

3H-4

Agenda Item #:

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

Meeting Date: June 18, 2013

Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to **A) Approve:** Fourth Amendment to Interlocal Agreement (Agreement) with the Health Care District of Palm Beach County ("District") terminating the lease provisions;

B) Approve a budget amendment of \$355,685 in the Public Building Improvement Fund recognizing revenue received and establishing a project expense budget;

C) Approve a budget transfer of \$316,000 from reserves in the Public Building Improvement Fund to the project expense budget; and

D) Authorize Staff to proceed with the demolition of the former County Home.

Summary: The County and the District entered into the Agreement dated July 11, 1995 (R95-930D as modified by R960139D, R2000-1554, and R2001-0586) relating to the District's funding of the Medicaid match program, the District's operation of the Edward J. Healey Rehabilitation and Nursing Center (formerly known as the County Home located at 1200 45th Street, West Palm Beach) and included a 40 year lease of the Center. Recently, the District relocated the Center to the District-owned and newly constructed facility in Riviera Beach and requested a termination of the lease and related components of the Agreement. Since the Agreement did not contain any terms regarding a lease termination, the County and District staff negotiated the terms and conditions of this Fourth Amendment to effectuate the District's relocation of the Center and to resolve the issues presented by the vacancy. This Fourth Amendment sets forth the terms under which the lease would be terminated including sharing in the costs of securing the property prior to demolition. Staff is recommending that the County proceed with the demolition (other than the warehouse) at this time due to; 1) the condition of the building would require a significant capital investment in the property for any type of re-use, 2) the layout and location of the building does not support the County's future need for multiple social and health care uses on the property, 3) the costs associated with managing the vacant building, and, 4) the liability associated with the unoccupied building. Prior to the Effective Date, District will pay County \$316,000 for demolition and funding for security services (12 hours/day, 7 days a week) through December 31, 2013. After the Effective Date, County will assume all responsibility for providing property management and security services. The Fourth Amendment updates the notice provisions of the Agreement and ratifies the remaining provisions of the Agreement. The budget amendment and transfer establish the budget for demolition from Public Building Improvement Fund Reserves and recognize the revenue from the Health Care District for both security services and the demolition. **(FDO) Countywide/District 2 (TF)**

Background and Justification: This Fourth Amendment includes the specific terms of the lease termination, the turnover and securing of the premises and the costs of demolition. In summary, and prior to the Effective Date, the District will be responsible for; 1) removing all hazardous and regulated waste from the property, 2) reviewing the condition and maintenance of the building and systems with County staff, 3) removing personal property that it wants to retain, and 4) maintaining and securing the property. After the Effective Date, the County will be solely responsible for; 1) maintaining and securing the property, 2) maintaining and paying for utility service and 3) demolishing the improvements.

The decision relating to demolition or re-use is solely the County's. After an evaluation of the property and contacting several not for profits regarding the re-use for a period of 3-5 years, Staff is recommending that the County proceed with the demolition (other than the warehouse) at this time due to; 1) the condition of the building would require a significant capital investment in the property for any type of re-use, 2) the layout and location of the building does not support the County's future need for multiple social and health care uses on the property, 3) the costs associated with managing the vacant building, and, 4) the liability associated with the unoccupied building. If the County decides not to demolish some or all of the improvements, County will refund demolition costs on a pro rata square foot basis; 1) within thirty (30) days of a County decision to re-use a part or all of the improvements, or 2) one year from the Effective Date, whichever is sooner.

Attachments:

1. Fourth Amendment
2. Budget Amendment in Fund 3804
3. Budget Transfer in Fund 3804

Recommended By: _____

Anney Wolf
Department Director

5/24/13
Date

Approved By: _____

Assistant County Administrator

6/10/13
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	\$671,685	_____	_____	_____	_____
Operating Costs	\$ _____	_____	_____	_____	_____
External Revenues	(\$355,685)	_____	_____	_____	_____
Program Income (County)	\$ _____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$316,000</u>	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No X

Budget Account No: Fund 304 Dept 411 Unit 0557 Object _____
 Program _____

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

The total costs of the demolition are estimated at \$632,000 which includes two contingencies for unforeseen conditions (as destructive testing could not be completed at the time of the original asbestos abatement survey) and typical project contingencies. In the event that the capital costs exceed \$632,000 the County will be solely responsible for those costs. In addition, the District will fully fund the cost of security at the facility through December 31, 2013. The County has no obligation to continue security to the property after that date.

in 5.29.13

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

<p><u><i>[Signature]</i></u> OFMB 6/3 6/5 6/13/13</p>	<p><u><i>[Signature]</i></u> 6/10/13 Contract Development and Control 6-10-13 <i>[Signature]</i></p>
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B. Legal Sufficiency:

[Signature] 6/10/13
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

**FOURTH AMENDMENT
TO INTERLOCAL AGREEMENT**

THIS FOURTH AMENDMENT to that certain Interlocal Agreement dated July 11, 1995 is made and entered into on _____, 2013 by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County") and THE HEALTH CARE DISTRICT OF PALM BEACH COUNTY, formerly known as the PALM BEACH COUNTY HEALTH CARE DISTRICT ("District").

RECITALS:

- A. The County and the District entered into an Interlocal Agreement dated July 11, 1995 (County Resolution No. R95-930D), as modified by Modification of the Interlocal Agreement dated February 6, 1996 (County R96-139D), as amended by Amendment to the Interlocal Agreement dated September 26, 2000 (County R2000-1554) and as amended by Amendment #3 to Interlocal Agreement dated April 17, 2001 (County R2001-0586) (the Interlocal Agreement, Modification and Amendments shall collectively be referred to herein as the "Agreement") relating to the lease of the County Home and the respective real property to the District for its use, management and operation and for the District to provide certain services and funding for the Medicaid Match program;
- B. The District operated the County Home as the Edward J. Healey Rehabilitation and Nursing Center;
- C. The District is relocating the Edward J. Healey Rehabilitation and Nursing Center to a new location and is vacating the leased Premises;
- D. The County and the District have agreed on the terms and conditions regarding termination of the lease provisions of the Agreement as well as the responsibilities of the parties in relation to the demolition of the former County Home and the continuation of the remaining provisions of the Agreement.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.
2. Capitalized Terms. All terms not defined herein shall have the same meaning as in the Agreement.

3. Parties. All references in the Agreement to the Palm Beach County Health Care District are hereby replaced with the Health Care District of Palm Beach County, an independent special taxing district created pursuant to Chapter 2003-326, Laws of Florida.

4. Precedence of Fourth Amendment. This Fourth Amendment to the Agreement ("Fourth Amendment") supercedes, amends and replaces all provisions of the Agreement, relating to the lease of the Premises, the Option to purchase the Premises, and other provisions which are inconsistent with or in conflict with this Fourth Amendment.

5. Termination of Lease. Upon the Effective Date of this Amendment, the District and the County agree that the Agreement is hereby amended to terminate the lease of the Premises and Option to purchase, defined and identified in the Agreement.

6. Securing of Premises. The District shall, at its sole cost and expense, be responsible for physically securing the Premises until the Effective Date. Physically securing the Premises shall include, but not be limited to: (a) providing a security officer or guard, on site twenty-four hours a day, seven days a week (24/7) to protect the Premises from vandalism and intrusion, (b) insuring the Premises as set forth in the Agreement; (c) notifying the County of any known (by the District and/or its contractors) incidents of trespass and/or damage to the Premises as a result of a trespass or vandalism; (d) verifying the continued operation of building systems which could be known to person filling the position of security officer, and (e) notifying the County of any known situation involving the condition or safekeeping of the Premises which is an emergency or requires immediate attention such as, but not limited to, a water line break, a sewer system failure, loss of electricity and/or fire alarm. All notices to be provided under this provision shall be by facsimile and/or e-mail (with confirmation of delivery) to the County's Designated Representative.

The District shall continue to fund the cost of providing security to the Premises through December 31, 2013. Prior to the Effective Date, the District shall pay the County the amount of \$39,684.96 for security services, 12 hours/day, 7 days/week, through December 31, 2013. On the Effective Date of this Fourth Amendment, the County shall assume all responsibility for performing the security services. County agrees to be liable for its actions and negligence in regard to the performance of security services.

After December 31, 2013, the County shall, at its sole cost and expense, be responsible for securing the Premises.

7. Surrender of the Premises. The County and the District conducted a first walk-through of the Premises on May 23, 2013. The purpose of the walk-through was for: (a) the District's maintenance staff to familiarize the County's maintenance staff with the Premises' plant facilities and operation of the building systems including those systems which serve other properties; (b) identify any agreements between the District and other entities which relate to

the provision of facility or utility service to another entity from the Premises, or in whereby the District agrees to pay another entity for the joint use of a facility or utility located on other properties; (c) demonstrating the operation of the Premises' systems; and, (d) identifying the type and location of all utilities at the Premises.

A second walk-through shall be conducted at a date agreed upon by the County and the District but prior to or on the Effective Date. At the completion of the second walk-through, the District shall: (a) provide the County with all keys to the Premises; (b) provide an affidavit stating that all hazardous waste, medical waste and controlled substances have been removed from the Premises in accordance with applicable law; (c) answer any questions that the County's maintenance staff may have with regard to the operation of the Premises' building systems and/or demonstrate operation; and, (d) provide an inventory of all personal property and equipment that is not being removed from the Premises and will become the property of the County.

The District shall be responsible for maintaining utilities services and for the payment of utility services for the Premises, including water, electric and sewer services until the Effective Date, at which time the responsibilities for all utilities shall become the County's.

The County Representative shall have access to the Premises prior to the Effective Date, by request to the District Representative, which requests shall not be unreasonably denied.

8. Medical Waste and Controlled Substance Disposal. The District shall, at its sole cost and expense, remove from the Premises and properly dispose of any medical waste or controlled substances prior to the Effective Date.

9. District Property and Personal Property Removal. The District shall be solely responsible for the removal of all personal property and other District Property that cannot be demolished through standard demolition techniques and/or that the District wants to retain prior to the Effective Date. Any District Property or personal property remaining at the Premises following the Effective Date, whether listed on the personal property list at turnover or not, shall be and shall remain the County's sole and exclusive property, and the District forever waives any right, claim, title to, or interest in, said District Property or personal property which the County may freely dispose of as it determines appropriate. The District shall have no right of recovery; right to proceeds from sale; or, any other interest in said District Property or personal property after the Effective Date.

10. Demolition of the Premises. The County and the District agree to share the costs of demolition of all improvements on the Premises (except for the warehouse building) estimated to be \$632,000. Prior to the Effective Date of this Agreement, the District shall transfer to the County \$316,000 as full satisfaction of the District's agreement to share in the costs of demolition. The District shall not be responsible to the County for any additional

costs if the demolition costs of all improvements on the Premises exceed the estimate. The County shall be solely responsible for all necessary demolition services including, but not limited to, the design, permitting and actual demolition of all improvements on the Premises.

Notwithstanding the foregoing, the County shall have no obligation to demolish any or all improvements on the Premises. However, if the County decides not to demolish all improvements on the Premises, the County agrees to refund the District's contribution towards the demolition, for any portion of the Premises which is not demolished within one (1) year of the Effective Date of this Agreement. The amount of the refund shall be calculated on a pro rata share of the square footage of the above-ground occupiable improvements. The refund shall be paid to the District within 30 days of a decision to re-use a part or all of the improvements or one (1) year from the Effective Date; whichever is sooner.

11. Administration of the Agreement. County Administration shall be responsible for the administration of all aspects of the Agreement except for the provisions of this Fourth Amendment which shall be administered by the County's Facilities Development & Operations Department.

12. Designation of Representatives. The County and the District shall each designate a single person to act as the point of contact for the other for all matters relating to this Fourth Amendment ("Representative"). The District and the County shall provide the respective Representative's name and contact information (phone, facsimile, after hour contact number, email and mailing address) within five (5) business days of the execution of this Fourth Amendment.

13. Notice. Except as otherwise provided in this Fourth Amendment, all notices, consents, approval, and elections (collectively "notices") to be given or delivered by or to any party under the Agreement 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 (provided in each case a receipt is obtained), faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any such notice shall be the date of delivery of the notice if by personal delivery, courier service, or national overnight delivery service, or on the date of transmission with confirmation of delivery 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 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 to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

If to the County at:

Director, Facilities Development & Operations
2633 Vista Parkway
West Palm Beach, Fl. 33411
Fax 561-233-0206

And

County Administrator
301 North Olive Ave.,
West Palm Beach, FL 33401
Fax 561-355-3982

County Attorney's Office, Attention: Real Estate
301 N. Olive Ave, Suite 601
West Palm Beach, Fl. 33401
Fax 561-355-4398

If to the District at:

Health Care District of Palm Beach County
Attn: Chief Executive Officer
2601 10th Avenue North, Suite 100
Palm Springs, FL 33461

And

Health Care District of Palm Beach County
Attn: Chief Legal Officer
2601 10th Avenue North, Suite 100
Palm Springs, FL 33461

Edward J. Healey Rehabilitation and Nursing Center
1200 45th Street
West Palm Beach, 33407

Any party hereto may change the address for service of notices required or permitted hereunder upon ten (10) days prior written notice.

14. Ratification and Reaffirmation. Except as modified herein, all other terms and provisions of the Agreement remain in full force and effect.

15. Effective Date of Fourth Amendment. This Fourth Amendment shall become effective 10 calendar days after approval and execution by the Palm Beach County Board of County Commissioners.

16. Recording. This Fourth Amendment may be recorded in the public records of Palm Beach County, Florida.

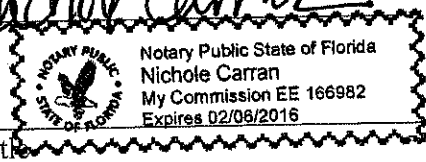
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IN WITNESS WHEREOF, the parties have duly executed this Fourth Amendment to Interlocal Agreement as of the day and year first written above.

Signed in the presence of:

ATTEST:

**THE HEALTH CARE DISTRICT
OF PALM BEACH COUNTY,
FLORIDA,**

By: Nichole Carran
Nichole Carran

Title: _____

By: R. J. Wiewora, MD
Ronald J. Wiewora, MD, MPH,
FACP, FACPM
Chief Executive Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Nicholas W. Romanello
Nicholas W. Romanello
Chief Legal Officer

Date: MAY 23, 2013

ATTEST:

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

**SHARON R. BOCK
CLERK & COMPTROLLER**

By: _____
Deputy Clerk

By: _____
Steven L. Abrams, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Signature]
Assistant County Attorney

APPROVED AS TO TERMS AND CONDITIONS

Audrey Wolf
Audrey Wolf, Director
Facilities Development & Operations

13- 0945

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET AMENDMENT**

PUBLIC BUILDING IMP FUND

3804

BGEX-410-052013-1598

BGRV-410-052013-581

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED 5/20/2013	REMAINING BALANCE
<u>REVENUES</u>								
411 B557	6943 - Reimbursed Other			355,685		355,685	0	
	Total Receipts and Balances	36,783,123	36,818,829	355,685	0	37,174,514		
<u>EXPENDITURES</u>								
<u>County Home Demo</u>								
411 B557	3411 - Demolition			316,000		316,000		316,000
	3405 - Security			39,685		39,685	0	39,685
	Total Appropriations & Expenditure	36,783,123	36,818,829	355,685	0	37,174,514		

INITIATING DEPARTMENT/DIVISION
Facilities Development & Operations
Administration/Budget Department Approval
OFMB Department - Posted

Signatures	Date
<u>Ann Marie [Signature]</u>	<u>5/24/13</u>
<u>[Signature]</u>	<u>6/3/2013</u>

883

By Board of County Commissioners
At Meeting of
18-Jun-13
Deputy Clerk to the
Board of County Commissioners

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET TRANSFER**

FUND 3804 - Public Building Improvement

BGEX-410-052013-1597

Use this form to provide budget for items not anticipated in the budget.

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 05/20/13	REMAINING BALANCE
Reserves								
821-9814	9907 Reserve for Future Construction	768,203	766,297		316,000	450,297		450,297
County Home Demo								
411-B557	3411 - Demolition			316,000		316,000		316,000
	Total			316,000	316,000			

Facilities Development & Operations
INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Signatures

Date

Annissa W. W. W. W.
H. B. B. B.

5/24/13
6/3/2013

2013

By Board of County Commissioners
At Meeting of
6/18/2013
Deputy Clerk to the
Board of County Commissioners