

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

Meeting Date:	December 1, 2009	<input checked="" type="checkbox"/> Consent	<input 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) adopt a Resolution authorizing a one (1) year suspension of the four percent (4%) increase in rent and finding that the First Amendment to the Lease Agreement with Robert Weatherbee d/b/a The Sub Division, a sole proprietor is in the best interest of the County; and

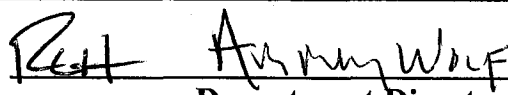
B) approve a First Amendment to the Lease Agreement (R2006-0077) with Robert Weatherbee d/b/a The Sub Division, a sole proprietor.


Summary: On July 31, 2005, Staff issued a Request For Proposals to lease space and provide food services at the County's Vista Center 2300 Building, located at 2300 North Jog Road in West Palm Beach. On January 10, 2006, the RFP was awarded to Robert Weatherbee d/b/a The Sub Division. The Lease premises consist of 349 sf within the lunchroom area of the 2300 Building, together with the use of two unassigned parking spaces within the parking garage. The initial term of the Lease is for five (5) years, commenced on January 1, 2007, and expires on December 31, 2011. It contains two (2) extension options, each for a period of one (1) year, subject to Board approval. The current annual rental rate is \$7,787.52 (\$22.31/sf), with four percent (4%) annual increases. On August 12, 2009, Staff received a request from Robert Weatherbee for a suspension of the four percent (4%) annual rent increase for a period of one (1) year, due to economic conditions and the reduction of County Staff occupying the building. Mr. Weatherbee provides a valuable service to the occupants and visitors of the building and Staff believes that rent is the least important factor in analyzing the use of this space. There is no question that business has declined as a result of the downturn in the economy and Staff recommends that rent increases be suspended for one (1) year. In the event that business does not pick up next year, Staff recommends that we explore potential interest from other operators in deciding whether to continue with the suspension of rental increases. **(PREM) District 2 (HJF)**

Background and Justification: Robert Weatherbee d/b/a The Sub Division has been operating the food service at Vista Center's 2300 Building since January 1, 2007. Mr. Weatherbee requested that the four percent (4%) increase in annual rent be suspended for one (1) year due to economic conditions caused in part by the reduction of County Staff located at the 2300 Building. The savings to Mr. Weatherbee will be \$311.50 and the four percent (4%) annual increases will recommence on January 1, 2011. All other terms and conditions of the Lease Agreement will remain unchanged. The other food service operation within County facilities is Tina's Café. There has been a drop off in business there as well, and Tina's has been late in paying rent. It is likely that we will also receive a request for rent concessions from Tina's Café.

Attachments:

1. Location Map
2. Resolution
3. First Amendment
4. Letter of Request from Mr. Robert Weatherbee

Recommended By:		<u>11/13/09</u>
	Department Director	Date

Approved By:		<u>11/23/09</u>
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	\$233.62	\$ 77.88	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$233.62</u>	<u>\$ 77.88</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No X

Budget Account No: Fund 0001 Dept 800 Unit 8001 Object 6225
 Program _____


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

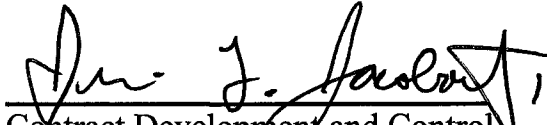
Approval of this action will reduce the previously budgeted annual revenue by 4% for a total of \$311.50.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

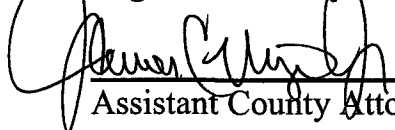
A. OFMB Fiscal and/or Contract Development Comments:


 _____ 11-20-09
 OFMB
 (100) 11/19/09
 CAJ 11/18/09


 _____ 11/20/09
 Contract Development and Control
 E Jones 11/20/09

This amendment complies with our review requirements.

