

## MEMORANDUM

Agenda Item No. 8(H)(1)

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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** October 2, 2012

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution requesting lease of  
land from the State of Florida for  
uplands within the Town of  
Surfside and Bal Harbor Village  
Resolution No. R-778-12

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The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



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R. A. Cuevas, Jr.  
County Attorney


RAC/smm

# Memorandum



**Date:** October 2, 2012

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Request for Lease with State of Florida for Uplands Along Beaches of Bal Harbour Village  
and the Town of Surfside

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## Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution requesting a lease with the State of Florida (State) for management of uplands along the beaches of Bal Harbour Village (Bal Harbour) and the Town of Surfside (Surfside).

## Scope

Bal Harbour and Surfside are located in County Commission District 4; however, the beach areas in the lease request are a regional asset.

## Fiscal Impact/Funding Source

The Parks, Recreation and Open Spaces Department (PROS) maintains the uplands along the beach within Bal Harbour and Surfside at a cost of approximately \$400,000 per year from the PROS general fund allocation, index code PREBCH438005, Beach Operations. Applying for the lease will have no additional fiscal impact.

## Track Record/Monitor

The property management section supervisor for PROS, Randy Koper, will monitor and manage the lease application.

## Background

PROS has maintained the uplands portion of the beach areas in Surfside and Bal Harbour Village without a formal lease agreement with the State. Miami-Dade County (County) has provided maintenance to these beaches for more than thirty years without any authority to manage activities or events taking place on these beaches. The State and the County desire to formalize the arrangement so that PROS, as the local entity that maintains the area will be given direct management to better administer the upland area.

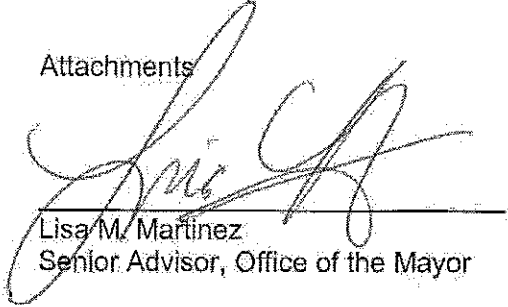
In holding the lease for the beaches within Bal Harbour and Surfside, PROS will have management authority that will greatly enhance the ability to clean and maintain these beaches for the enjoyment of all. Concessions, special events and activities will require a permit and be bound by guidelines and procedures to safeguard our natural resources. Additionally, the County will establish and enforce rules and procedures for the hours of operation of concessionaires, proper overnight storage of beach furniture, proper usage of area behind an upland property which may be pre-set with beach chairs and cleanliness requirements. The County already holds a similar State lease for Sunny Isles Beach.

Both municipalities, Surfside and Bal Harbour, support the County's application for the lease from the State for the beach upland areas located east of Collins Avenue, from 87<sup>th</sup> Terrace north to Baker's Haulover Inlet (Attachment A and B). Surfside, Bal Harbour and PROS will collaboratively coordinate the development of an upland areas management plan that will be submitted to the State upon approval of the lease. The management plan will specify to the State how PROS will manage the leased property and will remain consistent with County, Surfside and Bal Harbour Codes.

Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners  
Page 2

The PROS application to the State for the lease (Attachment C) requires the accompanying Board resolution requesting the lease. Upon the approval of the State lease application, a second resolution for the approval of the lease will be presented to the Board.

Attachments



Lisa M. Martinez  
Senior Advisor, Office of the Mayor



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** October 2, 2012

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 8(H)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(H)(1)  
10-2-12

RESOLUTION NO. R-778-12

RESOLUTION REQUESTING LEASE OF LAND FROM  
THE STATE OF FLORIDA FOR UPLANDS WITHIN  
THE TOWN OF SURFSIDE AND BAL HARBOR  
VILLAGE

**WHEREAS**, the County, through its Parks, Recreation and Open Spaces Department, maintains State-owned uplands within the municipalities of the Town of Surfside and Bal Harbour Village; and

**WHEREAS**, the State desires that the County formalize this maintenance through a lease agreement; and

**WHEREAS**, a lease agreement will allow the County to better administer the concessionaires that use the upland area; and

**WHEREAS**, the County, through its Parks, Recreation and Open Spaces Department, desires to apply for a lease agreement with the State for these uplands; and

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board requests from the State of Florida a lease agreement for the State-owned uplands within the municipalities of the Town of Surfside and Bal Harbour Village.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**

who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa**

and upon being put to a vote, the vote was as follows:

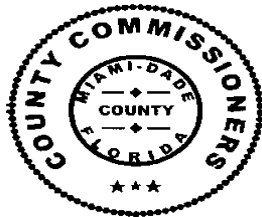
	Joe A. Martinez, Chairman	<b>aye</b>
	Audrey M. Edmonson, Vice Chairwoman	<b>aye</b>
Bruno A. Barreiro	<b>aye</b>	Lynda Bell
Esteban L. Bovo, Jr.	<b>absent</b>	Jose "Pepe" Diaz
Sally A. Heyman	<b>aye</b>	Barbara J. Jordan
Jean Monestime	<b>aye</b>	Dennis C. Moss
Rebeca Sosa	<b>aye</b>	Sen. Javier D. Souto
Xavier L. Suarez	<b>absent</b>	

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of October, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

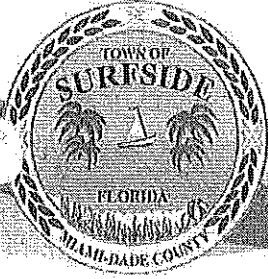
By: **Christopher Agrippa**  
Deputy Clerk



Approved by County Attorney as  
to form and legal sufficiency.

Monica Rizo

ATTACHMENT A



TOWN OF SURFSIDE

9293 HARDING AVENUE  
SURFSIDE, FLORIDA 33154  
(305) 861-4863 • FAX: (305) 861-1302  
WWW.TOWNOFSURFSIDEFL.GOV

March 22, 2012.

John Ripple  
Beach Operations and Maintenance Supervisor  
Miami-Dade Parks, Recreation and Open Spaces  
7929 Atlantic Way  
Miami Beach, Florida 33141

Dear John:

Please be advised that the Town of Surfside supports the application by Miami Dade County to the State of Florida for a lease for defined areas of the beach within the Surfside Town limits. We look forward to participation in the lease negotiations and to developing a management agreement with Miami Dade County.

Sincerely,

Roger M. Carlton  
Town Manager

Cc: Tim Millan, Director of Parks and Recreation

ATTACHMENT B



February 2<sup>nd</sup>, 2012

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

**RE: Comprehensive Plan Consistency Letter  
Bal Harbour Village, Florida - Beachfront Property  
Upland Lease Application  
MMPA Acct No. 00-1103-0100**

Dear Sirs:

As related to the proposed Upland Lease Application with the State of Florida TIF this letter is provided to demonstrate that the lease would be consistent with the community's adopted Comprehensive Plan. The Village adopted its original Comprehensive Plan in 1989 in accordance with the requirements of the 1985 Florida laws. Periodic updates have been made over the years, including an update now underway. The Village was incorporated in 1946 and was designed from its inception as a master-planned community. The Village at this time is essentially fully developed. The community's beachfront area has been protected for many years by both public policy and physical improvements. The "beach area", including the public areas seaward of the Erosion Control Line (ECL) and some privately owned upland areas landward of the ECL are used by residents and guests. The Village has maintained the public beach areas for many years, except for major beach re-nourishment projects, including planting beach vegetation along the dune, constructing a passive recreational pedestrian trail, and generally re-grading / policing the area. The adjoining beachfront developments include hotels, high-rise residential uses and recreational uses (all water-related uses). Those uses, as well as the general public, via public access points, utilize the beach areas for a variety of uses.

The Village's adopted Comprehensive Plan Future Land Use Map (FLUM) designates the subject property as "BF" - Beachfront. Uses permitted within the aforementioned FLUM category generally include only passive recreation and beach protection / shoreline protection and stabilization related activities - see the attached Comprehensive Plan Future Land Use Element (FLUE) and Coastal Management Element (CME) excerpts.

Should you need further information or assistance, please feel free to contact my office directly at 954-757-8909. The firm of Michael Miller Planning Associates, Inc. serves as the Consultant Village Planner to this community.

Sincerely:

A handwritten signature in black ink, appearing to read "Michael J. Miller".

Michael J. Miller, AICP - Consultant Village Planner  
Michael Miller Planning Associates, Inc.  
7522 Wiles Road Suite B-203  
Coral Springs, Florida 33067



# FLUE

## 9. Beach Land Use

A significant part of the Village's open and recreational space is the beach that spans its full frontage on the east to the Atlantic Ocean. It is an environmentally protected area. This land use is discussed in more details in the Coastal Management Element.

The beach varies from 180 to 240 feet in width. Running its full length is a 10-foot wide jogging path, constructed of compacted granular material. The path runs in a serpentine fashion around xeric dunes landscaping that was restored by the Village as part of the dunes and beach restoration projects.

## 10. Bay Bottom Land Use

The approximately 40 acres of Biscayne Bay (and Indian Creek) that fall within the jurisdictional limits of Bal Harbour are protected by a sea wall and bulkhead. These 40 acres include 5 acres more or less of the yacht basin and marina described above.

The bay-land frontage consists of approximately 4,100 lineal feet of bulkhead. Additionally there are 1,200 feet of frontage to Bakers Haulover Cut. All the bulkheading is privately owned and maintained, except that at the Public Works Compound.

## 11. Institutional Land Use

The only institutional use at present is the church property on 96 Street. The congregation is one of two Congregational Churches in the Dade County Area. The zoning of this property also permits commercial and office land uses.

## 12. Streets and Highways

All minor local streets are two lane with valley gutter. The only major roadways are:

- Collins Avenue, running north and south; is a six lane arterial facility with separate left-turn and bus stop storage lanes, has a landscaped median, curb and gutter, and sidewalk, and includes a bridge at the north end. Northbound and southbound traffic are split into three-lane one way traffic in front of Bal Harbour Shops (just north of 96 Street) near the Surfside City limits.

CME

Impact of new construction on public services, resources and facilities.

Policy: Cooperate with regional agencies in the implementation and enforcement of Development Orders.

Objective 9J-5.006(3)(b)2: Renewal of blighted areas:

Policy: Annually review the incentives used by other municipalities around the state and country in the redevelopment of properties, and report to the Council as to how Bal Harbour may implement similar programs.

Objective 9J-5.006(3)(b)3: There shall be no land uses that are inconsistent with community's character and with future land uses:

Policy: Amend the Future Land Use Plan for consistency with land uses adopted and approved by Future Land Maps of the County and of other adjacent municipalities, or request amendments of these plans when found inconsistent with Bal Harbour's.

\* Policy: Construction shall not be permitted in land use categories of Bay Bottom or Beachfront, except for marginal construction to repair already existing facilities, beach renovations, shoreline protection, revetments, stabilization, or other water-dependent uses.

Policy: Review construction and development plans for consistency with the goal set herein, and for conformity with the community's standards.

Policy: Enforce the Zoning and Development Codes of Bal Harbour.

Objective 9J-5.006(3)(b)4: Protect natural and historical resources.

\* Policy: Developments and construction that adversely impact on the quality of the natural environment shall not be allowed.

\* Policy: Developments and construction shall be allowed to mitigate adverse effects on the natural environment only to the extent permissible by environmental regulatory agencies.

\* Policy: Coordinate for the review of proposed development or

construction by other regulatory agencies at the county, regional and state levels.

Policy: Cooperate with Metro Dade County's Department of Environmental Resources Management, the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers in enforcing rules and regulations controlling activities in wetlands, estuarine and coastal areas.

Policy: Require that new construction be protected against flooding; and that it not cause the flooding of other properties.

Policy By 1998, the Village shall identify any structure which may have reached or will soon reach the age that would be deemed significant by the Department of State. A report shall be prepared and updated during each EAR update identifying the residences, their current status and suggested actions, if any.

Objective 9J-5.006(3)(b)5: Require provisions for hurricane preparedness and evacuation.

Policy: Incorporate regional and local agency recommendations into development orders.

Policy: Consult the Coastal Management Element when reviewing proposed development plans.

Objective 9J-5.006(3)(b)6: The Village Council shall annually review Dade County's and the South Florida Regional Planning Council's recommendations relating to the Hurricane Evacuation Report, and all land uses shall be coordinated with recommendations deemed appropriate by the Village Council.

Policy: The Village shall determine the appropriateness of recommendations of the SFRPC and Dade County based on parameters including but not limited to the following:

- Consistency with the Village's adopted "Master Plan" and "Future Land Use Map.
- Consistency with the Village's existing and planned development pattern.

