

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget:	Yes	_____	No	_____	
Does this item include the use of federal funds?	Yes	_____	No	_____	
Budget Account No:	Fund _____	Dept _____	Unit _____	Object _____	
		Program _____			

B. Recommended Sources of Funds/Summary of Fiscal Impact:
No Fiscal Impact.

Fixed Assets Number NA

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

Lisa Marie Weber
OFMB *1/1/19* *4/1/19*

[Signature] *1/27/21*
Contract Development and Control
1-27-21 [Signature]

B. Legal Sufficiency:

Anne Delgant *1-28-21*
Assistant County Attorney

C. Other Department Review:

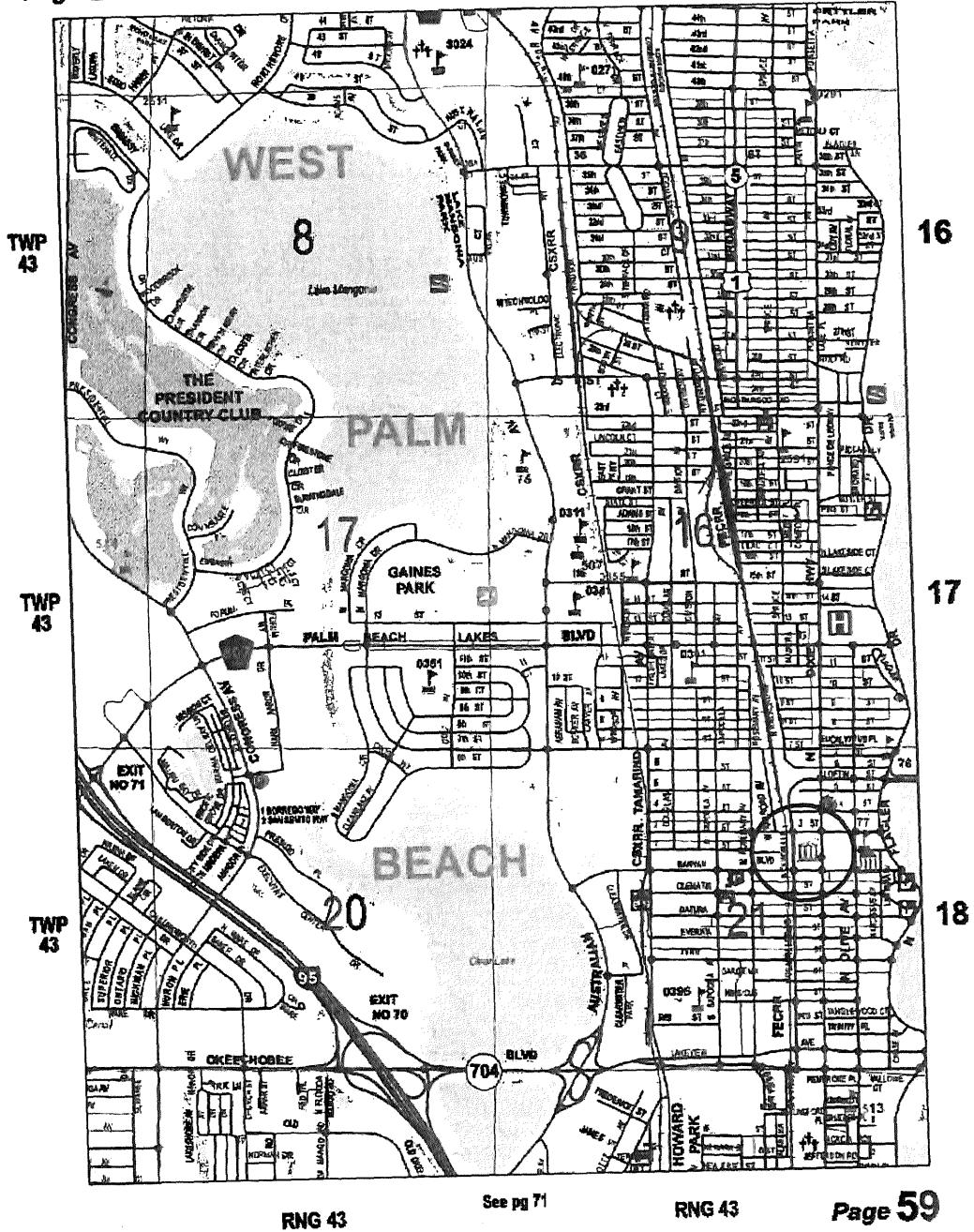
Department Director

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

BACKGROUND & POLICY ISSUES (Cont'd)

Page 3

The Lease required Café to complete all improvements by January 31, 2020, provide a contractor payment and performance bond pursuant to Florida Statutes, Section 255.05, and provide a tenant surety bond in the amount of \$130,534 to ensure the contractor is paid upon completion of construction. Café submitted its proposed plans on November 12, 2019 and the signed construction agreement on November 26, 2019. Staff forwarded its review comments and revision requests on December 4, 2019. After some discussions, on December 30, 2019, Café agreed to comply with the comments and requested a conditional consent be issued to expedite permitting submittal. The conditional consent was sent on January 10, 2020. On January 10, 2020, staff notified the Board that it was unlikely that Café would be able to meet its requirements to complete construction by January 31, 2020. On February 11, 2020, the Board approved an extension of time to obtain a building permit by June 30, 2020 and complete construction by July 31, 2020. On March 9, 2020, Café closed due to Covid-19 restrictions. On May 19, 2020, the Board approved abatement of rent in the amount of \$3,541. The building permit was issued on May 28, 2020 and the contractor's payment and performance bond was received on July 6, 2020. However, Café was unable to secure a tenant surety bond. At staff's request, Café provided evidence of payment to the contractor and materialmen in the amount of \$88,324. On July 28, 2020, the Board approved the deposit of \$42,209.74 in an attorney's trust account in lieu of the required tenant surety bond and extended the deadline to complete construction to September 30, 2020. On August 7, 2020, Café changed contractors and provided the required bonding information for new contractor. On October 17, 2020, a fire sprinkler system break, unassociated with the interior work, delayed the project and increased its scope to repair damaged ceiling and wall areas. On October 19, 2020, staff sent a notice of an event of default pursuant to the terms of the Lease. Staff has monitored and confirmed construction progress with weekly status inspections. However, on November 19, 2020, Café notified the County that its contractor was filing for bankruptcy and a hold was placed on the permit until a new contractor is assigned. Despite this setback, Café has continued to work on the improvements. Café has still to retain a new contractor. Staff recognizes that the Café's construction process has been severely impacted by Covid-19 restrictions and supply chain delays. Staff recommends a final extension until March 31, 2021 for Café to complete all construction. Staff further recommends the Board grant the County Administrator or its designee the authority to terminate the lease with LJL Food Management, Inc., d/b/a The Hideout Kitchen & Café if the Café is unable to meet the new deadline.



LOCATION MAP

Attachment #1
Page 1 of 1

Attachment 2

October 19, 2020 Notice of Default (2 pages)



CERTIFIED MAIL
RETURNED RECEIPT REQUESTED
7019 1120 0000 0865 5544 /

October 19, 2020

**Facilities Development &
Operations Department**

**Property & Real Estate
Management Division**

2633 Vista Parkway

West Palm Beach, FL 33411

Telephone - (561) 233-0217

Facsimile (561) 233-0210

www.pbcgov.com/fdo

Palm Beach ■ **County**
**Board of County
Commissioners**

Dave Kerner, Mayor

Robert S. Weinroth, Vice Mayor

Hal R. Valeche

Gregg K. Weiss

Mary Lou Berger

Melissa McKinlay

Mack Bernard

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*

LJL Food Management, Inc.
d/b/a The Hideout Kitchen & Café
c/o Petro and Katina Bikos
965 Lighthouse Drive
North Palm Beach, FL 33408

**RE: Notice to Tenant: Lease Agreement (R2019-1059), dated
July 25, 2019, between Palm Beach County and LJL Food
Management, Inc. d/b/a The Hideout Kitchen & Café**

Dear Mr. Bikos and Ms. Bikos:

Pursuant to Section 4.02(a) of the above-referenced Lease, Tenant is responsible for certain improvements and renovations to the Premises by January 31, 2020. On February 11, 2020, the Palm Beach County Board of County Commissioners (Board) extended the deadline to complete the renovations to June 30, 2020. On July 28, 2020, the Board again extended the deadline to September 30, 2020.

Based on discussions with the Tenant and an inspection of the Premises, the improvements have not been completed as of October 17, 2020. Therefore, pursuant to Section 15.01 of the Lease, you are hereby put on notice that you have 10 days from receipt of this Notice to proceed with diligence and dispatch to remedy same. Failure to do so will constitute a default under the Lease.

We intend to strictly enforce the terms of the agreement. Please satisfy these defaults or the County will pursue any and all remedies available under the law and in accordance with Section 15.01 of the Lease Agreement. Time is of the essence.

LJL Food Management, Inc .
d/b/a The Hideout Kitchen & Café
October 19, 2020
Page 2 _____ /

Should you have any questions, please contact Ms. Della Lowery at dlowery@pbcgov.org or at (561) 233-0239.

