

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

Meeting Date:	January 12, 2010	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Facilities Development & Operations		


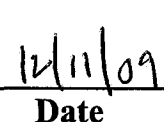
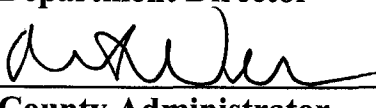
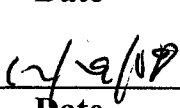
I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Second Amendment to Memorandum of Understanding (MOU) (R2008-0961) between Department of Airports (DOA) and Facilities Development & Operations (FDO) for use of the Belvedere Road/5th Street property to provide for FDO's early surrender of a portion of the property and extended use of a portion of the property.

Summary: The current MOU for use of the Belvedere Road property provides for FDO's use of critical buildings through December 31, 2009, and other buildings through December 31, 2010. This Second Amendment to MOU provides for the realignment of the surrender dates for the individual buildings to correspond with the completion dates of the replacement facilities, specifically; (i) FDO's early surrender of Buildings 507b and 509; (ii) the extension of the term of FDO's use and occupancy of Buildings 502, 505 and 508; and (iii) FDO's provision of maintenance and security for the unoccupied portions of the Belvedere Road property from January 1, 2010 through December 31, 2010. This Second Amendment to MOU also provides for FDO's payment of an \$85,548.75 rental fee for the term extension, which is being offset by: (i) a \$62,899.90 rental credit for the early surrender of Buildings 507b and 509 and (ii) DOA's acceptance of FDO's provision of maintenance and security for the property in lieu of the remaining \$22,747.85 rental fee, which results in a zero dollar net fiscal impact. The Second Amendment also acknowledges that the DOA and FDO have agreed to enter into a new agreement to provide for FDO's use and occupancy of Building 508 from January 1, 2011 through December 31, 2014, at a fair market rental rate. **(PREM) District 2 (HJF)**

Background and Justification: On April 15, 2008, the Board approved an MOU (R2008-0613) between DOA and FDO for the exchange of approximately 19.77 acres of property located on Cherry Road for approximately 14.99 acres of property located along Belvedere Road and 5th Street. The exchange was completed in May of 2008. Appraisals valued the Belvedere Road property to be worth approximately \$500,000 more than the Cherry Road property, which was used to offset any rentals that would have been payable by FDO for its short term use of portions of the Belvedere Road property through December 31, 2009, (Buildings 502, 505, 506, 507) and through December 31, 2010 (Buildings 507b, 508, 509). However, due to delays in completing various capital projects due to the reorganization of the capital program, Building 505 is required through April 30, 2010, Building 502 through December 31, 2010, and Building 508 through December 31, 2014. The early surrender of Buildings 507b and 509, together with FDO's continued maintenance and security of the complex, offset the extended rental payments through December 31, 2010. The continued lease of Building 508 for the Clerk's Record Storage will be pursuant to a separate MOU.

1. Location Map
2. Second Amendment to Memorandum of Understanding

Recommended By:		
	Department Director	Date
Approved By:		
	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	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u> * </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
Program _____

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

- * The rental fee for the term extension is \$85,548.75; however, there is a zero dollar net fiscal impact after application of the \$62,899.90 rental credit and the acceptance of FD&O's maintenance and security of the property in lieu of the remaining \$22,747.85 rental fee.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

Jan D. L. 12-21-09
OFMB *12/18/09*
12-17-09

Jan - J. Jacobson 12/19/09
Contract Development and Control

This amendment complies with
our review requirements.

B. Legal Sufficiency:

K. J. 12/23/09
Assistant County Attorney

C. Other Department Review:

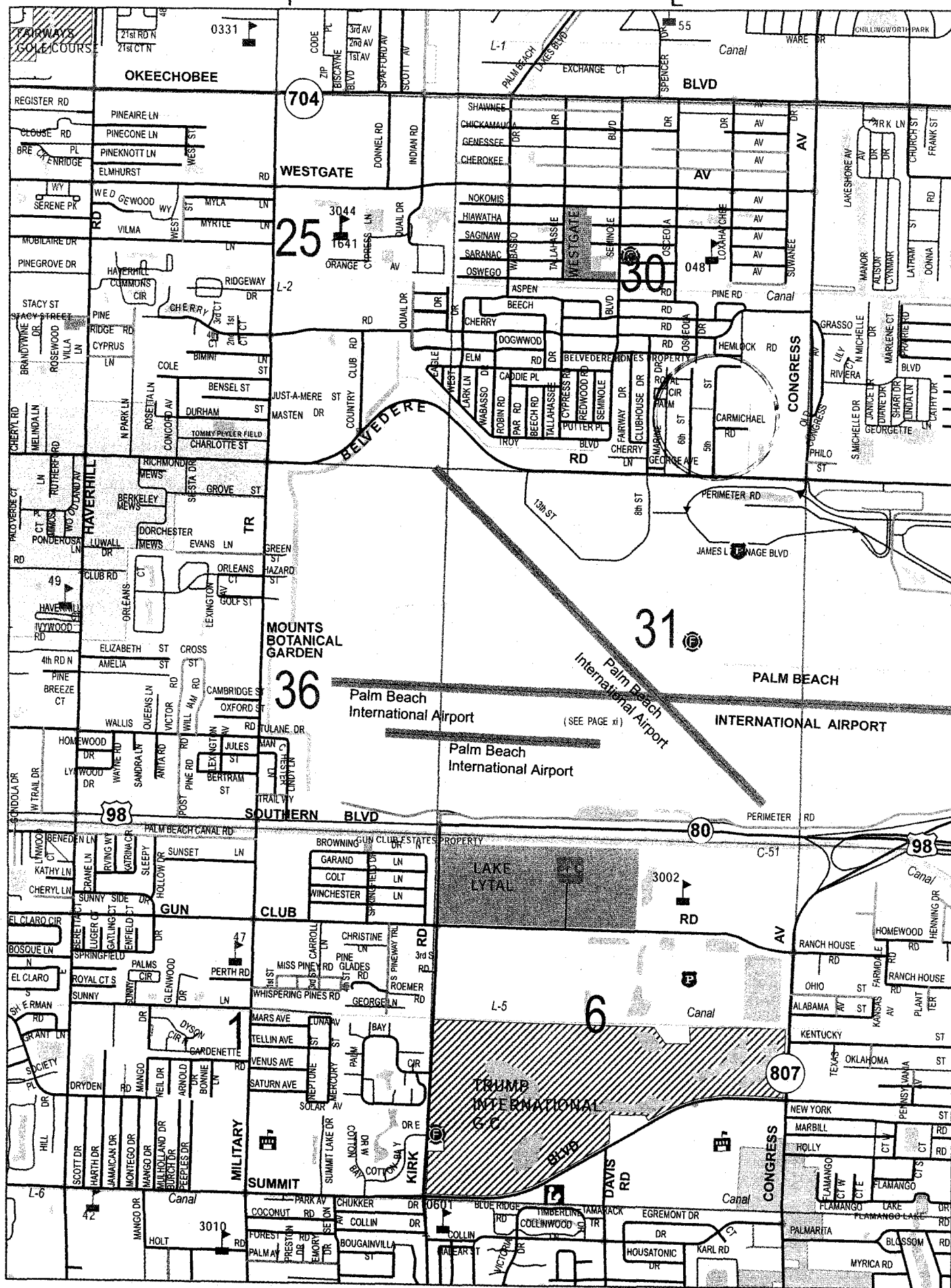
Department Director

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

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T44



LOCATION MAP

ATTACHMENT #/

**SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING
FOR LEASE OF PROPERTY**

THIS SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING FOR LEASE OF PROPERTY (this "Amendment") is made and entered into this _____ day of _____, 20____, by and between the 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 ("FD&O").

WHEREAS, FD&O and the Department entered into that certain Memorandum of Understanding for Lease of Property dated April 15, 2008, (R-2008-0961) as amended by that certain First Amendment to Memorandum of Understanding for Lease of Property dated January 6, 2009, (R-2009-0289) (the "Memorandum of Understanding for Lease of Property and all amendments thereto shall individually and collectively be referred to as the "Lease") whereby FD&O leases a portion of the Belvedere Property, including the Premises, both as defined therein; and

WHEREAS, the Lease provides for FD&O's: (i) maintenance and security of a portion of the Belvedere Property as defined in the Lease through the Term of the Lease; (ii) surrender of a portion of the Premises as of December 31, 2009; and (iii) surrender of the remainder of the Premises, together with the Belvedere Property as of December 31, 2010;

WHEREAS, FD&O and the Department desire to amend the Lease to: (i) retroactively extend the term of FD&O's use and occupancy of a portion of the Premises; (ii) retroactively terminate FD&O's rights to the use and occupancy of a portion of the Premises; (iii) obligate FD&O to provide for maintenance and security of the entire Belvedere Property; and (iv) establish rental fees; and

WHEREAS, FD&O and the Department acknowledge and agree that during the period from December 31, 2009, until the Effective Date of this Amendment, the parties were and are bound by the terms of this Amendment.

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 Lease.
2. Section 1.01 of the Lease is deleted in its entirety and replaced with the following:

1.01 Premises. Subject to the terms and conditions of this Lease, FD&O shall have: (i) the exclusive use and occupancy of that portion of the Belvedere Property more particularly described in the attached Exhibit "B" and all improvements located thereon (the "Premises") through the Term of Occupancy End Date set forth in the attached Exhibit "B"; (ii) the obligation to provide for maintenance and security of the Belvedere Property in its entirety, as depicted on Exhibit "C" attached hereto and made a part hereof, through December 31, 2010;

and (iii) unrestricted access to both (a) the telephone equipment room located in Building 506 and (b) the fire panel located in Building 505b, both as depicted on Exhibit "C", through April 30, 2010.

3. Exhibit "B" to the Lease is deleted in its entirety and replaced with Exhibit "B" attached hereto and made a part hereof.
4. Exhibit "C" to the Lease is deleted in its entirety and replaced with Exhibit "C" attached hereto and made a part hereof.
5. Section 1.02 of the Lease is hereby modified so that the Term of the Lease ends on December 31, 2010.
6. Article II of the Lease is hereby modified so that the heading of Article II shall be OBLIGATIONS OF FD&O AND DEPARTMENT.
7. Section 2.03 of the Lease is deleted in its entirety and replaced with the following:

2.03 Rental Fees, Rental Credits and Management Fees. FD&O shall not be required to pay rental fees for use of the Premises during the Term of this Lease based on FD&O's agreement to forego payment for the Belvedere Property as provided for in the Exchange Agreement and to maintain and secure the Belvedere Property in its entirety at its sole cost and expense as set forth below:

2.03(a) Rental Fee. FD&O shall pay the Department rent for the use and occupancy of the Premises from January 1, 2010 through the Term of Occupancy End Date in the cumulative amount of \$85,548.75 (the "Rental Fee") allocated as follows:

Building 502	\$20,737.20
Building 505	\$32,610.80
Building 508	\$32,200.75

2.03(b) Rental Credits. The Department shall provide FD&O a rental credit in the amount of \$62,800.90 (the "Rental Credit") for the early surrender of Buildings 507b and 509 (also known as 508 South) on December 31, 2009. The Rental Credit shall be used to offset the Rental Fee for the short-term extension of the Lease as to Buildings 502, 505 and 508 which leaves a remaining balance of \$22,747.85 in Rental Fees owed to the Department (the "Remainder Rent").

2.03(c) Maintenance & Security Services. FD&O shall, at its sole cost and expense, continue to provide for maintenance and security of the unoccupied portion of the Belvedere Property in its entirety through December 31, 2010, which the Department agrees to accept in lieu of the Remainder Rent.

8. Section 6.14(a) of the Lease is hereby modified so that the mailing address for FD&O shall be 2633 Vista Parkway, West Palm Beach, FL 33411-5603.
9. Section 6.15 of the Lease is hereby modified so that the word "MOU" is replaced with the word "Lease".

10. Except as specifically modified herein, all of the terms and conditions of the Lease shall remain unmodified and in full force and effect and are hereby ratified and confirmed by the parties hereto.
11. This 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 first above written.

ATTEST:
SHARON R. BOCK,
CLERK AND COMPTROLLER

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

BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Burt Aaronson, Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: SSC Audrey Wolf
Audrey Wolf, Director
Facilities Dev. & Operations

By: Bruce V. Pelly
Bruce V. Pelly, Director
Department of Airports

EXHIBIT "B"**Description of the Premises**

<i>Building #</i>	<i>Parcel Identification No.</i>	<i>Term of Occupancy End Date</i>	<i>Square Footage (Ground)</i>	<i>Annual Rental Rate Per SF</i>
502	PBIA OAN-5	12/31/2010	17,281	\$1.20
505	PBIA OAN-4	04/30/2010	81,527	\$1.20
505a	PBIA OAN-4	12/31/2009	N/A	N/A
505b	PBIA OAN-4	12/31/2009	N/A	N/A
505b Fire Panel Room	PBIA OAN-4	04/30/2010	N/A	N/A
505c	PBIA OAN-4	12/31/2009	N/A	N/A
506	PBIA OAN-3	12/31/2009	13,012	\$1.20
506 Telephone Equipment Room	PBIA OAN-3	04/30/2010	N/A	N/A
507	PBIA OAN-6	12/31/2009	7,997	\$7.55
507b	PBIA OAN-7	12/31/2009	4,053	\$7.55
508	PBIA OAN-8	12/31/2010	4,265	\$7.55
509	PBIA OAN-8	12/31/2009	4,265	\$7.55
Total Square Footage			132,400	

EXHIBIT "C"

5th Street Complex Map

