

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: January 15, 2008

Consent  Regular  
 Workshop  Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A. Adopt a Resolution authorizing the short-term lease of certain real property to Palm Beach Community College (PBCC) pursuant to Section 125.38, Florida Statutes, which will become effective upon adoption; and
- B. Approve a Short Term Lease Agreement with PBCC for use of a portion of Building S-1440 located at the Palm Beach International Airport for a monthly rental rate of \$5,038.13.

**Summary:** The Board approved an Airport Building/Ground Lease Agreement with PBCC (R-2001-1139) for its Fire/EMS Training Program on July 24, 2001. PBCC is in the process of relocating its Fire/EMS Program to another location and has requested the short-term use of portions of the property pending relocation to its new facilities. The new Lease will be on a month-to-month basis and will terminate the current Airport Building/Ground Lease Agreement. The new Lease may be terminated on fifteen days notice. The County may elect to lease the remainder of the property to other tenants. The current monthly rental is \$20,288 for the entire site. The monthly rental will be reduced to \$5,038.13 under the new Lease since PBCC vacated the most of the property on October 31, 2007. Countywide (JMB)

**Background and Justification:** PBCC no longer requires exclusive use of the property and has begun the process of vacating the buildings, but requires the use of a portion of the property pending relocation of the Fire/EMS Training Program to its new facilities. The new Lease will allow PBCC to remain on a portion of the property on a short-term basis.

**Attachments:**

- 1. Resolution (1)
- 2. Lease Agreement (3)

Recommended By: \_\_\_\_\_ Date: 12/12/07  
 Department Director

Approved By: \_\_\_\_\_ Date: 12/31/07  
 County Administrator

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	=====	=====	=====	=====	=====
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X  
 Budget Account No: Fund 4100 Department 120 Unit 8261 Rev. Source 4416  
 Reporting Category \_\_\_\_\_

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

If approved, the County will receive \$5,038.13 per month in return for the use of the property. The Lease is on a month-to-month basis; therefore, no future fiscal impact is guaranteed.

C. Departmental Fiscal Review: Michael Simmons

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

*12/20/07*  
 OFMB  
*12/20/07*  
*12/19/07*

*12/21/07*  
 Contract Dev. and Control

This Contract complies with our contract review requirements.

**B. Legal Sufficiency:**

James Brako  
 Assistant County Attorney

**C. Other Department Review:**

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

RESOLUTION NO. 2008-\_\_\_\_\_

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE SHORT TERM LEASE OF CERTAIN REAL PROPERTY TO PALM BEACH COMMUNITY COLLEGE PURSUANT TO SECTION 125.38, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Palm Beach County, by and through its Department of Airports, has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County lease certain real property owned by Palm Beach County to Palm Beach Community College for use as classroom training, administrative offices and storage of equipment associated with the Palm Beach Community College Fire and EMS program; and

**WHEREAS**, the Board of County Commissioners of Palm Beach County hereby finds that the real property is required for such use and is not needed for Airport purposes at this time.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

**Section 1. Recitals**

The foregoing recitals are true and correct and incorporated herein by reference.

**Section 2. Authorization to Lease Real Property**

The Board of County Commissioners of Palm Beach County shall lease to Palm Beach Community College, pursuant to the Lease attached hereto as Exhibit "A" and incorporated herein by this reference, the real property identified therein, for a term of one (1) month at a rental rate of Five Thousand Thirty Eight Dollars and 13/100 (\$5,038.13), which term shall automatically extend on a month-to-month basis thereafter until terminated by the parties.

**Section 3. Effective Date.**

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing resolution was offered by Commissioner \_\_\_\_\_ who moved its adoption. The Motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

COMMISSIONER ADDIE L. GREENE, CHAIRPERSON	-
COMMISSIONER JEFF KOONS, VICE CHAIR	-
COMMISSIONER KAREN T. MARCUS	-
COMMISSIONER ROBERT J. KANJIAN	-
COMMISSIONER MARY MCCARTY	-
COMMISSIONER JESS R. SANTAMARIA	-
COMMISSIONER BURT AARONSON	-

The Chair thereupon declared the resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

Sharon R. Bock, Clerk & Comptroller

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

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

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

Exhibit "A" to the Resolution

**SHORT TERM LEASE AGREEMENT  
BETWEEN PALM BEACH COUNTY AND  
PALM BEACH COMMUNITY COLLEGE**

**THIS LEASE AGREEMENT** (this "Lease") is made and entered into this \_\_\_ day of \_\_\_\_\_, 2008, by and between Palm Beach County, a political subdivision of the State of Florida, ("County") and Palm Beach Community College, an independent special district governed by a district Board of Trustees, having its office and principal place of business at 4200 Congress Avenue, MS#51, Lake Worth, Florida, 33461 ("Lessee").

**WITNESSETH:**

**WHEREAS**, County, by and through its Department of Airports (the "Department"), is the owner and operator of the Palm Beach International Airport (the "Airport"); and

**WHEREAS**, the parties entered into that certain Airport Building/Ground Lease Lease dated July 24, 2001 (R-2001-1139), as amended by that certain First Amendment dated June 17, 2003 (R-2003-0858) and Second Amendment dated May 16, 2006 (R-2006-0840) (the "Original Lease"); and

**WHEREAS**, Lessee is in the process of vacating the buildings leased pursuant to the Original Lease and no longer requires exclusive use of the premises leased therein; and

**WHEREAS**, the parties desire to terminate the Original Lease as provided for herein; and

**WHEREAS**, County is willing to enter into a short-term lease for a portion of the property leased to Lessee pursuant to the Original Lease pending relocation of its operations.