Sincerely,



Richard C. Bogatin, Manager
Property Management

cc: Ross C. Hering, Director – PREM
Howard J. Falcon, III, Chief Assistant County Attorney, County Attorney Office
LJL Food Management, Inc. (via certified mail to 215 North Olive Avenue,
Suite 110, West Palm Beach, FL 33401) 7019 1120 0000 0865 5537
Della M. Lowery, Property Specialist, PREM
Petro Bikos, Tina's Café (w/encl.; via e-mail to pbis300@aol.com)
Eleni Bikos, Tina's Café (w/encl.; via e-mail to eb@fcohenlaw.com)

Attachment 3

July 28, 2020 Agenda (3 pages)

Agenda Item #: **3E**
MCB/MB 7-0
With Directions

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

Meeting Date: July 28, 2020 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

APPROVED

BY BOARD OF COUNTY COMMISSIONERS
I. EXECUTIVE BRIEF AT MEETING OF JUL 28 2020

Motion and Title: Staff requests Board direction: regarding LJL Food Management, Inc. d/b/a Hideout Kitchen and Café's request to waive the surety bond requirement and to further extend the deadline for completion of construction under its lease of restaurant space within the Governmental Center Parking Garage (R2019-1059). **D.C.**

Summary: The Board approved the new Lease with the Hideout Kitchen and Café (Café) on July 25, 2019 (R2019-1059). The Lease, as amended to extend the construction deadlines, requires Café to spend \$130,000 on improvements and complete those improvements by July 31, 2020. Consistent with F.S. 255.05, the Lease requires that Café's contractor post a payment and performance bond to ensure the contractor's performance. In addition, the Lease allows the County, at its option, to require the Café to post a tenant surety bond for the cost of the improvements to ensure that Café pays its contractor. On May 28, 2020, the permit for construction was issued, and on July 6, 2020, the required contractor's performance bond was received. Staff has made numerous requests to Café to post the tenant surety bond. Café claims the type of surety bond requested is not available in the general bonding market and Café is unable to obtain a bond. Café has requested that the County waive the requirement to obtain a surety bond, and instead asks that the County allow Café to place the balance of funds payable under its contract in an escrow account with its lawyer. On July 10, 2020, at staff's request Café provided canceled checks totaling \$88,324.26 as evidence of prepayment to Café's contractor and materialmen, leaving a balance due under its contracts of \$42,209.74. As a result of its delay in obtaining a bond and the Covid-19 shutdowns, Café is requesting a further extension of the deadline to complete construction. If the Board approves Café's request, then staff would recommend an extension until September 30, 2020. **(Property & Real Estate Management) Countywide/District 7 (HJF)**

Background and Policy Issues: On July 25, 2019, the Board approved the Governmental Center Lease Agreement with LJL Food Management, Inc. LJL Food Management changed its operating name from Tina's Café to The Hideout Kitchen & Café. The Lease required Café to complete all improvements by January 31, 2020, provide a contractor payment and performance bond pursuant to Florida Statutes, Section 255.05, and provide a tenant surety bond in the amount of \$130,534 to ensure the contractor is paid upon completion of construction. Café submitted its proposed plans on November 12, 2019 and the signed construction agreement on November 26, 2019. Staff forwarded its review comments and revision requests on December 4, 2019. After some discussions, on December 30, 2019, Café agreed to comply with the comments and requested a conditional consent be issued to expedite permitting submittal. The conditional consent was sent on January 10, 2020. On January 10, 2020, staff notified the Board that it was unlikely that Café would be able to meet its requirements to complete construction by January 31, 2020. On February 11, 2020, the Board approved an extension of time to obtain a building permit by June 30, 2020 and complete construction by July 31, 2020.

(Continued on Page 3)

Attachments:

- 1. Location Map
- 2. Binko's/Café's 7/10/2020 email w/cancelled checks evidencing payments made.
- 3. Building Permit Status

Recommended By: *RAT* *Debra L. Neal* *7/23/20*
Department Director Date
Approved By: *J Baker* *7/27/2020*
County Administrator Date

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

B. Recommended Sources of Funds/Summary of Fiscal Impact:
No Fiscal Impact

Fixed Assets Number N/A

C. Departmental Fiscal Review: [Signature]

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 7/24/2020
OFMB [Signature] [Signature]
[Signature] for [Signature]
Contract Development and Control
7-24-20 PD

B. Legal Sufficiency:

[Signature] 7/24/2020
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 Continued: On March 9, 2020, Café closed due to Covid-19 restrictions. On May 19, 2020, the Board approved abatement of rent in the amount of \$3,541.13. The building permit was issued on May 28, 2020 and the contractor's payment and performance bond was received on July 6, 2020. To date, Café has been unable to secure a tenant surety bond. Café requests a waiver of the tenant surety bond requirement. Café has provided, at staff's request, evidence of payment to the contractor and materialmen in the amount of \$88,324.26. In lieu of the tenant surety bond, Café is proposing to deposit the remainder of \$42,209.74 in an attorney's trust account, to be held in escrow and dispersed only to pay the contractor. Café has provided a bank statement showing a balance of \$54,709.21 in its account. Café has commenced demolition activities at the premises but staff has not issued a notice of approval to proceed with improvements due to Café's inability to obtain a tenant surety bond. Due to the delay, Café will be unable to meet the construction completion deadline of July 31, 2020. Staff is requesting Board direction on depositing the remainder of money in an attorney trust account in lieu of a tenant surety bond and a second extension for construction completion.