

3H-9

Agenda Item #:

PALM BEACH COUNTY
 BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: **March 17, 2009** Consent Regular
 Ordinance Public Hearing

Department: **Facilities Development & Operations**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a First Amendment to Lease Agreement (R99-570D) with the Town of Jupiter (Town) for the Town's continued use of 1.5± acres for its Pine Garden Park, at an annual rate of \$1.00.

Summary: Since 1999, the Town has leased 1.5± acres from the County for its Pine Garden Park. This neighborhood park is located adjacent to the County's Jupiter Branch Library at 705 Military Trail. The Lease Agreement will expire April 5, 2009. This First Amendment: (i) extends the term for one (1) year and provides for automatic annual renewals thereafter, unless canceled by either party upon six (6) months prior written notice; (ii) amends Section 4 to include a non-discrimination clause; and (iii) updates the Notice provisions. The annual rental rate will continue to be \$1/year. The Town is fully responsible for the operation and maintenance of the Park. All other terms and conditions of the Lease remain unmodified. (PREM) District 1 (JMB)

Background and Justification: On April 6, 1999, the Board approved a ten (10) year Lease Agreement with the Town of Jupiter. The Lease permitted the Town of Jupiter to develop a neighborhood park with playground and recreational amenities. The Lease expires April 5, 2009, and the Town has requested an extension. Library has no plans for expansion in the foreseeable future.

Attachments:

1. Location Map
2. Letter from the Town dated October 6, 2008
3. First Amendment to Lease Agreement
4. Budget Availability Statement

Recommended By: *Reff* *Anthony Wolf* 2/20/09
 Department Director Date

Approved By: *[Signature]* 3/5/09
 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	(\$1.00)	(\$1.00)	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$1.00)</u>	<u>(\$1.00)</u>	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes X No _____

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

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

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

Jim Dink 3-3-09
 OFMB
 (Handwritten initials and date 3/2/09)

Ar J. Jacob 3/4/09
 Contract Development and Control
 E Jones 3/4/09

This amendment complies with our review requirements.

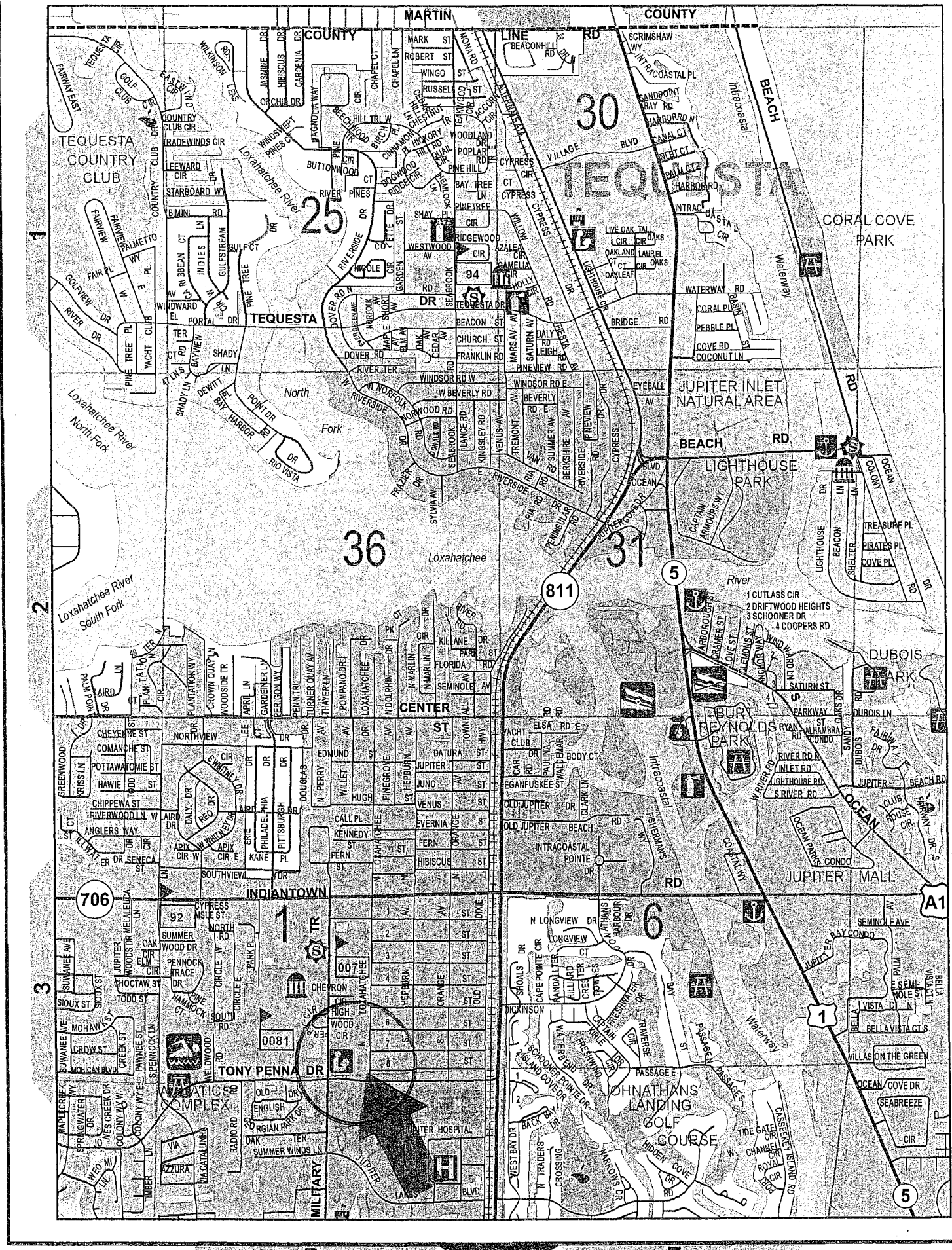
B. Legal Sufficiency:

James Brub 3/5/09
 Assistant County Attorney

C. Other Department Review:

[Signature]
 Department Director

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

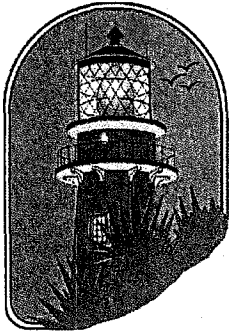


ATTACHMENT #1

LOCATION MAP

Handwritten signature and date:

11/1/11



Town of Jupiter

Department of Parks and Recreation

RECEIVED

OCT 09 2008

October 6, 2008

Mr. Ross Hering, Director
Palm Beach County, PREM
2633 Vista Parkway
West Palm Beach, FL 33411

Reference: Pine Gardens Park
705 Military Trail, Jupiter, Florida
LEASE RENEWAL REQUEST

Dear Mr. Hering:

Please consider this correspondence as the Town's official request to renew the Pine Gardens Park property lease agreement.

I understand that the renewal will include an amendment to the agreement which provides for an extension on the term for one year with automatic renewals. I also understand that the termination and lease area reduction provisions in the original agreement will remain unchanged and in effect.

Your consideration and assistance through this process is appreciated.

Very truly yours,

Russell Ruskay, Director
Department of Parks and Recreation

cc: Sally Boylan, Town Clerk, Town of Jupiter
Richard Bogatin, Property Management Manager, PBC PREM

210 Military Trail • Jupiter, Florida 33458 • Phone (561) 741-2400 • Fax (561) 745-2559

ATTACHMENT # 2

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (R99-570D) (the "First Amendment"), made and entered into _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "Landlord", and **THE TOWN OF JUPITER, FLORIDA**, a municipal corporation of the State of Florida, hereinafter referred to as "Tenant".

WITNESSETH:

WHEREAS, Landlord and Tenant entered into a certain Lease Agreement dated April 6, 1999 (R99-570D), (the "Lease"); and

WHEREAS, Landlord and Tenant desire to extend the Term of the Agreement.

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

1. The above recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Lease.

2. **Section 1.02 Length of Term and Commencement Date** is hereby modified as follows: (i) the Term of this Lease is extended for a period of one (1) year, commencing on April 6, 2009, and expiring on April 5, 2010, and shall automatically be extended on a year-to-year basis (April 6 through April 5), unless sooner terminated pursuant to the provisions of the Lease; and (ii) the following sentence is deleted:

"Notwithstanding the foregoing, Landlord shall have the right to terminate this lease upon one (1) year prior written notice to Tenant."

3. **Section 4.04 Non-Discrimination** is hereby modified to include a prohibition against discrimination on the basis of gender expression or identity.

4. Article X is hereby modified to delete the heading "**Section 10.01 Event of Default.**"

5. Article X is hereby modified to delete "Agreement" and replace it with "Lease" in the first sentence.

6. **Section 12.02 Notices** is hereby deleted in its entirety and replaced with the following:

Section 12.02 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 national overnight delivery service, telecopied or faxed, 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 national overnight delivery service, 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:

Landlord:
Palm Beach County
Property & Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, Florida 33411-5605
Fax: 561-233-0210

With a copy to:
County Attorney's Office
Attn: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401-4791
Fax: 561-355-4398

Tenant:
Town of Jupiter
Attention: Town Manager
210 Military Trail
Jupiter, Florida 33458
Fax: 561-575-9730

With a copy to:
Town of Jupiter
Attention: Director, Department of Parks & Recreation
210 Military Trail
Jupiter, Florida 33458
Fax: 561-745-2559

Any 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 parties.

7. Except as modified by this First Amendment, the Lease remains unmodified and in full force and effect, and the parties hereby ratify, confirm, and adopt the Lease, as amended, in accordance with the terms thereof.

8. 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, Landlord and Tenant have executed this First Amendment, or have caused the same to be executed by their duly authorized representatives, as of the day and year first above written.

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

Landlord:
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
AND CONDITIONS

By: _____
Assistant County Attorney

By: *Rett Audrey Wolf*
Audrey Wolf, Director
Facilities Development & Operations

WITNESS:

Tenant:
THE TOWN OF JUPITER,
FLORIDA, a municipal corporation of
the State of Florida

Stacey A. Rivera
Witness Signature

By: *Karen J. Golonka*
Karen J. Golonka, Mayor

Stacey Rivera
Print Witness Name

Summer Magun
Witness Signature



ATTEST:
By: *Julie M. Boylan*
Julie M. Boylan, CMC, Town Clerk

Summer Magun
Print Witness Name

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY
By: *Thomas J. Baird*
Thomas J. Baird, Town Attorney

BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 1/26/2009

REQUESTED BY: Steven K. Schlamp PHONE: 233-0239
Property Specialist FAX: 233-0210

PROJECT TITLE: Jupiter Branch Library, Amendment 1

PROJECT NO.: 2008-5.032

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(1.00)	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(1.00)	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

*** 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

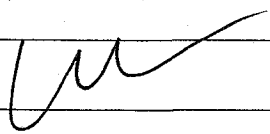
FUND: 0001 DEPT: 410 UNIT: 4240 OBJ: 6225
SUB OBJ:

IS ITEM INCLUDED IN CURRENT BUDGET: YES NO

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: 1.26.09

ENCUMBRANCE NUMBER:

CERTIFICATE OF COVERAGE

ISSUED ON: 12/17/2008

COVERAGE PROVIDED BY: **PREFERRED GOVERNMENTAL INSURANCE TRUST**

PACKAGE AGREEMENT NUMBER: PKMFL1 0502011 08-07

COVERAGE PERIOD: 7/1/2008 TO 10/1/2009 12:01 AM

COVERAGES: This is to certify that the agreement below has been issued to the designated member for the coverage period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded by the agreement described herein subject to all the terms, exclusions and conditions of such agreement.

Mail to: Certificate Holder
Palm Beach County BOCC
 Property and Real Estate Mgmt.
 3200 Bevedere Rd, Bldg 1169
 West Palm Beach, FL 33406-1544

Designated Member
Town of Jupiter
 210 Military Trail
 Jupiter, FL 334585784

LIABILITY COVERAGE
 Comprehensive General Liability, Bodily Injury, Property Damage and Personal Injury
 Limit \$1,000,000 / \$3,000,000 \$25,000 Deductible
 Public Officials Liability
 Limit \$1,000,000 \$50,000 Deductible
 Employment Practices Liability
 Limit \$1,000,000 \$50,000 Deductible
 Employee Benefits Liability
 Limit \$1,000,000 / \$3,000,000
 Law Enforcement Liability
 Limit \$1,000,000 \$25,000 Deductible

WORKERS' COMPENSATION COVERAGE
 WC AGREEMENT NUMBER:

 Self Insured Workers' Compensation

 Statutory Workers' Compensation

 Employers Liability
 Each Accident
 By Disease
 Aggregate Disease

PROPERTY COVERAGE
 Buildings & Personal Property
 Per schedule on file with \$25,000 Deductible
 Trust Limit
Note: See coverage agreement for details on wind, flood, and other deductibles.
 Rented, Borrowed and Leased Equipment
 Limit \$250,000 TIV See Schedule for Deductible
 All other Inland Marine
 Limit \$1,619,615 TIV See Schedule for Deductible

AUTOMOBILE COVERAGE
Automobile Liability
 Limit \$1,000,000 \$25,000 Deductible
 All Owned
 Specifically Described Autos
 Hired Autos
 Non-Owned Autos
Automobile Physical Damage
 Comprehensive See Schedule for Deductible
 Collision See Schedule for Deductible
 Hired Auto with limit of \$35,000

NOTE: The limit of liability is \$100,000 Bodily Injury and/or Property Damage per person or \$200,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to limits shown above per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability imposed pursuant to Federal Law or actions outside the State of Florida.

Description of Operations/ Locations/ Vehicles/Special Items:
 Certificate Holder is listed as Additional Covered Party per the attached PGIT 902 with respect to leased property located behind Jupiter Library.
This section completed by member's agent, who bears complete responsibility and liability for its accuracy.


This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the agreement above.

Administrator
Public Risk Underwriters@
 P.O. Box 958455
 Lake Mary, FL 32795-8455

CANCELLATIONS
 SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, PREFERRED GOVERNMENTAL INSURANCE TRUST WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE, OR 10 DAYS WRITTEN NOTICE FOR NON-PAYMENT OF PREMIUM, TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.

Producer
Public Risk Insurance Agency
 P. O. Box 2416

 Daytona Beach, FL 32115



AUTHORIZED REPRESENTATIVE

PUBLIC ENTITY

AUTOMATIC ADDITIONAL COVERED PARTIES

THIS ENDORSEMENT CHANGES THE AGREEMENT. PLEASE READ IT CAREFULLY.

This endorsement modifies coverage provided under the **AUTOMOBILE COVERAGE FORM, PGIT 300**, the **GENERAL LIABILITY COVERAGE FORM, PGIT 200** and the **PROPERTY AND INLAND MARINE COVERAGE FORM, PGIT 104**

Where indicated by (x) below, coverage applies to the person(s) or organization(s) as their interest may appear. The provisions in this endorsement do not supersede Florida Statute 768.28, Article 10 § 13 of the Florida Constitution, or any other Statute or law limiting whom a Public Entity can indemnify.

X **ADDITIONAL COVERED PARTY - BY CONTRACT, AGREEMENT OR PERMIT**
SECTION I - WHO IS A COVERED PARTY

is amended to include any person(s) or organization(s) (hereinafter called Additional Covered Party) with whom you agree in a written "insured contract" to name as a Covered Party, but only with respect to liability arising, in whole or in part, out of your operations, "your work" or facilities owned or used by you.

The coverage afforded to the Additional Covered Party does not apply:

- (1) Unless the written "insured contract", agreement or permit was executed prior to the "bodily injury," "property damage," "personal injury" or "advertising injury;"
- (2) To any person(s) or organization(s) included as a Covered Party under this coverage agreement or by an endorsement made part of this coverage agreement.

X **ADDITIONAL COVERED PARTY - OWNERS OF LEASED EQUIPMENT**
SECTION II - WHO IS A COVERED PARTY

is amended to include any person(s) or organization(s) (hereinafter called Additional Covered Party) with whom you agree in a written equipment lease or rental agreement to name as a Covered Party, but only with respect to liability arising out of the sole negligence of the Covered Party, and only while such equipment is in the care, custody or control of the Covered Party, or any employee or agent of the Covered Party.

The coverage afforded to the Additional Covered Party does not apply to:

- (1) "Bodily injury" or "property damage" occurring after you cease to lease or rent the equipment;
- (2) "Bodily injury" or "property damage" arising out of any negligence of the Additional Covered Party;
- (3) Structural alterations, new construction or demolition operations performed by or on behalf of the Additional Covered Party;
- (4) Liability assumed by the Additional Covered Party under any contract or agreement;
- (5) "Property damage" to:
 - (a) Property owned, used, occupied by, or rented to the Additional Covered Party;
 - (b) Property in the care, custody or control of the Additional Covered Party or its employees or agents, or of which the Additional Covered Party, its employees or agents are for any purpose exercising physical control.

X **ADDITIONAL COVERED PARTY - MANAGERS OR LESSORS OF PREMISES**

SECTION II - WHO IS A COVERED PARTY

is amended to include any person(s) or organization(s) (hereinafter called Additional Covered Party) with whom you agree in a written agreement to name as a Covered Party, but only with respect to liability arising, in whole or in part, out of the "premises" leased to you by such person(s) or organization(s).

The coverage afforded to the Additional Covered Party does not apply to:

- (1) "Bodily injury" or "property damage" occurring after you cease to be a tenant in that "premises";
- (2) "Bodily injury" or "property damage" arising out of any negligence of the Additional Covered Party;
- (3) Structural alterations, new construction or demolition operations performed by or on behalf of the Additional Covered Party;
- (4) Liability assumed by the Additional Covered Party under any contract or agreement;
- (5) "Property damage" to:
 - (a) Property owned, used, occupied by, or rented to the Additional Covered Party;
 - (b) Property in the care, custody or control of the Additional Covered Party or its employees or agents, or of which the Additional Covered Party, its employees or agents are for any purpose exercising physical control.

Notwithstanding any other provision of this agreement, nothing in this agreement shall be construed as a waiver of the Covered Party's sovereign immunity nor shall any provision of this agreement increase the liability of the covered party, or the sums for which the covered party may be liable, beyond the limits provided in §768.28, Florida Statutes.