

Agenda Item #:

Meeting Date:	August 15, 2017	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Facilities Development & Operations		

Recommended By: K. H. Army W. W. F. 7/15/17
Department Director Date

Approved By: M. Baker 8/11/17
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>\$-0-</u>	<u>(\$7,993)</u>	<u>(\$10,997)</u>	<u>(\$2,771)</u>	<u>\$-0-</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u><u>\$-0-</u></u>	<u><u>(\$7,993)</u></u>	<u><u>(\$10,997)</u></u>	<u><u>(\$2,771)</u></u>	<u><u>\$-0-</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in ^{the Proposed} ^ Budget:	Yes _____	No _____			
Budget Account No:	Fund <u>0001</u>	Dept <u>800</u>	Unit <u>8001</u>	Object <u>6225</u>	
	Program _____				

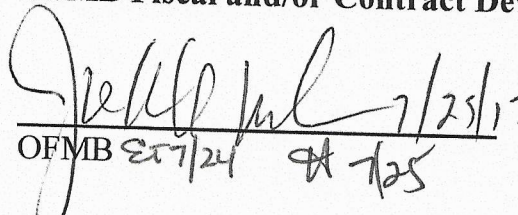
B. Recommended Sources of Funds/Summary of Fiscal Impact:

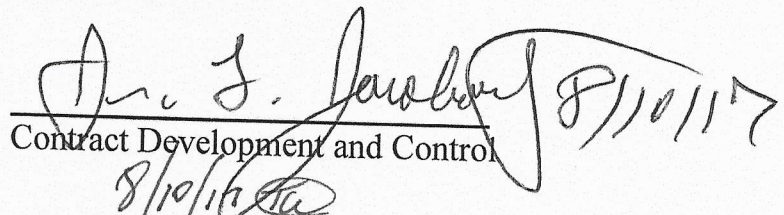
Fixed Assets Number _____

C. Departmental Fiscal Review: _____

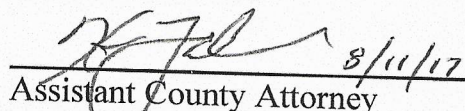
III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

 7/25/17
OFMB 8/7/24 # 7/25

 8/10/17
Contract Development and Control

B. Legal Sufficiency:

 8/11/17
Assistant County Attorney

C. Other Department Review:

Department Director

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

Background and Policy Issues (cont'd): On December 1, 2009, the Board approved a First Amendment (R2009-2063) suspending the required 4% annual rent increase, equating to a rental reduction of \$311.50, for a period of one (1) year due to economic conditions caused, in part, by the reduction of County staff located at the buildings at Vista Center. The 4% annual increases recommenced on January 1, 2011.

On December 6, 2011, the Board approved a Second Amendment (R2011-1936) exercising the first extension option, and on December 4, 2012, the Board consented to the exercise of the second and final one (1) year extension option (R2012-1789) extending the term through December 31, 2013. In November 2012, Sub Division provided documentation evidencing that their product costs had increased by approximately 25%, and Staff authorized an increase of Sub Division's menu prices by approximately 13%. This was the only price increase during the term of this Lease Agreement.

On September 10, 2013 the Board approved a Third Amendment (R2013-1225) extending the term for one (1) year and adding three (3) additional one (1) year extension options in recognition of Sub Division having based its return on its investment on the information provided in the RFP, which identified an estimated number of building users and guests as 1,000 employees and 1,000 daily visitors. Due to a reduction in the customer base as a result of County budget related staff reductions and construction activity the predicted number of employees and guests did not materialize. On December 16, 2014, the Board consented to the exercise of the first one (1) year extension option (R2014-1980), on December 1, 2015, the Board consented to the second one (1) year extension option (R2015-1705) and on November 1, 2016, the Board consented to the third and final one (1) year extension option (R2016-1591) extending the term through December 31, 2017.

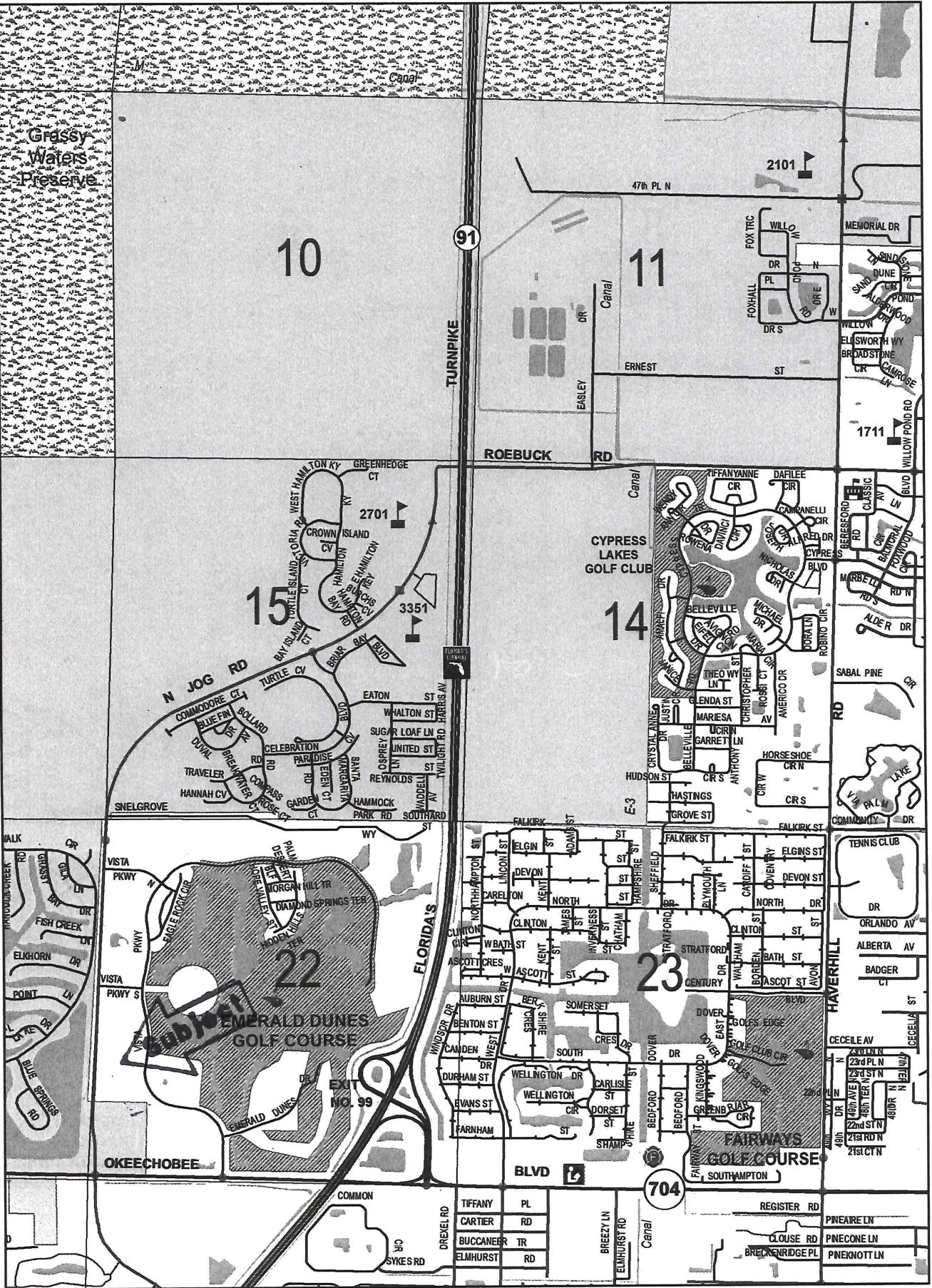
Sub Division maintains, and Staff agrees, that economic conditions and lower staffing levels have continued to negatively impact their food and beverage sales, reducing the expected return of Sub Division's initial investment. Staff also believes that due to the small size and limited customer base, it is unlikely there would be sufficient interest in responding to an RFP. Pursuant to PPM CW-L-023, the County Administrator has authorized Staff to utilize an alternative source selection rather than issue an RFP.

Florida Statutes, Section 286.23, does not require a Disclosure of Beneficial Interests be obtained.

TWP
43

TWP
43

TWP
43



RNG 42

See pg 69

RNG 42

Page 57

LOCATION MAP

Attachment 1
1 of 1



ATTACHMENT NO. 2
(7 Pages)

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING A TWO (2) YEAR EXTENSION OF THE TERM OF THE LEASE 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), as amended, 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; and

WHEREAS, Tenant has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County amend the lease to approve a two (2) year extension of the Term of the Lease; and

WHEREAS, Tenant provides a service to County employees and visitors to the Vista Center buildings by offering them convenient food service at a reasonable price and County wishes to retain Tenant's operations at Vista Center; and

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 extension 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 extend the Term for two (2) years pursuant to the Fourth Amendment to the Lease, attached hereto as Exhibit "A" 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 Paulette Burdick, Mayor
Commissioner Melissa McKinlay, Vice Mayor
Commissioner Hal R. Valeche
Commissioner Dave Kerner
Commissioner Steven L. Abrams
Commissioner Mary Lou Berger
Commissioner Bernard Mack

The Mayor thereupon declared the resolution duly passed and adopted this ____ day of _____, 2017.

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:  _____
Department Director

EXHIBIT "A"

**FOURTH AMENDMENT
TO
LEASE AGREEMENT**

THIS FOURTH AMENDMENT TO LEASE AGREEMENT (the "Fourth Amendment") is made and entered into _____ by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners ("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, as amended by R2009-2063, R2011-1936 and R2013-1225; and

WHEREAS, the Term of the Lease currently expires on December 31, 2017; and

WHEREAS, the parties wish to amend the Lease to approve a two (2) year extension of the Term of the Lease, modify the utility and termination provisions; and incorporate certain language required by County; and

WHEREAS, County hereby acknowledges that Tenant is not delinquent in the payment of rent and is not in default of any of the terms and conditions of the Lease.

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 Term of the Lease is hereby extended for a period of two (2) years commencing on January 1, 2018, and expiring on December 31, 2019. Annual Rent shall be adjusted as provided for in Section 2.02 of the Lease.
3. Section 4.05, Non-Discrimination, is hereby deleted in its entirety and replaced with the following:

Section 4.05, Non-Discrimination

Tenant shall assure and certify that it will comply with Title VI of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information with respect to any activity

occurring on the Premises or conducted pursuant to this Lease. Tenant warrants that in the event the facilities constructed or operated upon the Premises are public facilities the same shall be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis as to residents of the municipality in which the Premises are located.

Tenant has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as may be amended, or in the alternative, has acknowledged through a signed statement provided to County that Tenant will conform to the County's non-discrimination policy as provided in R-2014-1421, as may be amended.

4. Section 7.01, Utilities, is hereby deleted in its entirety and replaced with the following:

Section 7.01 Utilities

County shall supply and pay all costs relating to the water, electric and local phone service via voice over internet protocol to the Premises and Lunchroom. Hardline dedicated phone service is not available to the Premises. In no event shall County be liable for an interruption or failure in the supply of any utility to the Premises. Tenant shall be solely responsible for and promptly pay all costs and expenses relating to providing other utility services to the Premises, including, without limitation, construction and connection charges and shall pay directly to the utility company or the provider of such other services all charges and assessments for any utility or other services provided including, without limitation, gas, long distance phone charges, or any other utility used or consumed on the Premises. Tenant's other utility service installations must be reviewed and approved by County as provided for in Section 3.02 Tenant Alterations and is subject to Section 3.03 Responsibility for Alterations of the Lease.

5. Section 15.01, Annual Appropriations, is hereby deleted in its entirety and replaced with the following:

Section 15.01 Annual Appropriations

This Lease and all obligations of County hereunder are subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners. Notwithstanding anything in this Lease to the contrary, County may cancel this Lease for any reason upon ninety (90) days prior written notice to Tenant and Tenant may cancel this Lease for any reason upon one-hundred eighty (180) days prior written notice to County.

6. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure

compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

7. Except as set forth herein, all of the terms and conditions of the Lease, as amended, remain unmodified and in full force and effect.

8. This Fourth 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, the parties have duly executed this Fourth Amendment as of the day and year first written above.

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
Paulette Burdick, Mayor

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

Assistant County Attorney

Audrey Wolf, Director
Facilities Development & Operations

WITNESSES:

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

Witness Signature

By: _____
Robert Weatherbee

Print Witness Name

Witness Signature

Print Witness Name

ATTACHMENT NO. 3
4 Pages each

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CLERK & COMPTROLLER

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political subdivision of the State of Florida

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Deputy Clerk

By: _____
Paulette Burdick, Mayor

Witness Signature

Print Witness Name

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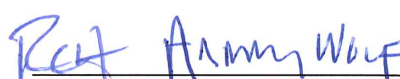
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Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

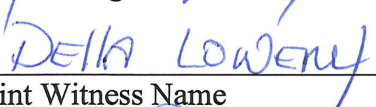


Audrey Wolf, Director
Facilities Development & Operations

WITNESSES:



Witness Signature



Print Witness Name



Witness Signature



Print Witness Name

TENANT:

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

By: 

Robert Weatherbee