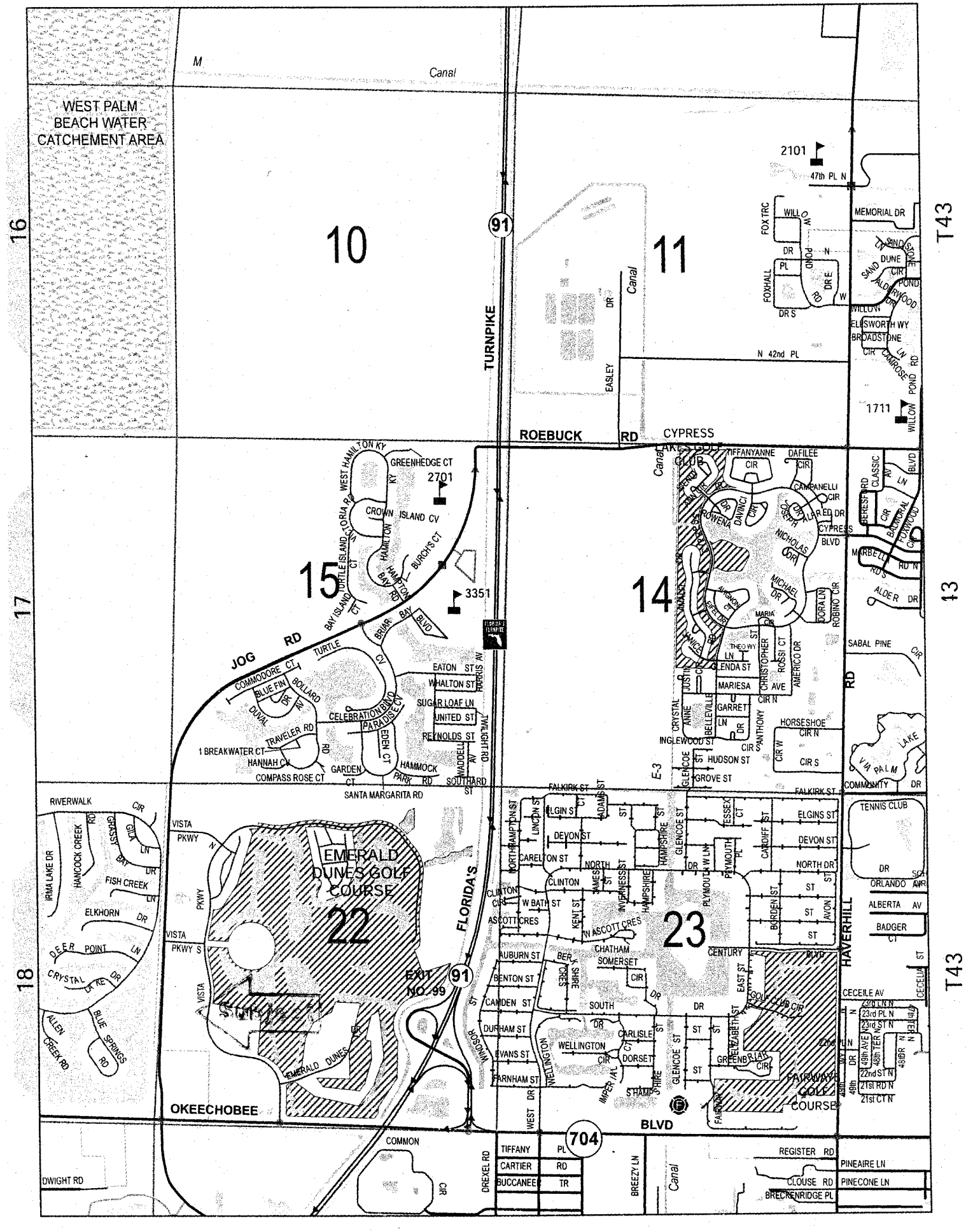
B. Legal Sufficiency:


 _____ 11/23/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

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



LOCATION MAP
ATTACHMENT # 1

Handwritten signature or initials.

RESOLUTION NO. 2009-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING A ONE-YEAR SUSPENSION OF THE RENT ADJUSTMENT REQUIRED UNDER THE TERMS OF COUNTY'S LEASE OF BUILDING SPACE TO ROBERT WEATHERBEE D/B/A THE SUB DIVISION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Robert Weatherbee d/b/a The Sub Division, a sole proprietor ("Tenant"), pursuant to a Lease Agreement dated January 10, 2006 (R2006-0077), leases space from County for the operation of the Sub Division, a food service concession located on the first floor of the County-owned Vista Center;

WHEREAS, Tenant has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County suspend for one year the rent adjustment scheduled to occur January 1, 2010, due to current adverse economic conditions;

WHEREAS, Tenant is dependent on County-derived business and has seen a reduction in his business in the past year;

WHEREAS, Tenant provides a service to County employees and those doing business with the County, and County wishes to retain Tenant's operations in Vista Center;

WHEREAS, County believes a temporary suspension of the scheduled rent adjustment will help Tenant continue to operate in Vista Center until the level of business increases;

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that Tenant provides a service to County that County does not wish to lose, and the suspension for one year of the rent adjustment required under the terms of the Lease Agreement with Tenant 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 Real Property

The Board of County Commissioners of Palm Beach County shall suspend for one year the rent adjustment due from Robert Weatherbee d/b/a The Sub Division, a sole proprietor, pursuant to the First Amendment to Lease Agreement attached hereto and incorporated herein by reference, in connection with the lease of building space identified in such Lease Agreement.

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 KAREN T. MARCUS
COMMISSIONER JOHN F. KOONS
COMMISSIONER SHELLEY VANA
COMMISSIONER STEVEN L. ABRAMS
COMMISSIONER BURT AARONSON
COMMISSIONER JESS R. SANTAMARIA
COMMISSIONER PRISCILLA A. TAYLOR

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

By: _____
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: Keith Anthony Wilf
Department Director

ORIGINAL

**FIRST AMENDMENT
TO
LEASE AGREEMENT**

THIS FIRST AMENDMENT TO 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 ROBERT WEATHERBEE d/b/a THE SUB DIVISION, a sole proprietor ("Tenant"). County and Tenant are sometimes referred to herein collectively as the "parties".