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

**ARTICLE 1  
BASIC PROVISIONS**

1.01 Recitals. The foregoing recitals are true and correct and incorporated herein.

1.02 Property. County hereby demises and leases to Lessee, and Lessee rents from County the property more particularly identified in Exhibit "A" (the "Improved Ground"), attached hereto and incorporated herein, upon the terms and conditions hereinafter set forth. County hereby grants Lessee a non-exclusive license to use the Ground Area (as identified in Exhibit "A", attached hereto and made a part hereof) upon the terms and conditions hereinafter set forth. The Improved Ground and Ground Area are hereinafter collectively referred to as the "Property".

**ARTICLE 2  
LENGTH OF TERM AND COMMENCEMENT DATE**

The term of this Lease shall be for a period of one (1) month, commencing on November 1, 2007 (the "Commencement Date") and expiring on November 30, 2007 (the "Term"). This Lease shall be automatically renewed for one (1) month intervals thereafter; provided, however, either party may elect not to renew this Lease upon providing no less than fifteen (15) days advance written notice to the other party prior to the expiration of the then current term.

### ARTICLE 3 RENTAL

3.01 Rental. Lessee shall pay County for the use and occupancy of the Property the amount of \$5,038.13 per month, together with applicable sales taxes thereon. Payment of rental to County shall commence on the Commencement Date. Rental shall be payable in advance, without demand and without any deduction, holdback or set off whatsoever, on or before the first day of each and every month throughout the Term of this Lease and any extension thereof.

3.02 Adjustment of Rental. Rentals payable hereunder may be adjusted from time-to-time by County upon thirty (30) days prior written notice to Lessee. Notwithstanding any provision of this Lease to the contrary, the rate shall be maintained at all times to ensure compliance with the provisions Section 710 (rate covenant) of the Palm Beach County Airport System Revenue Bond Resolution, dated April 3, 1984, as amended and supplemented (the "Bond Resolution"), which is hereby incorporated by reference and made a part hereof.

3.03 Security Deposit. Lessee, simultaneously with its execution of this Lease, shall deposit with the County a sum equal to one (1) month's rental as security ("Security Deposit") for the faithful performance and observance by Lessee of the terms, conditions, covenants and provisions of this Lease, including, without limitation the surrender of possession of the Property to County pursuant to Section 4.08 of this Lease. The Security Deposit may be commingled with other funds of County, and County shall have no liability for the accrual or payment of any interest thereon. In the event of the failure of Lessee to keep and perform any of the terms, covenants and conditions of this Lease to be kept and performed by Lessee, then County, at its option, may appropriate and apply Security Deposit, or so much thereof as County may deem necessary, to compensate the County for all loss or damage sustained or suffered by County due to such default or failure on the part of Lessee. Should any portion of the Security Deposit be so appropriated and applied by County, then Lessee shall, upon the demand of County, forthwith remit to County a sufficient amount in cash to restore the Security Deposit to the original sum deposited, and Lessee's failure to do so within twenty-four (24) hours after receipt of such demand shall constitute a default of this Lease. Should Lessee comply with all of the terms, covenants and conditions of this Lease, the Security Deposit shall be returned in full to Lessee within one (1) month after expiration of this Lease.

### ARTICLE 4 CONDUCT OF BUSINESS AND USE OF PROPERTY BY LESSEE

4.01 Use of Property. Lessee shall use the Property solely and exclusively for its administrative office, classroom training and storage of training equipment associated with the Palm Beach Community College Fire and EMS Program. Lessee shall not use, permit or suffer the use of the Property for any other business or purpose whatsoever. Under no circumstances shall the Property be used for storage of inoperable vehicles, hazardous materials or other similar items.

4.02 General Privileges. In addition to the specific privileges granted in Section 4.01, Lessee shall have the non-exclusive right to ingress to and egress from the Property over and across the public roadways serving the Airport.

4.03 Improvements. Lessee shall make no improvements, alterations or additions to the Property whatsoever, without the prior written consent of the Department, which may be granted or withheld in the Department's sole and absolute discretion.

4.04 Condition of Property. Lessee accepts the Property in its "As is", "Where is" condition as of the Commencement Date. Lessee further acknowledges that the County has not made any warranties or representations of any nature whatsoever regarding the Property including, but not limited to, any warranties or representations relating to the physical condition of the Property or any improvements located therein, or the suitability of the Property or any improvements for the Lessee's intended use.

4.05 Waste or Nuisance. Lessee shall not commit or suffer to be committed any waste upon the Property or any nuisance or other act or thing which may result in damage or depreciation of value of the Property.

