



**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures					
Operating Costs	<u>308,945.85</u>	<u>411,927.80</u>	<u>453,871.04</u>	<u>453,871.04</u>	<u>453,871.04</u>
External Revenues					
Program Income (County)					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>	<u>308,945</u>	<u>411,927</u>	<u>453,871</u>	<u>453,871</u>	<u>453,871</u>
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes  No

Budget Account No: Fund 0001 Dept 164 Unit 1604 Object 4410  
 Program \_\_\_\_\_


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

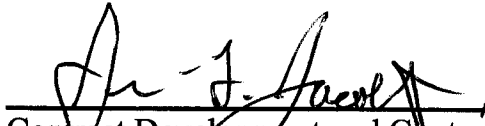
Operating Costs represent rent paid by FDO to DOA for 51,200 SF of Building 1169. External Revenues represents pass-through rent paid by SOE to FDO for 23,570 SF of Building 1169, and then forwarded to DOA. Net Fiscal Impact amounts and Budget Account No. are from General Fund's PBSO Related Lease Expense account as PBSO occupies a portion of Building 1169.

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

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

  
 OFMB  
 (NO) 11/21/09 CN 11/15/09

  
 Contract Development and Control 1/26/09

**This amendment complies with our review requirements.**

**B. Legal Sufficiency:**

  
 Assistant County Attorney 1/28/09

**C. Other Department Review:**

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

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

T43

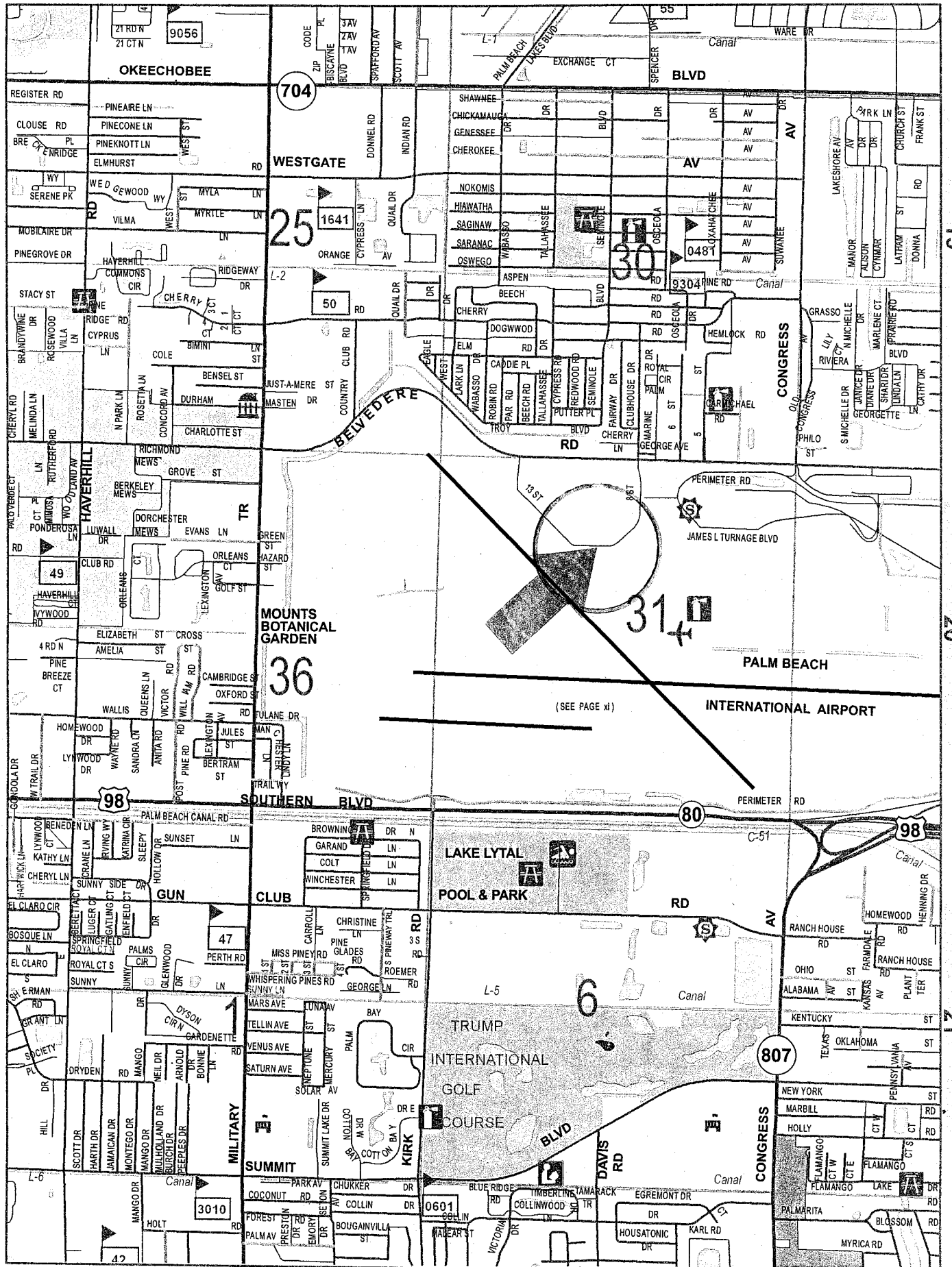
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T44