WITNESSETH:

WHEREAS, County and Tenant entered into that certain Lease Agreement dated January 10, 2006 (R2006-0077) (the "Lease"), for the use of the Premises as defined in the Lease; and

WHEREAS, the Rental Commencement Date was established as January 1, 2007, pursuant to Section 1.06 of the Lease; and

WHEREAS, Tenant has requested a temporary suspension of the increase in rent scheduled to occur on January 1, 2010, due to current adverse economic conditions and County has agreed to suspend the rent adjustment for a period of one (1) year.

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 parties agree that for the year of the Term that commences on January 1, 2010, the Annual Rent shall not be adjusted as provided for in Section 2.02, but shall instead remain the same as it was for the year of the Term that commenced on January 1, 2009. The parties further agree that this suspension of the rent increase is for one year only, and the Annual Rent shall be adjusted as provided for in Section 2.02 for the year of the term that commences on January 1, 2011.
3. Section 1.09, Customer Service, 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.
4. Section 4.05, Non-Discrimination, is modified to include a prohibition against discrimination based on gender identity or expression.
5. The County's and Tenant's addresses in Section 18.03 are revised as set forth below:

(a) If to the County at:
Palm Beach County
Property & Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, FL 33411-5605
Telephone: 561-233-0217
Fax: 561-233-0210

(c) If to the Tenant at:
Robert Weatherbee
5255 Whitewood Cove South
Lake Worth, FL 33467
Telephone:
Fax:

ATTACHMENT #3

6. Except as set forth herein, the Lease remains unmodified and in full force and effect.
7. 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.

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: _____
Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

Assistant County Attorney

Audrey Wolf

Audrey Wolf, Director
Facilities Development & Operations

WITNESSES:

TENANT:
ROBERT WEATHERBEE d/b/a THE SUB
DIVISION, a sole proprietor

Kary Ellen Nelson

Witness Signature

By: *Robert Weatherbee*

Robert Weatherbee

Marcy Ellen Wilson

Print Witness Name

Robert Handrickson

Witness Signature

Robert Handrickson

Print Witness Name

THE SUB-DIVISION CORP
2300 N Jog Rd
West Palm Beach FL 33411
561 681 4700

RECEIVED

AUG 12 2009

Property and Real Estate Management Division
Attention: Director
2633 Vista Pkwy
West Palm Beach FL 33411
August 10, 2009

Re: Rent Increase

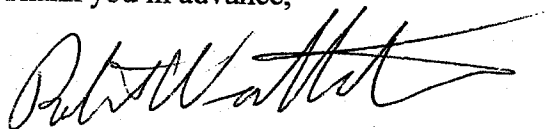
The Sub Division restaurant is located in the County Planning and Zoning Building at 2300 Jog Road, West Palm Beach.

Due to economic conditions and the amount of lay offs in the county building at 2300 Jog Road, our business has suffered a tremendous monetary loss. We are barely making end meet.

In view of this, hopefully you will understand our position and grant a **no rent increase** for The Sub Division Corp. for the year 2010.

Please advise us of your decision.

Thank you in advance,



Robert Weatherbee
The Sub Division
5255 Whitewood Cove S
Lake Worth FL 33467

C: Palm Beach County
Attention: County Attorney
301 N Olive Ave Ste 601
West Palm Beach FL 33401

ATTACHMENT #4

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/09/2009

PRODUCER
Hannifin & Associates Inc.
1300 Corporate Center Way 105C
Wellington Florida 33414
561-795-6228

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 POLICIES BELOW.

INSURED
Robert Weatherbee DBA The Sub Division, a sole proprietor
2300 North Jog
West Palm Beach Fl. 33411

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Colony Insurance Company	
INSURER B: Western Heritage Co	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY 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 INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	GL-3803075	5/05/2009	5/05/2010	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000				
					MED EXP (Any one person) \$ 5,000
					PERSONAL & ADV INJURY \$ 1,000,000
					GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COMP/OP AGG \$ 1,000,000
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$
					BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT \$
					OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
	EXCESS/UMBRELLA LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$
					AGGREGATE \$
					\$
					\$
					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below:				WC STATUTORY LIMITS OTH-ER
					E.L. EACH ACCIDENT \$
					E.L. DISEASE - EA EMPLOYEE \$
					E.L. DISEASE - POLICY LIMIT \$
B	OTHER Business Personal Prop	SCP0699745	6/19/2008	6/19/2009	\$50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
Certificate Holder had been named as additional insured.

CERTIFICATE HOLDER

Palm Beach County BOCC
AttN; Director
2633 Vista Parkway
West Palm Beach Fl. 33411
Fax 561-233-0210

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE