

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date:	January 13, 2009	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Facilities Development & Operations		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) rescind Board approval of the Resolution and the First Amendment to Governmental Center Lease Agreement as submitted on December 16, 2008 (R-2008-2356); and

B) adopt a Resolution authorizing an expansion of the building space being leased to LJL Food Management, Inc. d/b/a Tina's Café, extending the term of the Lease and finding that the First Amendment to Governmental Center Lease Agreement with LJL Food Management, Inc. is in the best interest of the County; and

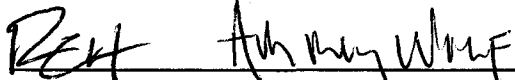
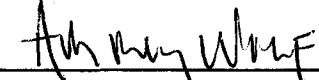
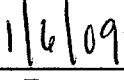
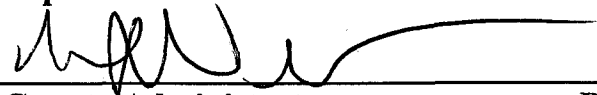
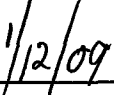
C) approve a First Amendment to Governmental Center Lease Agreement (R2002-0829) with LJL Food Management, Inc. d/b/a Tina's Café, to expand the current leased premises by 1,050 square feet and extend the term of the Lease to a period of ten (10) years, specifying the rental rate.

Summary: On December 16, 2008, the Board approved allowing Tina's Café to expand into the adjacent 1,050 square feet of space previously occupied by Channel 20. This item rescinds approval of the prior First Amendment and replaces it. The new First Amendment extends the term of the Lease to a total of ten (10) years. The current term of the Lease expires August 31, 2011, and this Amendment extends the term until January 31, 2019. The current annual rent is \$23,702.64 (\$15.76/sf) and increases annually by four percent (4%). With the inclusion of the additional space, rent will increase to \$40,251.04. Tina's Café has requested that the annual rent be reduced by \$3.26/sf to \$12.50/sf, for a total annual rent of \$31,925 and that annual increases be reduced to 2.5%. While operating statements submitted by Tina's Café indicate that the owners have been losing money on the operation of their business, Staff cannot recommend a rental reduction. This Lease was procured through an RFP process, and general procurement policy would normally require a new competitive process be conducted to make such material changes to the terms of a competitively bid agreement. **(PREM) Countywide (HJF)**

Continued on page 3

Attachments:

1. Location Map
2. First Amendment to Governmental Center Lease Agreement
3. Resolution
4. December 16, 2008 Agenda Item 5H-1 (R-2008-2356)
5. December 23, 2008 correspondence from Tina's Café

Recommended By:			
	Department Director		Date
Approved By:			
	County Administrator		Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$9,708.37)	(\$17,267.67)	(\$17,958.40)	(\$45,427.88)	(\$47,244.96)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$9,708.37)</u>	<u>(\$17,267.67)</u>	<u>(\$17,958.40)</u>	<u>(\$45,427.88)</u>	<u>(\$47,244.96)</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget: Yes _____ No _____					
Budget Account No:	Fund <u>0001</u>	Dept <u>410</u>	Unit <u>4240</u>	Object <u>6225</u>	
	Program _____				

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

Revenue calculations (FY 2009-2011) are based upon the existing rental rate and reflect only the additional revenue for the increased square footage, based upon a Rent Commencement Date of March 1, 2009. Base rent increases by 4% annually on September 1st.

The original Lease included an option to extend the Term of the Lease through August 31, 2011. This Amendment revises the Lease to extend the Term of the Lease though January 31, 2019, and revenue will continue through FY 2019 for the current and expanded lease areas.

Revenue and will be applied to the General Operating Budget.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 1-8-09
 OFMB
[Handwritten notes]

[Signature] 1/9/09
 Contract Development and Control
[Handwritten notes]

B. Legal Sufficiency:

[Signature] 1/9/09
 Assistant County Attorney
 Amendment was not executed at time of CAO review.

This amendment complies with our review requirements.
 At the time of our review the Amendment was not executed.

C. Other Department Review:

 Department Director

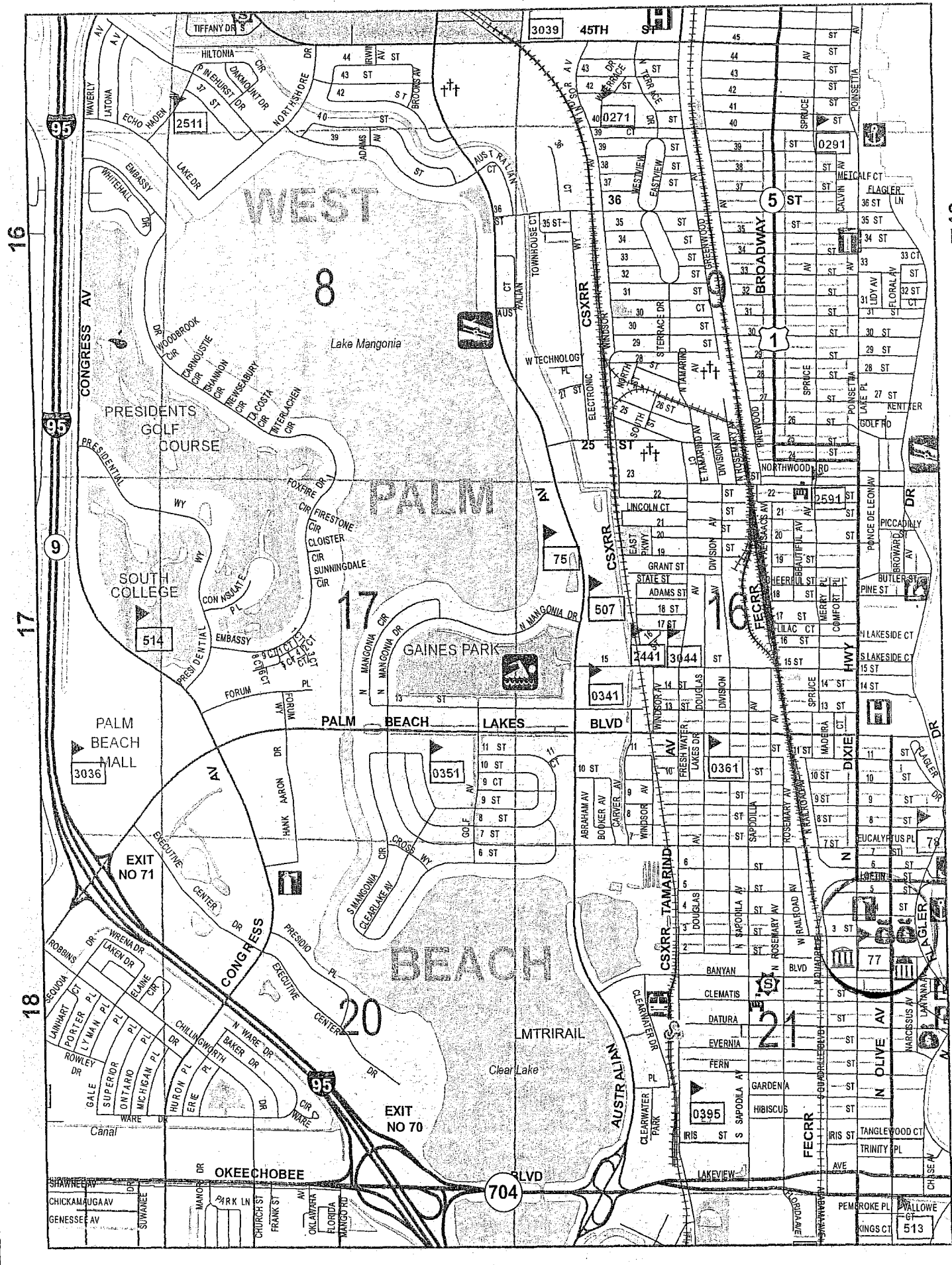
This summary is not to be used as a basis for payment.

Background and Policy Issues: In 2001, Staff issued an RFP to lease 1,504 square feet of space within the Governmental Center Parking Garage for operation of a restaurant. LJL Food Management, Inc. d/b/a Cher's Café was the only respondent. On May 21, 2002 (R2002-0829), the Board approved the initial Governmental Center Lease Agreement with LJL Food Management, Inc. for a period of five (5) years with one (1) five (5) year option extending the term until August 31, 2011 (R-2006-1258). In September 2005, LJL Food Management, Inc. changed ownership through private sale of the business and the trade name was changed to Tina's Café. The consent to the assignment of the lease was approved on October 18, 2005 (R-2005-2020).

This First Amendment allows Tina's Café to increase the size of their restaurant by 1,050 square feet by expanding into the suite formerly occupied by Channel 20. The annual rent will be increased based upon the increase in square footage times the existing per square foot rental rate. The increased rent will commence upon issuance of a certificate of occupancy for the additional space or sixty (60) days after approval of this First Amendment, whichever occurs first. All costs associated with renovations of the additional space will be borne by Tina's Café.

The term of the Lease will be extended until January 31, 2019, which is approximately 10 years from approval of this First Amendment. There are no remaining options to extend the term of the Lease.

The current annual rent is \$23,702.64 (\$15.76/sf). The rent is increased annually by 4%. With the increased space, rent will increase to \$40,251.04. Tina's Café has requested a rent reduction of \$3.26/sf which would reduce the total annual rent to \$31,925.00 (\$12.50/sf).



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T43

LOCATION MAP

ATT.#1

**FIRST AMENDMENT
TO
GOVERNMENTAL CENTER LEASE AGREEMENT**

THIS FIRST AMENDMENT TO GOVERNMENTAL CENTER LEASE AGREEMENT (the "First Amendment") is made and entered into _____ by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and LJL Food Management, Inc., a Florida corporation ("Tenant"). County and Tenant are sometimes referred to herein collectively as the "parties".

WITNESSETH:

WHEREAS, County and Tenant entered into that certain Governmental Center Lease Agreement dated May 21, 2002 (R2002-0829) (the "Lease"), for the use of the Premises as defined in the Lease, which Lease commenced on September 1, 2001, for a term of five (5) years with one (1), five (5) year option; and

WHEREAS, County consented to the transfer of ownership of Tenant from Linda Ostrowski to Katina Bikos and Petro Bikos on October 18, 2005 (R2005-2020); and

WHEREAS, County approved Tenant's exercise of its five (5) year renewal option on July 11, 2006 (R2006-1258), extending the Lease until August 31, 2011; and

WHEREAS, the parties wish to (i) redefine "Premises" to include Suite No. 114 of the Building as defined in the Lease; and (ii) provide for payment of additional rent by Tenant, and

WHEREAS, the parties wish to extend the term of the Lease until January 31, 2019.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning ascribed to them in the Lease.
2. The Tenant Contact information as set forth in Section 1.01(b) of the Lease is revised as follows:

Tenant Contact: Katina Bikos and Petro Bikos Phone: (561) 630-0044

3. The Tenant's Trade Name as set forth in Section 1.01(c) of the Lease is revised to LJL Food Management, Inc. d/b/a Tina's Café.
4. Section 1.01(d) of the Lease is modified to add the following Guarantors:

Guarantor: Katina Bikos and Petro Bikos
Guarantor's Address: 965 Lighthouse Drive
 North Palm Beach, FL 33408

5. "Premises" as defined in Section 1.01(g) of the Lease is modified to include Suite No. 114 as depicted in Exhibit "A" attached hereto and made a part hereof (the "Additional Space").
6. "Gross Leaseable Area of the Premises" as set forth in Section 1.01(h) of the Lease is increased by 1,050 square feet for a total of 2,554 square feet of Gross Leaseable Area.
7. The Tenant's Proportionate Share as set forth in Section 1.01(i) of the Lease is increased to 13.72%.
8. Section 1.01(l) of the Lease is modified to provide that the sale of Florida lottery tickets shall also be allowed in the Premises.

9. In addition to the two (2) parking passes assigned to Tenant pursuant to Section 2.02 of the Lease, County shall assign Tenant three (3) additional parking passes for unassigned parking places within the Judicial Center Parking Garage, upon the same terms and conditions as set forth in Section 2.02 of the Lease.
10. The Term of the Lease as set forth in Section 2.05 of the Lease is hereby extended until January 31, 2019. There are no remaining options to extend the term of the Lease.
11. Tenant's obligation to pay rent for the Additional Space shall commence upon the earlier of either the issuance of the Certificate of Occupancy for the work necessary for operation of Tenant's business in the Additional Space as set forth in Section 13 of this First Amendment below, or sixty (60) days after the Effective Date of this First Amendment (the "Increased Rent Commencement Date").
12. Commencing upon the Increased Rent Commencement Date, the "Annual Rent" as defined in Section 1.01(j) shall be Forty Thousand Two Hundred Fifty and 64/100 Dollars (\$40,250.64). If the Increased Rent Commencement Date is on a day other than the first day of the month, the increase in Annual Rent shall be prorated on the basis of a thirty (30) day month, and shall be payable with the next monthly installment of Rent.
13. "Tenant's Work" as defined in Section 4.02(a) of the Lease is modified to include the work necessary to equip and complete the Additional Space for the lawful operation of Tenant's business, including all work required to meet current codes, whether such work is within or outside of the Additional Space and the Premises, and Tenant agrees to perform all such work at its own cost and expense and in compliance with each and every provision of the Lease. Specifically, and without waiver of any additional terms and conditions regarding Tenant's Work, Tenant shall submit to County for County's prior approval, detailed plans and specifications for all Tenant's Work to be conducted in the Premises, including the Additional Space, as required by Article IV of the Lease.
14. Section 2.08 is modified to provide the following change of address for the window sign regarding customer complaints: Property & Real Estate Management Division, 2633 Vista Parkway, West Palm Beach, FL 33411-5605.
15. The County's address in Sections 1.01(a) and 20.02 is revised to:

COUNTY:
Palm Beach County
Property & Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, FL 33411-5605
16. Section 8.01 of the Lease is hereby modified to include the following:

(d) Tenant shall procure and continuously maintain throughout the Term of this Lease, at its sole cost and expense, a contract with a pest control service to service the Premises at least monthly, and more frequently if required to keep the Premises free from infestation by insects, rodents, and other vermin.
17. Except as set forth herein, the Lease remains unmodified and in full force and effect.
18. This First Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

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

ATTEST:

COUNTY:

SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

Assistant County Attorney

[Signature]
Audrey Wolf, Director
Facilities Development & Operations

WITNESSES AS TO BOTH:

TENANT:

LJL FOOD MANAGEMENT, INC.,
a Florida corporation

Witness Signature

By: _____
Katina Bikos, President

Print Witness Name

Witness Signature

By: _____
Petro Bikos, Vice-President

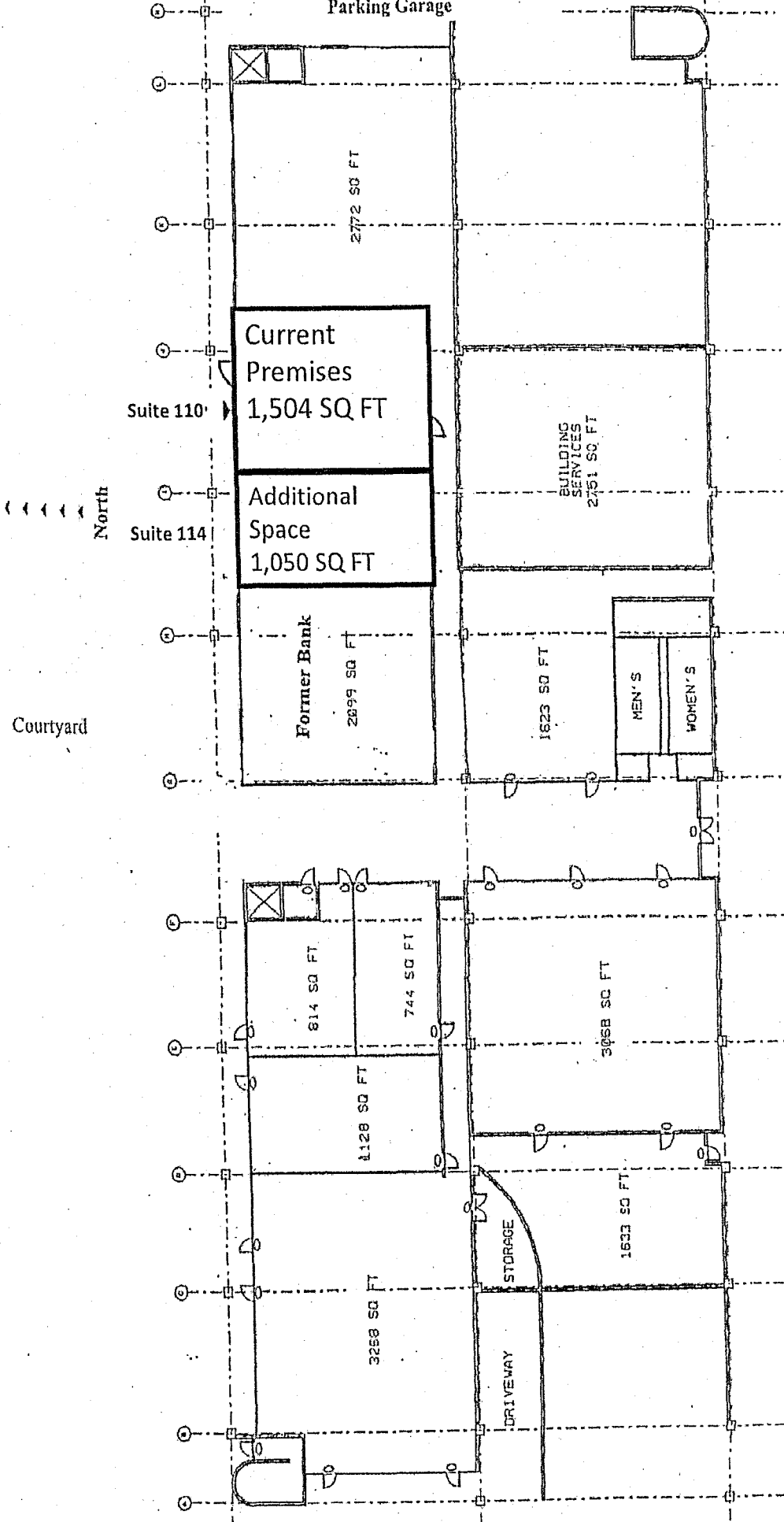
Print Witness Name

EXHIBIT "A"

PREMISES

Exhibit A
First Floor

Palm Beach County Government Center
Parking Garage



RESOLUTION NO. 2009-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING AN EXPANSION OF THE BUILDING SPACE BEING LEASED TO LJL FOOD MANAGEMENT, INC.; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, LJL Food Management, Inc., a Florida corporation, ("Tenant"), pursuant to a lease dated May 21, 2002 (R2002-0829), leases space from County for the operation of Tina's Café, a restaurant located on the first floor of the County-owned Governmental Center Parking Garage;

WHEREAS, Tenant has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County increase the space being leased to Tenant;

WHEREAS, Tenant wishes to expand its restaurant operation by leasing the space adjacent to the existing restaurant at the same price per square foot that Tenant is paying for the space currently being leased and wishes to extend the term of the Lease in order to recover its planned investments in the expansion space;

WHEREAS, Tina's Café provides a service to government employees and visitors to the surrounding government buildings by offering them convenient food service at a reasonable price, and expansion of the operation would allow more people to be served, in addition to providing the County with additional revenue;

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds: that such building space will not be needed for County purposes during the extended term of the Lease; that expansion of the existing restaurant is the best use of the building space in that it provides increased ability to service employees and visitors of the Governmental Center and Courthouse; and that the expansion of the Lease area and extension of the terms is in the best interests of the County.

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 Building Space

The Board of County Commissioners of Palm Beach County shall lease to LJL Food Management, Inc., a Florida corporation, pursuant to the First Amendment to the Lease attached hereto and incorporated herein by reference, the additional space identified in the First Amendment, at an initial increase to the annual rent being paid by Tenant of Sixteen Thousand Five Hundred Forty-Eight Dollars (\$16,548.00), for the use identified above, for a term extending until January 31, 2019.

Section 3. Conflict with Federal or State Law or County Charter

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

Section 4. 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 JOHN F. KOONS, CHAIRMAN
- COMMISSIONER BURT AARONSON, VICE CHAIRMAN
- COMMISSIONER KAREN T. MARCUS
- COMMISSIONER SHELLEY VANA
- COMMISSIONER MARY MCCARTY
- COMMISSIONER JESS R. SANTAMARIA
- COMMISSIONER ADDIE L. GREENE

The Chair thereupon declared the resolution duly passed and adopted this _____ day of _____, 2009.

PALM BEACH COUNTY, a
political subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: Reg Anthony Wolf
Department Director

II. FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$9,708.37)</u>	<u>(\$17,267.67)</u>	<u>(\$16,407.18)</u>	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
1-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u><u>(\$9,708.37)</u></u>	<u><u>(\$17,267.67)</u></u>	<u><u>(\$16,407.18)</u></u>	=====	=====
ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No X

Budget Account No: Fund 0001 Dept 410 Unit 4240 Object 6225
 Program _____

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

Revenue calculations reflect only the additional revenue for the increased square footage, based upon a Rent Commencement Date of March 1, 2009. Base rent increases by 4% annually on September 1st. Revenue and will be applied to the General Operating Budget.

Upon the Board's direction, costs for move and data/phone/alarm relocation costs, estimated at \$4,000-\$6,000, Staff will either provide Tina's Café with a schedule for payment/re-payment of the costs, or bring back a budget transfer from contingency for approval.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

For the repayment of costs for move, a budget amendment will be brought back to the Board at a later date. If the Board directs Tina's to provide the payment, a budget amendment will recognize the additional revenue. If not, a budget amendment will be processed which recognizes the lease revenue and allocates budget for the costs for move.

 OFMB Contract Development and Control

B. Legal Sufficiency:

 Assistant County Attorney

C. Other Department Review:

 Department Director

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

031a

Background and Justification: In 2001, Staff issued an RFP to lease space within the Governmental Center Parking Garage for operation of a restaurant. LJL Food Management, Inc. d/b/a Cher's Café is the only respondent. On May 21, 2002 (R2002-0289), the Board approved the initial Governmental Center Lease Agreement with LJL Food Management, Inc. for a period of five (5) years with one (1) five (5) year option extending the term until August 31, 2011. In September 2005, LJL Food Management, Inc. changed ownership through private sale of the business and the trade name is changed to Tina's Café. The consent to the assignment of the lease was approved on October 1, 2005 (R-2005-2020).

This First Amendment allows Tina's Café to increase the size of their restaurant by 1,050 square feet by expanding into the suite formerly occupied by Channel 20. The annual rent will be increased based on the increase in square footage times the existing per square foot rental rate. The increased rent will commence upon issuance of a certificate of occupancy for the additional space or sixty (60) days after approval of this First Amendment, whichever occurs first. All costs associated with renovations of the additional space will be borne by Tina's Café.

Channel 20 will have to move their furniture and equipment to their studio and their space within the historic Courthouse. Move costs are estimated to be \$2,000-\$3,000. In addition, the data connection hub, alarm system and phone hub for the studio is located within this space and will have to be relocated to the studio at an estimated cost of \$2,000-\$3,000. These expenses were not included in Channel 20's budget. As the County uses outside vendors for all this work, a funding source is required. Staff believes that as these costs would not have been incurred but for Tina's Café's need for the space, these costs should be borne by Tina's Café. There are insufficient funds within Channel 20's budget to cover these costs. Therefore, if the Board desires to cover these costs, Staff would recommend a budget transfer from General Fund Contingency.

From: Tula [daybyday0327@aol.com]
Sent: Tuesday, December 23, 2008 1:44 PM
To: Eleni Bikos
December 23, 2008

Tina's Café

RE: Annual Rent Increase

To whom it may concern:

We are requesting that based on the weak financial and economic situation of Tina's Café that our rent be reduced to 12.50 sq ft at an annual increase of 2.5% based on 2556 sq ft. We are prepared and excited about taking on the new expansion of Tina's Café but at the same time we need to be prepared for the additional costs that come along with a growing business.

We want to continue to offer the quality of food and service to our valued customers, at our current menu price and would not want to jeopardize their patronage. As you know most of our customers are county and city employees living off a government salary and living off a tight budget themselves.

As of date, our initial investment between purchase price, upgrades and improvements is approximately \$140,000. In the three years that we have owned Tina's Café we have been struggling to pay our current bills, taxes, food and beverage vendors along with maintenance. Our goal as any business owners is to be able to bring home a weekly paycheck as anyone that devotes twelve hours day per day into a business should be able to.

With the new proposed expansion of Tina's Café, we will be able to create a new scene to our city and county employees by adding the all you can eat soup and salad bar, and provide additional seating to accommodate the mass influx of people that are pressed for time during the work day, lunch time being out busiest time.

We anticipate the build out and refurbishment for the additional 1,050 sq ft of space to be approximately \$30,000. That on top of our initial investment will bring us to \$170,000. A typical return on investment in the restaurant business should be 10% or about \$17,000 a year on top of wages. Based on the financial statements you receive annually you can see that we have not been able to achieve it as of yet.

We thank you in advance for your time and consideration and look forward to reaching a mutual agreement.

Sincerely Yours

Petro Bikos
Katina Bikos
Owner's Tina's Cafe

Listen to 350+ music, sports, & news radio stations – including songs for the holidays – FREE while you browse. [Start Listening Now!](#)

ATT.#5