Agenda Item #: 3H-4

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date:	January 15, 2013	[X] Consent [] Ordinance	[] Regular [] Public Hearing	
Department:	Facilities Developmen	nt & Operations		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a First Amendment to Lease Agreement dated October 2, 2012 (R2012-1385) with Delray Beach Playhouse, Inc., a Florida not-for-profit corporation, to delete the requirement to obtain flood insurance.

Summary: Delray Beach Playhouse, Inc ("Playhouse") originally developed and has continually operated the theatrical playhouse in Lake Ida Park East since January 1, 1957. On October 2, 2012, the Board approved a replacement Lease Agreement with Playhouse extending the term for five (5) years. After approval of the Lease, Playhouse requested the flood insurance requirement be deleted due to the high cost of obtaining the coverage. This First Amendment will delete the requirement for flood insurance and add standard language confirming that the Lease does not create any third party beneficiaries. The Parks and Recreation and Risk Management Departments support this request. (PREM) District 4 (HJF)

Background and Justification: Playhouse constructed, maintains and has been continually operating a community theater at the County's Lake Ida Park East in Delray Beach for 55 years. On October 2, 2012, the Board approved a new Lease Agreement (R2012-1385) with Playhouse which included a requirement that the Playhouse maintain flood insurance coverage. Parks is responsible for monitoring this Lease and worked directly with the tenant to obtain its approval of the agreement and compliance with the insurance requirements. During the administrative review process, PREM determined that the Certificate of Insurance provided by the Playhouse did not include flood insurance coverage. Playhouse subsequently requested the requirement to maintain flood insurance coverage be deleted due to the high cost of the policy. The Playhouse is responsible for maintenance of the buildings and grounds within the defined premises at their cost. Since the building has no direct programmatic value to the County, both the Parks and Recreation and Risk Management Departments do not object to the Playhouse's request to delete the flood coverage. This amendment will delete the requirement in Section 7.03 for flood insurance and add language confirming that the Lease does not create any third party beneficiaries. A Disclosure of Beneficial Interests was obtained when the Agreement was entered into on October 2, 2012, and indicates that Delray Beach Playhouse, Inc. is a 501(c)(3) organization. There are no individuals or entities that have a beneficial interest in its assets. Since there has been no change in the ownership of Delray Beach Playhouse Inc. Staff did not request a new Disclosure.

Attachments:

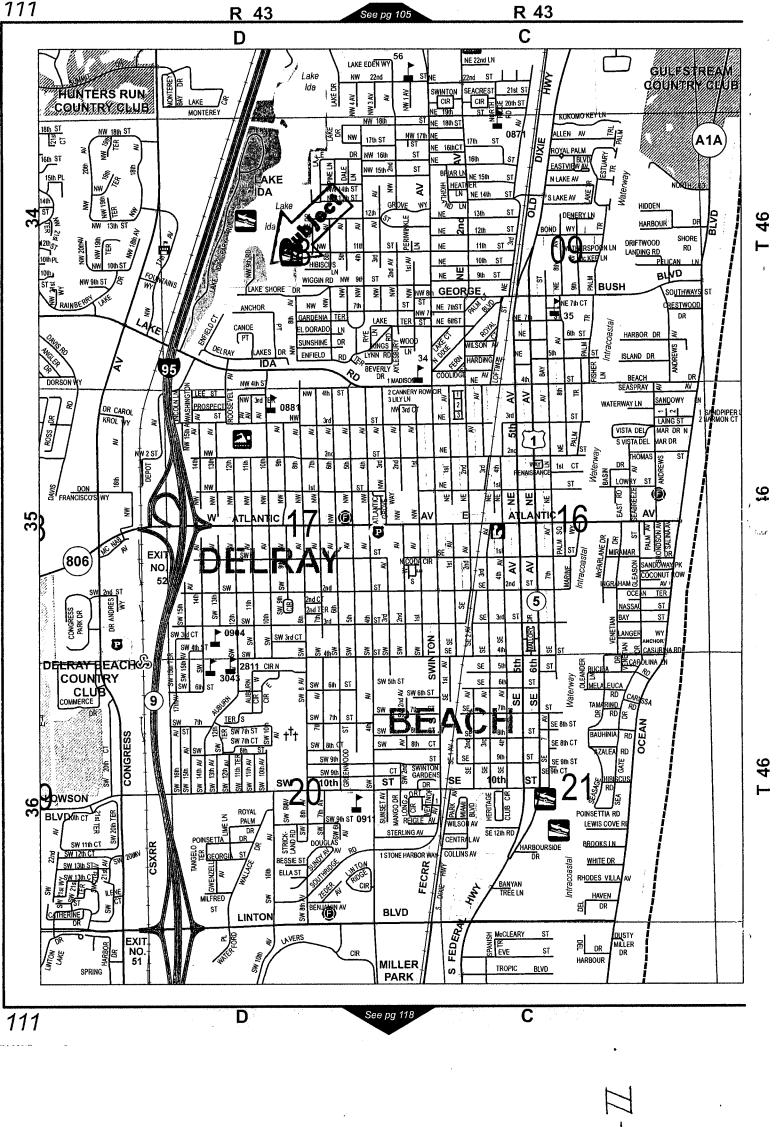
- 1. Location Map
- 2. First Amendment to Lease Agreement

Recommended By:	Army Work	12/17/12
	Department Director	Date
Approved By:	alle	(17/12
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A.	Five Year Summary	of Fiscal Impact:				
Fisca	al Years	2013	2014	2015	2016	2017
Oper Exter Prog	tal Expenditures rating Costs rnal Revenues ram Income (County) ind Match (County					
NET	FISCAL IMPACT	<u> - 0 -</u>				
	DITIONAL FTE ITIONS (Cumulative)				· 	
Is Ite	em Included in Curren	t Budget: Yes]	No X		
Budg	get Account No: Fui	nd <u>0000</u> Dept Program		Unit <u>0000</u>	Object <u>0000</u>	<u>)</u>
В.	Recommended Source Departmental Fiscal	*No F	nary of Fisca	_	1.18-18	
		III. <u>REVIE</u>	W COMMI	ENTS		
A.	OFMB Fiscal and/or	12/27/12	Da	dents:	Control	ମାଧ
В.	Legal Sufficiency: Assistant County Atto	1/7/13 mey				
C.	Other Department R	eview:				
	Department Director					

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



LOCATION MAP



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 DELRAY BEACH PLAYHOUSE, INC., a Florida not-for-profit corporation ("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 October 2, 2012 (R2012-1385) (the "Lease"), for the use of the Premises as defined in the Lease, which Premises are located at 950 Lake Shore Drive, Delray Beach, Florida, and are part of the County's Lake Ida Park East; and

WHEREAS, the parties have agreed to delete the requirement for flood insurance and add language confirming that the Lease does not create any third party beneficiaries.

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. Article VII of the Lease is hereby modified to delete the requirement for Tenant to maintain flood insurance.
- 3. No provision of the Lease is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Lease, including but not limited to any citizens of County or employees of County or Tenant.
- 4. 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.
- 5. 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.

(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:, Chair
APPROVED AS TO FORM AND LEGAL SUFFICIENCY Assistant County Attorney	APPROVED AS TO TERMS AND CONDITIONS Audrey Wolf, Director Facilities Development & Operations
	TENANT:
WITNESSES: Witness Signature	DELRAY BEACH PLAYHOUSE, INC., a Florida not-for-profit corporation By: Ronald Nyhan, Member Board of Governors
Keith Hamphvios Print Witness Name	
Witness Signature Sus And F. EASTON	
Print Witness Name	(SEAL)
	(corporation not for profit)