4.06 Compliance with Laws. Lessee shall, at its sole cost and expense, secure any and all required licenses and permits and shall comply with all local, state, and federal laws pertaining to Lessee or its use of the Property, including all applicable zoning, building and fire laws and regulations. Lessee acknowledges and agrees that County has made no representations whatsoever regarding Lessee's ability to use the Property for the purposes set forth in this Lease. Lessee shall ensure that its invitees, guests and all other persons entering the Property with or without Lessee's consent or knowledge comply with all applicable laws on the Property. Lessee shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Lessee's failure to perform its obligations specified in this Section. The foregoing indemnification Lease shall survive the expiration or earlier termination of this Lease.

4.07 Non-Discrimination. Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (a) that no person on the grounds of race, creed, color, national origin, sex, sexual orientation, religion, marital status, age, or disability shall be excluded from participation in or denied the use of the Property, (b) that in the construction of any improvements on, over, or under such Property and the furnishing of services, no person on the grounds of race, creed, color, national origin, sex, sexual orientation, religion, marital status, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) that Lessee shall use the Property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended from time to time. In the event of the breach of any of the foregoing non-discrimination covenants, County shall have the right to terminate this Lease and to reenter and repossess the Property and the facilities hereon, and hold the same as if the Lease had never been made or issued. This cancellation provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed including exercise or expiration of appeal rights.

4.08 Surrender of Property. Upon expiration or earlier termination of this Lease, Lessee, at its sole cost and expense, shall surrender the Property to the County in at least the same condition as the Property was in as of the Commencement Date of this Lease.

4.09 County's Right to Enter. County shall have the right to enter the Property at any time, without notice, for any purpose whatsoever. County agrees to exercise reasonable efforts to minimize interference with or disruption of Lessee's operations on the Property; provided, however, County shall not be required to expend additional sums of money in order to comply with the foregoing requirement. In the event that a County work activity must take place within the Property during Lessee's operating hours, which will disrupt or interfere with the Lessee's operations, County will endeavor to provide prior notice to Lessee. The notice requirements provided under Section 10.04 shall not apply to this Section.

## **ARTICLE 5 REPAIRS AND MAINTENANCE OF PROPERTY/SECURITY**

5.01 Repairs & Maintenance. County shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Property. All portions of the Property and all improvements erected on the Property shall be kept in good repair and condition by Lessee. Lessee shall regularly mow all grassed areas. Lessee shall maintain the Property free of trash and debris. Inoperable vehicles shall not be stored on the Property. Upon expiration or earlier termination of this Lease, Lessee



shall deliver the Property to County in good repair and condition as specified herein, free of all improvements constructed by Lessee. In the event of any damage to the Property, County may complete the necessary repairs or maintenance of the Property and Lessee shall reimburse County for all expenses incurred by County in doing so, plus a twenty five percent (25%) overhead, within fifteen (15) days after written request for reimbursement from County.

5.02 Security. Lessee acknowledges and accepts full responsibility for the security and protection of the Property and any and all personal property and improvements now existing or hereafter placed on or installed in or upon the Premises, and for the prevention of unauthorized access to the Premises. Lessee fully understands that the police security protection provided by County is limited to that provided to any other business situated in Palm Beach County by the Palm Beach County Sheriff's Office and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Property, shall be the sole responsibility of Lessee and shall involve no additional cost to County.

5.03 Utilities. Lessee shall be responsible for payment of all utilities used by Lessee. In the event that County is able to lease any portion of the remaining adjacent premises to another tenant, Lessee shall be required to pay its pro-rata share of all utilities used by Lessee.

## **ARTICLE 6 INSURANCE**

6.01 Maintenance of Insurance. Lessee shall maintain, on a primary basis and at its sole expense, at all times during the Term of this Lease, and any extension thereof, the following insurance coverage, limits, including endorsements described herein. The requirements contained herein, as well as County's review or acceptance of insurance maintained by Lessee is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Lessee under this Lease

6.02 Sovereign immunity. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes., Lessee acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the Florida legislature.

6.03 Commercial General and Business auto liability. In the event Lessee maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28, Florida Statutes, Lessee shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage

6.04 Worker's Compensation insurance. Lessee shall maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Chapter 440, Florida Statute.

6.05 Certificates of insurance. Lessee shall provide to County, an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above-mentioned coverage.

6.06 Waiver of Subrogation. Lessee agrees by entering into this Lease to a Waiver of Subrogation for each policy required herein. When required by the insurer, or should a policy condition not permit Lessee to enter into any pre-loss agreement to waive subrogation without an endorsement, then Lessee agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Lessee enter into such an agreement on a pre-loss basis.

## **ARTICLE 7 INDEMNIFICATION**

To the extent permitted by law, Lessee shall indemnify, defend and save County harmless from and against any and all claims, actions, fines, damages, liability and expense (hereinafter collectively referred to as "Claims") arising out of or in any way connected to Lessee's use and occupancy of the Property, including, not limited to: (i) loss of life, personal injury and/or damage to or destruction of property; (ii) any act or omission of Lessee, its agents, contractors, employees or invitees; and (iii) any violation or failure to comply with Environmental Laws by Lessee, its agents, contractors, employees or invitees. For purposes of this Lease, "Environmental Laws" means all applicable federal, state and local laws, rules, orders and regulations protecting human health, the environment and/or natural resources, as such laws, rules, orders and regulations are now or hereafter amended, including, without limitation, the Federal Clean Water Act, Safe Drinking Water Act, Clean Air Act, Resource Conservation and Recovery Act and Comprehensive Environmental Response, Compensation and Liability Act of 1980. In the event the County is made a party to any litigation commenced against Lessee or by Lessee against any third party, then Lessee shall protect and hold County harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. Lessee recognizes the broad nature of this indemnification provision and specifically acknowledges the receipt of good and value separate consideration in support thereof. This provision shall survive expiration or earlier termination of this Lease.

## **ARTICLE 8 ASSIGNMENT**

Lessee may not assign, sublet or rent any portion of the Property. Any assignment or sublease entered into by Lessee without County's consent will constitute a default under this Lease.

## **ARTICLE 9 DEFAULT**

Failure to perform or observe any of the Leases, covenants, or conditions contained in this Lease to be performed or observed by such party upon five (5) days prior written notice shall constitute a default of this Lease.

## **ARTICLE 10 MISCELLANEOUS**

10.01 Subordination to Bond Resolution. This Lease and all rights granted to Lessee hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution, and County and Lessee agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by Lessee and County with the terms and provisions of this Lease and Bond Resolution.

10.02 Subordination to State/Federal Agreements. This Lease shall be subject and subordinate to all the terms and conditions of any instrument and documents under which the County acquired the land or improvements thereon, of which the Property are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Lessee understands and agrees that this Lease shall be subordinate to the provisions of any existing or future Agreement between County and the United States of America, the State of Florida or any of their respective agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

10.03 Entire Lease. 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 County and Lessee concerning the Property. 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 County or Lessee unless reduced to writing and signed by them.

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

(a) If to the County at:

Palm Beach County Department of Airports  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470  
Attn: Deputy Director, Airports Business Affairs  
Fax: (561) 471-7427

(b) If to the Lessee at:

Beryl Mancuso  
Palm Beach Community College  
4200 Congress Ave.  
Lake Worth, FL 33461-4796

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

10.05 Recording. Lessee shall not record this Lease or any memorandum or short form thereof.

10.06 Waiver of Jury Trial. The parties hereto waive trial by jury in connection with proceedings or counterclaims brought by either of the parties hereto against the other, in connection with this Lease.

10.07 Governing Law and Venue. This 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.

10.08 Time of Essence. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

10.09 Captions. The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

10.10 Severability. In the event that any section, paragraph, sentence, clause, or provision of this Lease is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

10.11 Waiver. No waiver of any provision of this Lease shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

10.12 Liability of County. Lessee shall look solely to the estate and property of the County in the Property for the collection of any judgment, or in connection with any other judicial process, requiring the payment of money by County in the event of any default by County with respect to any of the terms, covenants and conditions of this Lease to be observed and performed by County, and no other property or estates of County shall be subject to levy, execution or other enforcement procedures for the satisfaction of Lessee's remedies and rights under this Lease.

10.13 Effective Date. This Lease shall become effective when executed by the parties hereto and approved by the Palm Beach Board of County Commissioners.

10.14 Termination of Prior Agreement. The parties agree that the Original Lease shall be considered terminated effective October 31, 2007. Lessee shall be entitled to receive credit against future rentals for any rental payments in excess of the amounts required herein. Notwithstanding the foregoing, County shall have no obligation whatsoever to provide monetary reimbursement of any such overpayments.

(Remainder of page left blank intentionally)

IN WITNESS WHEREOF, County and Lessee have executed this Lease, or have caused the same to be executed as of the day and year first above written.

ATTEST:  
SHARON R. BOCK, Clerk  
& Comptroller

PALM BEACH COUNTY, FLORIDA, A  
POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA, BY ITS BOARD  
COUNTY COMMISSIONERS

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

By: \_\_\_\_\_  
Addie L. Greene, Chairperson

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

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

By: \_\_\_\_\_  
Director, Department of Airports

ATTEST:  
Signed, sealed and delivered in the  
presence of two witnesses for Lessee

PALM BEACH COMMUNITY  
COLLEGE

Ben A Mancuso  
Signature

By: Richard A Becker  
Signature

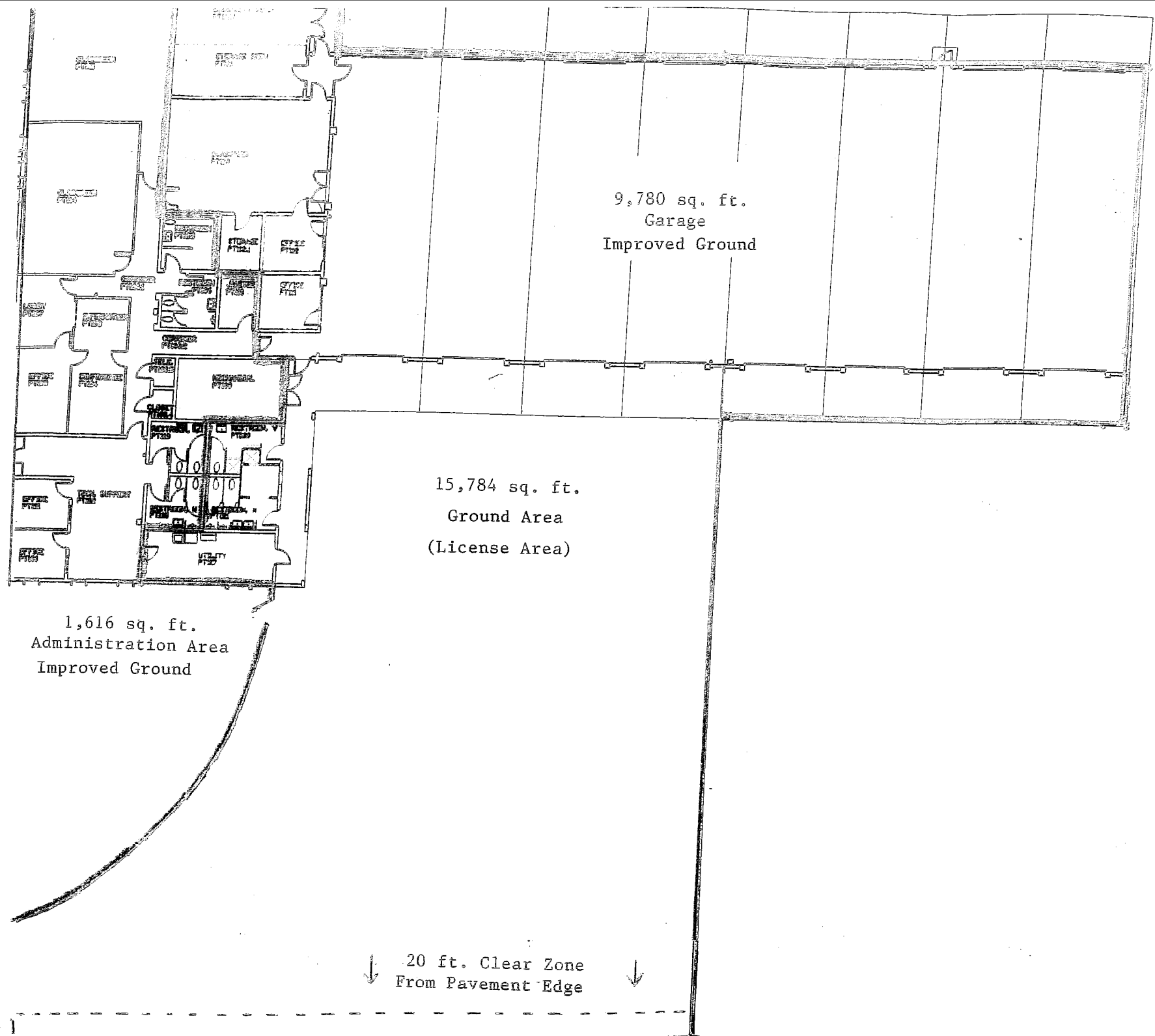
Ben A Mancuso  
Typed or Printed Name

RICHARD A. Becker  
Typed or Printed Name

Barbara J Ricciardi  
Signature

Barbara J Ricciardi  
Typed or Printed Name

(Corporate Seal)



9,780 sq. ft.  
Garage  
Improved Ground

15,784 sq. ft.  
Ground Area  
(License Area)

1,616 sq. ft.  
Administration Area  
Improved Ground

↓ 20 ft. Clear Zone  
From Pavement Edge ↓

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**WITNESSETH:**

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**WHEREAS**, the parties entered into that certain Airport Building/Ground Lease Lease dated July 24, 2001 (R-2001-1139), as amended by that certain First Amendment dated June 17, 2003 (R-2003-0858) and Second Amendment dated May 16, 2006 (R-2006-0840) (the "Original Lease"); and

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### ARTICLE 3 RENTAL

3.01 Rental. Lessee shall pay County for the use and occupancy of the Property the amount of \$5,038.13 per month, together with applicable sales taxes thereon. Payment of rental to County shall commence on the Commencement Date. Rental shall be payable in advance, without demand and without any deduction, holdback or set off whatsoever, on or before the first day of each and every month throughout the Term of this Lease and any extension thereof.

3.02 Adjustment of Rental. Rentals payable hereunder may be adjusted from time-to-time by County upon thirty (30) days prior written notice to Lessee. Notwithstanding any provision of this Lease to the contrary, the rate shall be maintained at all times to ensure compliance with the provisions Section 710 (rate covenant) of the Palm Beach County Airport System Revenue Bond Resolution, dated April 3, 1984, as amended and supplemented (the "Bond Resolution"), which is hereby incorporated by reference and made a part hereof.

3.03 Security Deposit. Lessee, simultaneously with its execution of this Lease, shall deposit with the County a sum equal to one (1) month's rental as security ("Security Deposit") for the faithful performance and observance by Lessee of the terms, conditions, covenants and provisions of this Lease, including, without limitation the surrender of possession of the Property to County pursuant to Section 4.08 of this Lease. The Security Deposit may be commingled with other funds of County, and County shall have no liability for the accrual or payment of any interest thereon. In the event of the failure of Lessee to keep and perform any of the terms, covenants and conditions of this Lease to be kept and performed by Lessee, then County, at its option, may appropriate and apply Security Deposit, or so much thereof as County may deem necessary, to compensate the County for all loss or damage sustained or suffered by County due to such default or failure on the part of Lessee. Should any portion of the Security Deposit be so appropriated and applied by County, then Lessee shall, upon the demand of County, forthwith remit to County a sufficient amount in cash to restore the Security Deposit to the original sum deposited, and Lessee's failure to do so within twenty-four (24) hours after receipt of such demand shall constitute a default of this Lease. Should Lessee comply with all of the terms, covenants and conditions of this Lease, the Security Deposit shall be returned in full to Lessee within one (1) month after expiration of this Lease.

### ARTICLE 4 CONDUCT OF BUSINESS AND USE OF PROPERTY BY LESSEE

4.01 Use of Property. Lessee shall use the Property solely and exclusively for its administrative office, classroom training and storage of training equipment associated with the Palm Beach Community College Fire and EMS Program. Lessee shall not use, permit or suffer the use of the Property for any other business or purpose whatsoever. Under no circumstances shall the Property be used for storage of inoperable vehicles, hazardous materials or other similar items.

4.02 General Privileges. In addition to the specific privileges granted in Section 4.01, Lessee shall have the non-exclusive right to ingress to and egress from the Property over and across the public roadways serving the Airport.

4.03 Improvements. Lessee shall make no improvements, alterations or additions to the Property whatsoever, without the prior written consent of the Department, which may be granted or withheld in the Department's sole and absolute discretion.

4.04 Condition of Property. Lessee accepts the Property in its "As is", "Where is" condition as of the Commencement Date. Lessee further acknowledges that the County has not made any warranties or representations of any nature whatsoever regarding the Property including, but not limited to, any warranties or representations relating to the physical condition of the Property or any improvements located therein, or the suitability of the Property or any improvements for the Lessee's intended use.



4.05 Waste or Nuisance. Lessee shall not commit or suffer to be committed any waste upon the Property or any nuisance or other act or thing which may result in damage or depreciation of value of the Property.

4.06 Compliance with Laws. Lessee shall, at its sole cost and expense, secure any and all required licenses and permits and shall comply with all local, state, and federal laws pertaining to Lessee or its use of the Property, including all applicable zoning, building and fire laws and regulations. Lessee acknowledges and agrees that County has made no representations whatsoever regarding Lessee's ability to use the Property for the purposes set forth in this Lease. Lessee shall ensure that its invitees, guests and all other persons entering the Property with or without Lessee's consent or knowledge comply with all applicable laws on the Property. Lessee shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Lessee's failure to perform its obligations specified in this Section. The foregoing indemnification Lease shall survive the expiration or earlier termination of this Lease.

4.07 Non-Discrimination. Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (a) that no person on the grounds of race, creed, color, national origin, sex, sexual orientation, religion, marital status, age, or disability shall be excluded from participation in or denied the use of the Property, (b) that in the construction of any improvements on, over, or under such Property and the furnishing of services, no person on the grounds of race, creed, color, national origin, sex, sexual orientation, religion, marital status, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) that Lessee shall use the Property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended from time to time. In the event of the breach of any of the foregoing non-discrimination covenants, County shall have the right to terminate this Lease and to reenter and repossess the Property and the facilities hereon, and hold the same as if the Lease had never been made or issued. This cancellation provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed including exercise or expiration of appeal rights.

4.08 Surrender of Property. Upon expiration or earlier termination of this Lease, Lessee, at its sole cost and expense, shall surrender the Property to the County in at least the same condition as the Property was in as of the Commencement Date of this Lease.

4.09 County's Right to Enter. County shall have the right to enter the Property at any time, without notice, for any purpose whatsoever. County agrees to exercise reasonable efforts to minimize interference with or disruption of Lessee's operations on the Property; provided, however, County shall not be required to expend additional sums of money in order to comply with the foregoing requirement. In the event that a County work activity must take place within the Property during Lessee's operating hours, which will disrupt or interfere with the Lessee's operations, County will endeavor to provide prior notice to Lessee. The notice requirements provided under Section 10.04 shall not apply to this Section.

## ARTICLE 5 REPAIRS AND MAINTENANCE OF PROPERTY/SECURITY

5.01 Repairs & Maintenance. County shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Property. All portions of the Property and all improvements erected on the Property shall be kept in good repair and condition by Lessee. Lessee shall regularly mow all grassed areas. Lessee shall maintain the Property free of trash and debris. Inoperable vehicles shall not be stored on the Property. Upon expiration or earlier termination of this Lease, Lessee

shall deliver the Property to County in good repair and condition as specified herein, free of all improvements constructed by Lessee. In the event of any damage to the Property, County may complete the necessary repairs or maintenance of the Property and Lessee shall reimburse County for all expenses incurred by County in doing so, plus a twenty five percent (25%) overhead, within fifteen (15) days after written request for reimbursement from County.

5.02 Security. Lessee acknowledges and accepts full responsibility for the security and protection of the Property and any and all personal property and improvements now existing or hereafter placed on or installed in or upon the Premises, and for the prevention of unauthorized access to the Premises. Lessee fully understands that the police security protection provided by County is limited to that provided to any other business situated in Palm Beach County by the Palm Beach County Sheriff's Office and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Property, shall be the sole responsibility of Lessee and shall involve no additional cost to County.

5.03 Utilities. Lessee shall be responsible for payment of all utilities used by Lessee. In the event that County is able to lease any portion of the remaining adjacent premises to another tenant, Lessee shall be required to pay its pro-rata share of all utilities used by Lessee.

## **ARTICLE 6 INSURANCE**

6.01 Maintenance of Insurance. Lessee shall maintain, on a primary basis and at its sole expense, at all times during the Term of this Lease, and any extension thereof, the following insurance coverage, limits, including endorsements described herein. The requirements contained herein, as well as County's review or acceptance of insurance maintained by Lessee is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Lessee under this Lease

6.02 Sovereign immunity. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes., Lessee acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the Florida legislature.

6.03 Commercial General and Business auto liability. In the event Lessee maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28, Florida Statutes, Lessee shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage

6.04 Worker's Compensation insurance. Lessee shall maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Chapter 440, Florida Statute.

6.05 Certificates of insurance. Lessee shall provide to County, an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above-mentioned coverage.

6.06 Waiver of Subrogation. Lessee agrees by entering into this Lease to a Waiver of Subrogation for each policy required herein. When required by the insurer, or should a policy condition not permit Lessee to enter into any pre-loss agreement to waive subrogation without an endorsement, then Lessee agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Lessee enter into such an agreement on a pre-loss basis.

## **ARTICLE 7 INDEMNIFICATION**

To the extent permitted by law, Lessee shall indemnify, defend and save County harmless from and against any and all claims, actions, fines, damages, liability and expense (hereinafter collectively referred to as "Claims") arising out of or in any way connected to Lessee's use and occupancy of the Property, including, not limited to: (i) loss of life, personal injury and/or damage to or destruction of property; (ii) any act or omission of Lessee, its agents, contractors, employees or invitees; and (iii) any violation or failure to comply with Environmental Laws by Lessee, its agents, contractors, employees or invitees. For purposes of this Lease, "Environmental Laws" means all applicable federal, state and local laws, rules, orders and regulations protecting human health, the environment and/or natural resources, as such laws, rules, orders and regulations are now or hereafter amended, including, without limitation, the Federal Clean Water Act, Safe Drinking Water Act, Clean Air Act, Resource Conservation and Recovery Act and Comprehensive Environmental Response, Compensation and Liability Act of 1980. In the event the County is made a party to any litigation commenced against Lessee or by Lessee against any third party, then Lessee shall protect and hold County harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. Lessee recognizes the broad nature of this indemnification provision and specifically acknowledges the receipt of good and value separate consideration in support thereof. This provision shall survive expiration or earlier termination of this Lease.

## **ARTICLE 8 ASSIGNMENT**

Lessee may not assign, sublet or rent any portion of the Property. Any assignment or sublease entered into by Lessee without County's consent will constitute a default under this Lease.

## **ARTICLE 9 DEFAULT**

Failure to perform or observe any of the Leases, covenants, or conditions contained in this Lease to be performed or observed by such party upon five (5) days prior written notice shall constitute a default of this Lease.

## **ARTICLE 10 MISCELLANEOUS**

10.01 Subordination to Bond Resolution. This Lease and all rights granted to Lessee hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution, and County and Lessee agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by Lessee and County with the terms and provisions of this Lease and Bond Resolution.

10.02 Subordination to State/Federal Agreements. This Lease shall be subject and subordinate to all the terms and conditions of any instrument and documents under which the County acquired the land or improvements thereon, of which the Property are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Lessee understands and agrees that this Lease shall be subordinate to the provisions of any existing or future Agreement between County and the United States of America, the State of Florida or any of their respective agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

10.03 Entire Lease. 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 County and Lessee concerning the Property. 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 County or Lessee unless reduced to writing and signed by them.

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

(a) If to the County at:

Palm Beach County Department of Airports  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470  
Attn: Deputy Director, Airports Business Affairs  
Fax: (561) 471-7427

(b) If to the Lessee at:

Beryl Mancuso  
Palm Beach Community College  
4200 Congress Ave.  
Lake Worth, FL 33461-4796

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

10.05 Recording. Lessee shall not record this Lease or any memorandum or short form thereof.

10.06 Waiver of Jury Trial. The parties hereto waive trial by jury in connection with proceedings or counterclaims brought by either of the parties hereto against the other, in connection with this Lease.

10.07 Governing Law and Venue. This 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.

10.08 Time of Essence. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

10.09 Captions. The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

10.10 Severability. In the event that any section, paragraph, sentence, clause, or provision of this Lease is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

10.11 Waiver. No waiver of any provision of this Lease shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

10.12 Liability of County. Lessee shall look solely to the estate and property of the County in the Property for the collection of any judgment, or in connection with any other judicial process, requiring the payment of money by County in the event of any default by County with respect to any of the terms, covenants and conditions of this Lease to be observed and performed by County, and no other property or estates of County shall be subject to levy, execution or other enforcement procedures for the satisfaction of Lessee's remedies and rights under this Lease.

10.13 Effective Date. This Lease shall become effective when executed by the parties hereto and approved by the Palm Beach Board of County Commissioners.

10.14 Termination of Prior Agreement. The parties agree that the Original Lease shall be considered terminated effective October 31, 2007. Lessee shall be entitled to receive credit against future rentals for any rental payments in excess of the amounts required herein. Notwithstanding the foregoing, County shall have no obligation whatsoever to provide monetary reimbursement of any such overpayments.

(Remainder of page left blank intentionally)

IN WITNESS WHEREOF, County and Lessee have executed this Lease, or have caused the same to be executed as of the day and year first above written.

ATTEST:  
SHARON R. BOCK, Clerk  
& Comptroller

PALM BEACH COUNTY, FLORIDA, A  
POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA, BY ITS BOARD  
COUNTY COMMISSIONERS

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

By: \_\_\_\_\_  
Addie L. Greene, Chairperson

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

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

By: *[Signature]*  
Director, Department of Airports

ATTEST:  
Signed, sealed and delivered in the  
presence of two witnesses for Lessee

PALM BEACH COMMUNITY  
COLLEGE

*[Signature]*  
Signature

By: *[Signature]*  
Signature

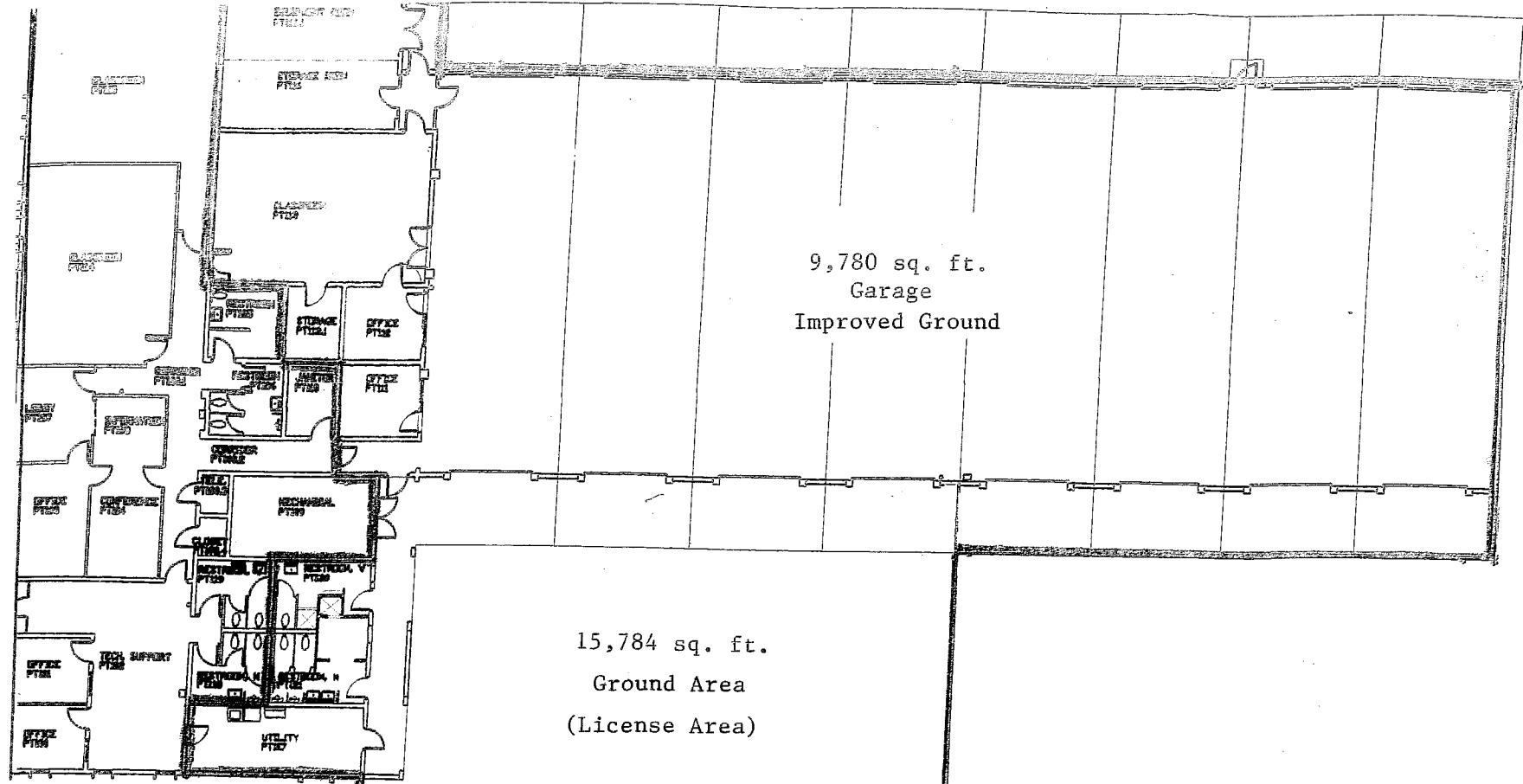
BEAYL A. MANCUSO  
Typed or Printed Name

RICHARD A. BECKER  
Typed or Printed Name

*[Signature]*  
Signature

Barbara J. Ricciardi  
Typed or Printed Name

(Corporate Seal)



9,780 sq. ft.  
Garage  
Improved Ground

15,784 sq. ft.  
Ground Area  
(License Area)

1,616 sq. ft.  
Administration Area  
Improved Ground

↓ 20 ft. Clear Zone  
From Pavement Edge ↓