Policy: Recommendations that suggest the implementation of policies or actions that would be inconsistent with the above:

# ATTACHMENT C

## UPLAND LEASE APPLICATION BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

This application is to be used in order to apply for a lease of land title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (Board of Trustees). Do not use this application form when applying for an Agricultural, Grazing, or Oil, Gas and Mineral lease from the Board of Trustees. If you have any questions, after reading this application form, you may call (850) 245-2720 for assistance. A full application to: Department of Environmental Protection, Division of State Lands, Bureau of Public Land Administration, 3500 Commonwealth Boulevard, Tallahassee, Florida 32319-3600, 315 110.

**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 LEASE. THE BOARD OF TRUSTEES HAS THE AUTHORITY AND RESERVES THE RIGHT TO DENY ANY LEASE APPLICATION. ALL COSTS INCURRED BY APPLICANTS COMPLYING WITH THE REQUIREMENTS OF THIS APPLICATION SHALL BE AT THEIR OWN RISK. COSTS ASSOCIATED WITH OBTAINING A LEASE 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.**

**PRIOR TO COMPLETING THE 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)(f), 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. Applicants applying for a lease 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 18-2.017(38), Florida Administrative Code, if the proposed lease is approved. Before a parcel of state land is leased to a regional, local, or federal agency or private party it shall be offered first to state agencies for maximum public benefit and use in accordance with paragraph 18-2.019(5)(a), Florida Administrative Code.

Type of Lessee: <input type="checkbox"/> Private <input type="checkbox"/> Federal, Regional or Local Agency <input type="checkbox"/> State Agency	
<b>Applicant Information:</b>	
Name: _____	Home Phone: _____
Mailing Address: _____	Work Phone: _____
City: _____ State: _____ Zip: _____	Fax Number: _____
Email Address: _____	
<b>Representative Information: Only complete if someone will be handling this transaction on your behalf.</b>	
Name: _____	Home Phone: _____
Mailing Address: _____	Work Phone: _____
City: _____ State: _____ Zip: _____	Fax Number: _____
Email Address: _____	
<b>Property Information:</b>	
County: _____	Property Appraiser's Parcel Number: _____
Section: _____ Township: _____ Range: _____	Zoning Designation: _____
Intended Use of Property: _____	
<b>Include the following with the Application. Please check all that are included.</b>	
<input type="checkbox"/> (Private Leases Only) A check in the amount of \$300 made payable to the Department of Environmental Protection. This fee is non-refundable.	
<input type="checkbox"/> (Private Leases Only) a written commitment to pay a lease fee based on the appraised market value of the proposed lease.	
<input type="checkbox"/> (Private Leases Only) 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.	
<input type="checkbox"/> (Local Government's Only) a formal resolution adopted by the Board of County/City Commissioners requesting the proposed lease.	
<input type="checkbox"/> Recent aerial photographs with the boundaries of proposed lease area identified.	
<input type="checkbox"/> A statement describing the need and proposed use or development plans for the state land proposed for lease.	
<input type="checkbox"/> A letter from the applicable local planning agency stating that the proposed lease is consistent with the local government comprehensive plan adopted pursuant to section 163-3167, Florida Statutes.	
<input type="checkbox"/> A county tax map identifying the surplus parcel proposed for sale.	
<input type="checkbox"/> Two prints of a certified survey, of the property meeting the minimum technical standards of Chapter 61G17-6 Florida Administrative Code, which contain the boundaries, legal descriptions, and acreage of the property.	
<input type="checkbox"/> A statement of written approval from the managing agency along with a statement from the managing agency describing how the proposed lease conforms with the management plan when the lease application involves state land which is under lease, sublease, easement, or management agreement.	
<input type="checkbox"/> 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.	
<input type="checkbox"/> Applications for easements across state land shall include a statement of intended use, which shall include, at a minimum, the following: <ol style="list-style-type: none"> <li>1. Requested revenues to be generated from the use of the state land.</li> <li>2. Whether the intended use is public or private and the extent of public access for such use.</li> <li>3. A description of the type of facility proposed for the lease area (e.g. road, overhead utility, pipes, etc.)</li> </ol>	
<b>***General Information: Private leases shall be awarded on the basis of competitive bidding rather than negotiation unless negotiation is determined by the Board of Trustees to be in the public interest, pursuant to paragraph 18-2.018(2)(f), Florida Administrative Code. The successful lessee shall assume all liability for the lease property.</b>	