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# LOCATION MAP

ATT.#1

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## SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING

**THIS SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING** (this "Second Amendment") is made and entered into \_\_\_\_\_, 20\_\_\_\_, by and between the Palm Beach County Department of Airports, an administrative department of Palm Beach County ("DOA"), and the Palm Beach County Facilities Development and Operations Department an administrative department of Palm Beach County ("FD&O"), and approved by the Palm Beach County Board of County Commissioners (the "Board").

### WITNESSETH:

**WHEREAS**, FD&O uses and occupies the Premises as defined in the Memorandum of Understanding with DOA dated December 21, 2004, (R2004-2589) as amended by that certain First Amendment to Internal Memorandum of Understanding dated August 21, 2007, (R2007-1321) (the "MOU"), which includes portions of Building 1169; and

**WHEREAS**, the term of the MOU expired on December 31, 2008; and

**WHEREAS**, DOA and FD&O desire to reinstate the MOU and amend it further to extend the term of the MOU for a period of five (5) years; and

**WHEREAS**, DOA and FD&O acknowledge and agree that during the period from December 31, 2008, until the Effective Date of this Second Amendment, the parties were and are bound by the terms of the MOU.

**NOW, THEREFORE**, in consideration of the premises and 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:

1. The recitals set forth above are true and correct and incorporated herein by this reference. Terms not defined herein shall have the meaning ascribed to them in the MOU.
2. The MOU is modified to clarify that "Premises" does not include the second floor of Building 1169.
3. Section 1 of the MOU is deleted in its entirety and replaced with the following:
  1. EFFECTIVE DATE AND TERM. FD&O shall have the right to the exclusive use and occupancy of the Premises pursuant to the terms of this MOU commencing on October 1, 2004 and terminating on December 31, 2013.

4. All other terms and conditions of the MOU shall remain unmodified and in full force and effect and DOA and FD&O hereby ratify, confirm and adopt the MOU as amended hereby.
5. This Second Amendment shall become effective when signed by all parties and approved by the Board.

**IN WITNESS WHEREOF**, the parties hereto have caused this Second Amendment to be approved by the Palm Beach County Board of County Commissioners on the day and year above written.

**ATTEST:**  
**SHARON R. BOCK,**  
**CLERK AND COMPTROLLER**

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

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

By: \_\_\_\_\_  
John F. Koons, Chairman

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS  
AND CONDITIONS**

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

By: *Rett Anthony Wolf*  
Director, Facilities Dev. & Operations

By: *John Selig*  
Director, Department of Airports

R2004-2589

**MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** (this "MOU") is made and entered into by and between the Palm Beach County Department of Airports, an administrative department of Palm Beach County ("DOA"), and the Palm Beach County Facilities Development and Operations Department, an administrative department of Palm Beach County ("FD&O"), and approved by the Palm Beach County Board of County Commissioners (the "Board") this \_\_\_\_\_ day of DEC 21 2004, 200\_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, Palm Beach County (the "County"), by and through DOA, owns and operates Palm Beach International Airport, located in Palm Beach County, Florida (the "Airport"); and

**WHEREAS**, FD&O's administrative offices were damaged by Hurricanes Frances and Jeanne rendering the facilities unusable; and

**WHEREAS**, new facilities are in the process of being constructed to permanently house FD&O's administrative offices; and

**WHEREAS**, DOA has certain ground areas at the Airport, which are available for development and leasing on the Airport; and

**WHEREAS**, this MOU is intended to formalize the understanding between DOA and FD&O regarding the short-term use of Building 1169 and associated paved automobile parking and ground areas, which are more particularly described in the attached Exhibit "A" (the "Premises"), for administrative offices; and

**WHEREAS**, FD&O provides the Airport with administrative support and assistance, which constitutes an airport-related use of the Premises; and

**WHEREAS**, the Premises to be used by FD&O are part of Palm Beach County's Airport System, as defined in the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented (the "Bond Resolution"), and is subject to certain federal grant requirements; and

**WHEREAS**, Section 722 of the Bond Resolution and the County's federal grant requirements obligate the DOA to charge FD&O the same rates, fees and charges that would be applicable to other Airport tenants for use of Airport facilities; and

**WHEREAS**, this MOU is intended to ensure that the County's Bond Resolution and federal grant requirements are satisfied.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants

herein contained, the parties hereto agree to the following terms and conditions:

1. **EFFECTIVE DATE AND TERM.** This MOU shall be considered effective \_\_\_\_\_, 2004. FD&O shall have the right to the exclusive use and occupancy of the Premises pursuant to the terms of this MOU commencing on October 1, 2004 and terminating on September 30, 2007. The term of this MOU may be extended by agreement of the Director of DOA and the Director of FD&O on a month-to-month basis thereafter.

2. **USES.** FD&O shall have the right to improve, operate and maintain the Premises as administrative offices.

3. **RENTAL.** The FD&O acknowledges that the Premises is considered part of Palm Beach County's Airport System, as defined in the Bond Resolution and that Section 722 of the Bond Resolution requires DOA to charge FD&O the same rates, fees and charges that would be applicable to other airport users for use of airport facilities. FD&O further acknowledges DOA is obligated to charge fair market rental for the use and occupancy of the Premises based on its acceptance of state and/or federal grant funding. Annual rental for the use and occupancy of the Premises by FD&O for the term of this MOU shall be as follows:

(A) **Ground Rental.** For that portion of the Premises identified on Exhibit "A" as Automobile Parking, containing approximately 109,132 square feet of ground, the initial annual ground rental to be paid/ transferred to DOA by FD&O shall be \$0.65 per square foot, or \$70,935.80 annually, payable in equal monthly installments.

(B) **Building Rental.** The initial annual building rental to be paid/transferred to DOA by FD&O for the use and occupancy of Building 1169, as more particularly identified on Exhibit "A", containing approximately 51,200 square feet shall be \$6.00 per square foot, or \$307,200.00 annually, payable in equal monthly installments.

(C) **Adjustment of Rentals.**

(1) On October 1, 2007, and each three (3) year anniversary thereof (the "Adjustment Date"), the rental rates provided for in this MOU shall be adjusted and new rental rates, which shall be determined as hereinafter set forth, shall apply to the Premises. Within ninety (90) days prior to each Adjustment Date, DOA shall select a qualified M.A.I. Appraiser who shall reappraise the Premises and determine the fair market rental value for the Premises at DOA's expense. DOA shall submit to FD&O a written statement of the then current fair market

rental value for the Premises as established by the appraisal and annual rental rates shall be adjusted to equal the value so determined by the appraisal, and shall be payable, in equal monthly installments, in advance, without demand, commencing on the Adjustment Date. In no case shall the adjusted annual rental rates be less than the annual rental rates first established in this MOU. When new rental rates are approved and established by the Board of County Commissioners of Palm Beach County, Florida, this MOU shall automatically be considered as amended, without formal amendment hereto, upon written notification by DOA to FD&O of the establishment of the rental rates applicable to the Premises.

- (2) Notwithstanding the foregoing, the rentals payable by FD&O for the Premises as set forth in Paragraph 3 (A) and (B) shall not exceed an amount that would be obtained by multiplying the rentals established as of October 1, 2004 by a fraction, the numerator of which shall be the "Consumer Price Index" (as hereinafter defined) figure for May of the calendar year in which such adjustment is to become effective and the denominator of which shall be the Consumer Price Index figure for April of the calendar year in which this MOU became effective.
- (3) For the purposes hereof, the Consumer Price Index shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers, United States city average, all items (1982 - 1984 = 100) or any successor thereto as promulgated by the Bureau of Labor Statistics of the United States Department of Labor. In the event that the Consumer Price Index ceases to use the 1982 - 1984 average of one hundred (100) as the basis of calculation, or if a substantial change is made in terms of particular items contained in the Consumer Price Index, then the Consumer Price Index shall be adjusted to the figure that would have been arrived at had the change in the manner of computing the Consumer Price Index in effect at the commencement of the term of this MOU not been effected. In the event the Consumer Price Index (or successor or substitute Consumer Price Index) is not available, a reliable governmental or other nonpartisan publication evaluating information theretofore used in determining the Consumer Price Index shall be used.
- (4) Notwithstanding anything to the contrary contained in this MOU,



FD&O acknowledges and agrees that DOA shall have the right to establish and maintain the rental rates hereunder to ensure compliance with the provisions of Section 710 (rate covenant) of the Bond Resolution.

- (D) In the event the DOA or FD&O desires to increase or decrease the square footage of the Premises, the parties may enter into an amendment to this MOU, which shall provide for: (i) the increase or decrease in the square footage of the ground and/or building area; (ii) replacement of Exhibit "A"; and (iii) an increase or decrease of annual rental payable by FD&O pursuant to Paragraph 3. Any amendment entered into pursuant to this paragraph may be executed by the Director of the DOA and the Director of FD&O.

4. FD&O Rental Credit for Improvements. FD&O shall be entitled to rental credit for costs to be incurred by FD&O for the construction of certain improvements to bring the Premises up to tenant-ready condition, which costs are specified on Exhibit "B" (the "Improvements") and are subject to limitations contained in this paragraph. Rental credit shall be applied in the manner mutually agreed to by the Director of DOA and Director of FD&O. The cost of the Improvements credited towards Rental Credit shall not exceed a total amount of One Million Dollars (\$1,000,000.00) ("Rental Credit").

- (A) Capital expenditure costs for Improvements that may be attributed to the Rental Credit shall include all costs paid for work performed, services rendered and materials furnished for the construction of the Improvements on the Premises, subject to the following terms, conditions and limitations:
- (1) The cost of design, construction and acquisition of the Improvements; bonds; construction insurance; and building, impact and concurrency fees may be attributed to the Rental Credit.
  - (2) No more than ten (10%) percent of payments made by FD&O to independent contractors for engineering and architectural design work may be attributed to the Rental Credit.
  - (3) Only true third party costs and payments made by FD&O may be attributed to the Rental Credit.
  - (4) Costs for consultants (other than engineering and design consultants, as provided above), legal fees and accountant fees shall not be attributed to the Rental Credit.
  - (5) Finance and interest expenses shall not be attributed to the

**Rental Credit.**

- (6) Administrative, supervisory and overhead or internal costs of FD&O shall not be included in the Rental Credit.
  - (7) Costs associated with acquisition or installation of personalty, such as furnishings, trade fixtures and equipment, that is not permanently affixed to the Premises, or any other personalty whatsoever, shall not be included in the Rental Credit.
  - (8) Costs of interior decorations, special finishes, wall tile or other special wall finishes and coverings; construction photographs; special external and internal lighting; and signage shall not be in the Rental Credit unless FD&O has obtained written approval from the Director of DOA prior to incurring such costs.
  - (9) Costs associated with repairs, alterations, modifications, renovations or maintenance of any improvements on the Premises (including, but not limited to, improvements existing on the Premises as of the Effective Date and improvements subsequently constructed on the Premises) shall not be included in the Rental Credit unless FD&O has obtained written approval from Director of DOA prior to incurring such costs.
  - (10) Any costs associated with any improvements other than the Improvements shall not be included in the Rental Credit unless FD&O has obtained written approval from the Director of DOA prior to incurring such costs.
- (B) Prior to commencement of any of the Improvements, FD&O shall submit plans to DOA for review and approval.
- (C) Upon completion of the Improvements or January 15, 2005, whichever occurs first, FD&O shall submit to DOA a statement of the actual Improvement costs, certified by the Director of FD&O, (the "Statement of Costs") which shall provide sufficient evidence that cost for the Improvements were constructed in accordance with the plans and specifications submitted to DOA by FD&O. The total amount of Rental Credit that FD&O shall be entitled to shall be finally determined based on the Statement of Costs. If the Statement of Costs indicates that the total amount of Rental Credit applied is greater than the actual Improvement costs incurred, FD&O acknowledges and agrees that it shall be obligated to pay/transfer the difference to DOA.

(D) Notwithstanding any provision of this MOU to the contrary, FD&O shall be required to replace the roof on Building 1169, which costs may be included in the Rental Credit.

5. CONDITION OF THE PREMISES, MAINTENANCE AND REPAIR. FD&O accepts the Premises in its "As Is" condition. The DOA shall not be required to perform any maintenance or repair to the Premises throughout the term of this MOU.

6. CLEANLINESS. The Premises shall be maintained in a neat, clean and presentable condition.

7. UTILITIES. DOA shall not be responsible for payment of any utilities for the Premises.

8. IMPROVEMENTS. DOA shall not be required to make any improvements to the Premises. FD&O will not construct any improvements to the Premises without the prior consent of the Director of DOA or his designee, which shall not be unreasonably withheld.

9. LEASING OF PREMISES. FD&O and DOA acknowledge that this MOU is an interdepartmental agreement regarding the use and occupancy of the Premises by FD&O. DOA agrees that FD&O may negotiate the lease of the Premises, or any portion thereof, on behalf of County, with other governmental entities and agencies; provided that any such lease is (i) consistent with the terms and conditions of this MOU; (ii) in compliance with the County's obligations under the Bond Resolution; (iii) in compliance with the County's federal and/or state grant requirements; and (iv) in compliance with deed restrictions applicable to the Premises. FD&O acknowledges and agrees any such lease shall be subject to final approval of DOA and the Board and shall include any terms and conditions requested by DOA to satisfy the foregoing requirements. Any lease negotiated by FD&O relating to the Premises shall include those provisions set forth in Exhibit "C", attached hereto and incorporated herein.

10. MODIFICATION OF MOU. FD&O acknowledges that this MOU is subject to review by the Federal Aviation Administration ("FAA") and that the FAA may require modifications to this MOU to ensure compliance with federal law and/or the County's grant assurance requirements.

11. TERMINATION. This MOU may be terminated by either DOA or FD&O with thirty (30) days written notice to the other department, or sooner upon the written approval or direction of the County Administrator.

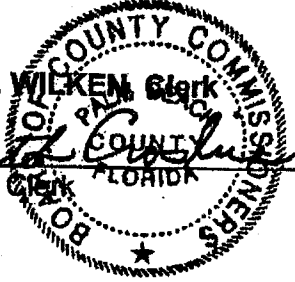
12. DISPUTE RESOLUTION. Any disputes arising hereunder between the DOA and the FD&O shall be resolved by the County Administrator.

IN WITNESS WHEREOF, the parties have caused this MOU to be approved by the Palm Beach County Board of County Commissioners on the date first written above.

ATTEST:

PALM BEACH COUNTY, a political subdivision of the State of Florida by its Board of County Commissioners

DOROTHY H. WILKEN, Clerk  
By: *Judith C. [Signature]*  
Deputy Clerk  
(SEAL)



By: *[Signature]*  
Tony Masilotti, Chairman

APPROVED AS TO TERMS AND CONDITIONS:

R2004-2589  
DEC 21 2004

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

By: *[Signature]*  
Director, Department of Facilities Development and Operations

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: *[Signature]*  
County Attorney

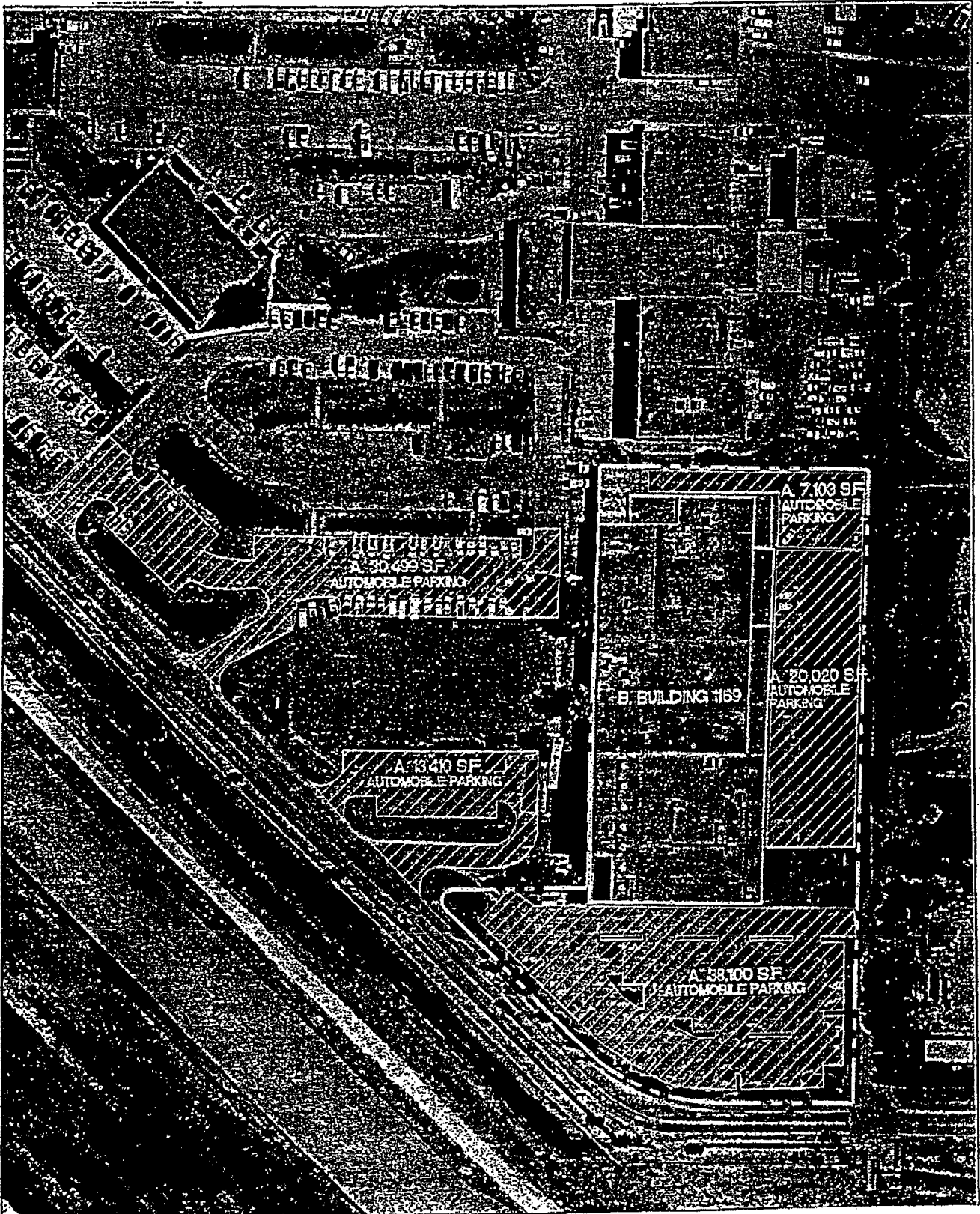
# EXHIBIT A

## PREMISES DESCRIPTION

Premises:

- A. Automobile Parking
- B. Building 1169

109,132 SF.  
51,200 SF.



**EXHIBIT B**  
**Rent Credits**  
**for Sky Chef Bldg**

Item	FD&O	PBSQ	Total FDO	Rent Credit	Excluded
	23,562 sf	-12,000sf	+ PBSQ		
1 Demolition	\$16,300	\$28,260	\$44,560		\$44,560
2 Concrete	\$3,500	\$3,500	\$7,000	\$7,000	
3 Cabinets/Vanities	\$8,490	\$8,500	\$16,990	\$16,990	
4 Finish Carpentry	\$4,200	\$4,500	\$8,700	\$8,700	
5 H.M. Doors/Frames	\$3,600	\$2,000	\$5,600	\$5,600	
6 Wood Doors/Frames	\$3,600	\$2,000	\$5,600	\$5,600	
7 Finish Hardware	\$3,600	\$2,000	\$5,600	\$5,600	
8 Glass/Glazing	\$1,680	\$1,500	\$3,180	\$3,180	
9 Drywall	\$41,784	\$20,000	\$61,784	\$61,784	
10 Acoustical Ceiling	\$16,432	\$20,000	\$36,432	\$36,432	
11a Floor repair	\$34,426	\$35,000	\$69,426	\$69,426	
11b VCT	\$1,512	\$2,000	\$3,512	\$3,512	
12 Painting	\$16,450	\$15,000	\$31,450		\$31,450
13 Fire Extinguishers	\$2,499	\$2,500	\$4,999	\$4,999	
14 Toilet Partitions	\$3,660	\$2,500	\$6,160	\$6,160	
15 Signs	\$500	\$200	\$700		\$700
16 Toilet Accessories	\$3,188	\$3,200	\$6,388		\$6,388
17 Plumbing	\$50,175	\$10,000	\$60,175	\$60,175	
18 Fire Sprinklers	\$8,500	\$5,000	\$13,500	\$13,500	
19 HVAC	\$152,412	\$50,000	\$202,412	\$202,412	
20a Electrical	\$115,568	\$50,000	\$165,568	\$165,568	
20b Electrical	\$17,432	\$15,000	\$32,432		\$32,432
21 Allowances	\$20,000	\$20,000	\$40,000	\$40,000	
22 Roof Replacement	\$265,000	\$135,000	\$400,000	\$265,000	
<b>Hard costs Subtotal</b>	<b>\$794,508</b>	<b>\$437,660</b>	<b>\$1,232,168</b>	<b>\$981,638</b>	<b>\$115,530</b>
23 General Conditions	\$53,917	\$50,000	\$103,917		
24 Insurance and Bonds	\$9,000	\$9,000	\$18,000		
25 OH&P	\$59,243	\$40,000	\$99,243		
26 <b>Total "soft costs"</b>	<b>\$122,160</b>	<b>\$99,000</b>	<b>\$221,160</b>	<b>\$123,217</b>	<b>\$97,943</b>
27 Consultant Design Costs	\$60,475	\$50,000	\$110,475		\$110,475
<b>TOTAL</b>	<b>\$977,143</b>	<b>\$586,660</b>	<b>\$1,563,803</b>	<b>\$1,104,855</b>	<b>\$323,948</b>

Notes:

- 1 - Demo of acoustical tiles, coolers, hoods, sinks, interior fencing
- 2 - Demo of concrete for restrooms
- 3 - Cabinets and vanities for restrooms and breakroom
- 4,5,6,7 - Doors and hardware for interior offices and other rooms
- 8 - Mirrors for restrooms
- 9 - Interior Offices & Separation wall
- 10 - New layin ceiling tile to replace existing tiles
- 11b - VCT for restroom and breakroom
- 12 - Painting of existing interior walls and new office walls
- 14 - Restrooms
- 15 - Interior directional signage
- 16 - Soap dispensers, paper towel dispensers, etc for restrooms
- 17 - Water, wastewater, vent piping and fixtures for restrooms and breakroom
- 18 - Additional sprinklers for new offices; repair of existing system
- 19 - 4 new 15 ton split systems to replace unusable existing system; cleaning of existing ductwork
- 20a - Rework of existing electrical as necessary for AC system; remove existing light fixtures and replace with new; fire alarm
- 20b - Electrical service drops to systems furniture;
- 21 - Allowances for exterior doors, railings, handicapp access, and exterior signage
- 26 - Rent credit = 10% of hard costs

**EXHIBIT "C"**  
**LEASE TERMS**

1. Subordination to Bond Resolution. This Lease and all rights granted to Tenant hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Palm Beach County Airport System Bond Resolution dated April 3, 1984 (Resolution No. 84-427), as amended and supplemented. County and Tenant 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 FD&O and County with the terms and provisions of this Lease and Bond Resolution.
2. Subordination to Federal Agreements. This Lease shall be subject and subordinate to all the terms and conditions of any instrument and documents under which County acquired the land or improvements thereon, of which the Premises are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Tenant understands and agrees that this shall be subordinate to the provisions of any existing or future agreement between County and the United States of America, or any of its 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.
3. Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Premises are located, for public purposes for a period in excess of ninety (90) days, either party may terminate this Lease by providing written notice of such termination to the other party and the parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This paragraph shall not act or be construed as a waiver of any rights Tenant may have against the United States as a result of such taking.
4. Federal Review. Tenant acknowledges this Lease may be subject to review or inspection by the Federal Aviation Administration ("FAA") to determine satisfactory compliance with federal law or grant assurances and agrees that this Lease shall be in full force and effect and binding upon both parties pending such review or inspection by the FAA, if applicable; provided, however, that upon such review or inspection all parties hereto agree to modify any of the terms of this Lease which shall be determined by the FAA to be in violation of existing laws, regulations, grant assurances or other requirements.
5. Height Restriction. Tenant expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such a height so as to comply with Title 14, Part 77 of the Code of

Federal Regulations, as now or hereafter amended.

6. **Right of Flight.** County reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft now known or hereafter used, for navigation of or flight in the said airspace for landing on, taking off from, or operating on the Airport.
7. **Operation of Airport.** Tenant expressly agrees to prevent any use of the Premises which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute an Airport hazard.
8. **Release.** Tenant acknowledges that noise and vibration are inherent to the operation of Airport and hereby releases County from any and all liability relating to the same.
9. **Exclusive Rights.** Notwithstanding any provision of this Lease to the contrary, Tenant understands and agrees that the rights granted under this Lease are nonexclusive and that County may grant similar privileges to another operator or other operators on the Airport.
10. **Non-discrimination.** Tenant for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (a) 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 Premises, (b) in the construction of any improvements on, over, or under such Premises 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) Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Part 21 of Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, as now or hereafter amended. 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 said Premises and the facilities hereon, and hold the same as if said Lease had never been made or issued. This cancellation provision shall not be effective until the procedures of Title 49, Part 21 of the Code of Federal Regulations are followed and completed including exercise or expiration of appeal rights.
11. **Disadvantaged Business Enterprises/Affirmative Action.** Tenant acknowledges that the provisions of 49 CFR, Part 23, Disadvantaged Business Enterprises (DBE), and 14



CFR Part 152, Affirmative Action Employment Programs may be applicable to the activities of Tenant under the terms of this Lease, unless exempted by said regulations, and hereby agrees to comply with all requirements of Department, the Federal Aviation Administration and the U.S. Department of Transportation, in reference thereto. These requirements include, but are not limited to, the compliance with DBE and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports, and including, if directed by Department, the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises. Failure to comply with these requirements may be grounds for default and cancellation of this Lease. Any cancellation pursuant to this paragraph shall not be effective until the procedures specified in said federal regulations or established by County are completed, including exercise or expiration of any appeal rights.

R2007. 1321

FIRST AMENDMENT TO INTERNAL MEMORANDUM OF UNDERSTANDING

THIS FIRST AMENDMENT (this "Amendment") is made and entered into AUG 21 2007, by and between Palm Beach County Department of Airports, an administrative department of Palm Beach County (the "Department"), and the Palm Beach County Facilities Development and Operations Department, an administrative department of Palm Beach County (the "FD&O"), and approved by the Palm Beach County Board of County Commissioners (the "Board").

WITNESSETH:

WHEREAS, the FD&O uses and occupies Building 1169 and associated paved automobile parking and ground areas (the "Premises") through an Internal Memorandum of Understanding with the Department of Airports (R2004-2589), dated December 21, 2004 (the "MOU"); and

WHEREAS, the term of the MOU is set to expire on September 30, 2007; and

WHEREAS, FD&O desires to extend its use of the Premises until December 31, 2008; and

WHEREAS, the Department is willing to extend the term of the MOU.

NOW, THEREFORE, in consideration of the mutual terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The term of the MOU, which expires on September 30, 2007, shall be extended to December 31, 2008.
2. All other terms of the MOU remain unmodified and in full force and effect and the Department and FD&O hereby ratify, confirm; and adopt the MOU as amended hereby.
3. This Amendment shall be effective when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

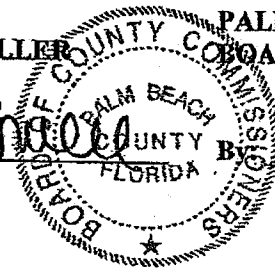
IN WITNESS WHEREOF, the parties have caused this Amendment to be approved by the Palm Beach County Board of County Commissioners on the day and year above written.

ATTEST:

SHARON R. BOCK,  
CLERK & COMPTROLLER

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

By: Sharon R. Bock  
Deputy Clerk



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

Amendment  
07/02/07

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By: *James Butler*  
Assistant County Attorney

**APPROVED AS TO TERMS  
AND CONDITIONS**

By: \_\_\_\_\_  
Director Facilities Dev & Operations

By: *Sam Kelly*  
Director, Department of Airports

Amendment  
07/02/07

# BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 1/12/2009

REQUESTED BY: Steven K. Schlamp  
Property Specialist/FD&O-PREM

PHONE: 233-0239

FAX: 233-0210

PROJECT TITLE: Second Amendment to MOU (Bldg 1169)  
and First Amendment to Use Agreement (Bldg 1169)

PROJECT NO.: 2008-5.036

ORIGINAL CONTRACT AMOUNT: (see below)

BCC RESOLUTION#:

REQUESTED AMOUNT: \$167,963.85

DATE:

CSA or CHANGE ORDER NUMBER: n/a

CONSULTANT/CONTRACTOR: n/a

PROVIDE A BRIEF STATEMENT OF THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTANT/CONTRACTOR: Building 1169 is under the control of Airports. FD&O leases the first floor via an MOU and the Second Amendment provides for a 5-year term extension from 1/1/2009 – 12/31/2013. The first floor is then leased from FD&O to both PBSO and Supervisor of Elections (SOE). SOE entered into a Use Agreement with FD&O and the First Amendment provides for a 5-year term extension from 1/1/2009 – 12/31/2013. SOE remits rent per the Use Agreement to FD&O and FD&O forwards it to Airports. The balance due to Airports (PBSO's rent) is paid by FD&O through the General Fund's PBSO Related Lease Expense account. PBSO's portion is 27,630 SF of building and 61,440 SF of ground. For the 3-year period of 10/1/2007 – 9/30/2010, building rent is \$6.66/SF and ground rent is \$0.65/SF. Rent up to and including 12/31/2008 has been accounted for. This BAS is for the remaining nine (9) months of FY09 (January – September).

- FY09 (1/1/2009 – 9/30/2009 = 9 months) = \$167,963.85

\*\* By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.

## BUDGET ACCOUNT NUMBER

FUND: 0001

DEPT: 164

UNIT: 1604

OBJ: 4410

SUB OBJ:

## IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)

- Ad Valorem (source/type: \_\_\_\_\_)  
 Non-Ad Valorem (source/type: \_\_\_\_\_)  
 Grant (source/type: \_\_\_\_\_)  
 Park Improvement Fund (source/type: \_\_\_\_\_)  
 General Fund  
 Operating Budget  
 Federal/Davis Bacon

Department: FD&O

BAS APPROVED BY: 

DATE: 1-12-09

ENCUMBRANCE NUMBER:

G:\Property Mgmt Section\Out Lease\FD&OBldg1169\Amendment NO 2\BASforPBSO.011209.doc