with or abridging the rights granted through the execution of this Consent of Use agreement. Restoration shall be performed by the Grantee, or its agents, successors, or assigns, however, the Grantee shall be responsible for restoration as herein described, such that restoration shall occur in an expeditious manner and be completed to pre construction/pre access condition.

The term of this consent of use shall commence on the date the United States Army Corps of Engineers ("Corps") awarded the contract for the first construction of the Brevard County Shore Protection Project South-Reach Segment and shall terminate fifty (50) years after the date of completion of the first construction of the project.

IN WITNESS WHEREOF, Grantor has caused these presents to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:

ATTEST:


Town Clerk

Town of Indialantic, Florida


2-13-19

SCHEDULE "A"

1. All that land owned by, dedicated to, or managed by the Town of Indialantic, Florida, and lying East of Highway A1A for the following street or road: Watson Drive

2. All State owned developed park land managed by the Town of Indialantic lying East of Miramar Avenue and North of Watson Drive as described in the following parcel description:

(27-38-31-26-00001.0-0001.00, Lot North of Watson Drive)

That part of Lots 1, 2, and 3 lying in Government Lot 1, Block 1, and that part of Lots 1 and 2 lying in Government Lot 2, Block 1, Except Road Right-of-Way, Resubdivision of Maggie Johnson's Plat of Melbourne Beach, Plat Book 9, Page 10, Section 31, Township 27 South, Range 38 East, Brevard County, Florida.



FLORIDA'S SPACE COAST

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

Telephone: (321) 637-2001
Fax: (321) 264-6972



February 9, 2011

MEMORANDUM

TO: Ernest Brown, Natural Resources Management Director Attn: Robbyn Spratt

RE: Item III.A.1, Resolution, Joint Participation Agreement, and Easement with Florida Department of Transportation (FDOT) for Beach Outfalls Stormwater Retrofit Projects

The Board of County Commissioners, in regular session on February 8, 2011, adopted Resolution No. 11-021 and authorized the Chairman to execute Joint Participation Agreement and Easement with Florida Department of Transportation (FDOT) to share costs for the Beach Outfalls Stormwater Retrofit Projects, specifically for Canova Park and Sunrise Park. Enclosed for your action are two fully-executed copies of the Resolution and original and two executed copies of the Agreement. Upon execution by FDOT, please return a fully-executed copy of the Agreement to this office for inclusion in the official minutes of the Board.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
MITCH NEEDELMAN, CLERK

Tammy Etheridge

Tammy Etheridge, Deputy Clerk

Encls. (5)

cc: Contracts Administration
Finance
Budget