

6E-1

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: July 11, 2023 [ ] Consent [X] Regular  
[ ] Ordinance [ ] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

**Motion and Title: Staff recommends motion to approve:** a First Amendment to the Lease Agreement with Florida Department of Education, Division of Blind Services to (i) provide for rent abatement from July 17, 2020 through April 30, 2021; (ii) adjust the rental rate to 50% for May 2021 through December 2021 and to 60% for January 2022 through October 2022 based on the percentage of annual visitors to the Judicial Center as compared to 2019; (iii) adjust rental payments to 3.5% of monthly gross sales in lieu of a guaranteed Annual Rent effective June 1, 2023; and (iv) provide one parking space at the Judicial Center.

**Summary:** The Florida Department of Education, Division of Blind Services (Blind Services) has operated a café in the Palm Beach County Judicial Center (Judicial Center) located at 205 North Dixie Highway in West Palm Beach since 2004; the current Lease Agreement (R2014-1751) was approved on November 18, 2014. On May 19, 2020, the Board of County Commissioners (Board) approved rent abatement due to the economic impacts of the Covid19 pandemic for several tenants including Blind Services, whose rent was abated from March 9, 2020 through May 31, 2020. Blind Services continued to experience hardships due to extended Covid19-related restrictions at the Judicial Center which affected sales and prompted Blind Services to request additional rent relief. This First Amendment waives rent from July 17, 2020 through April 30, 2021; changes the rental rate for May 2021 through December 2021 to 50% of the rent due, and for January 2022 through October 2022 to 60% of the rent due, based on the number of annual visitors to the Judicial Center compared to pre-pandemic levels. Thereafter, the rental obligation is adjusted to collect percentage rent based on gross sales instead of guaranteed annual rent effective July 1, 2023. The current annual rental rate is \$20,438.64 (\$1,703.22/month) for FY 2023. Blind Services also requested a dedicated parking space at the Judicial Center which would assist them in loading and unloading of food and supplies. All other obligations under the current lease remain unchanged. The Lease Agreement will continue to be administered by Facilities Development and Operations, Property and Real Estate Management Division. **(Property & Real Estate Management) District 7 (HJF)**

**Background and Policy Issues:** Blind Services has operated a café at the Judicial Center since 2004. Due to the impacts of the Covid19 pandemic, the Fifteenth Judicial Circuit took significant measures to limit and modify court operations at the Judicial Center. Staffing was limited and remote operations were implemented for an extended time which in turn affected the number of visitors to the Judicial Center. While in May 2020 the Board approved rental abatement for several tenants, including Blind Services, the abatements were only from March 2020 through May 2020. Though Blind Services reopened the café on June 1, 2020, it reclosed on July 17, 2020 due to ongoing effects of Covid19 pandemic. When the café reopened in May 2021, the Judicial Center was still operating under limited court operations and it was not until October 31, 2022 that all restrictions were vacated.

Continued on Page 3

**Attachments:**

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

Recommended By: [Signature] 6/15/23  
Department Director Date

Approved By: [Signature] 6/29/2023  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$28,757.69) <small>plus % of monthly gross sales)</small>	*TBD	\$0	\$0	\$0
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>*(TBD)</u>	<u>*TBD</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
# 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 0001 Dept 800 Unit 8001 Revenue 6225  
 Source \_\_\_\_\_  
 Program \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:** Rental revenues for 2023 are inclusive of rental arrearages as follows:

Partial rent for July 1, 2020 thru July 16, 2020 at (\$389.67);  
 Abatement from July 17, 2020 thru April 30, 2021;  
 50% of amount owed for May 1, 2021 thru December 31, 2021 at (\$6,494.02);  
 60% of amount owed January 1, 2022 through October 31, 2022 at (\$9,951.46); and  
 100% of rent owed November 1, 2022 through May 31, 2023 (\$11,922.54).  
 \*Effective June 1, 2023 rental revenue will be based on 3.5% of monthly gross sales.

Fixed Assets Number N/A

C. Departmental Fiscal Review: *[Signature]*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

*ASTD* 6/21/23  
 OFMB *EW* 6-21-23  
*Ann L. Jacobson* 6/27/23  
 Contract Development and Control *706* 6/27/23

**B. Legal Sufficiency:**

*[Signature]* 6/25/23  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

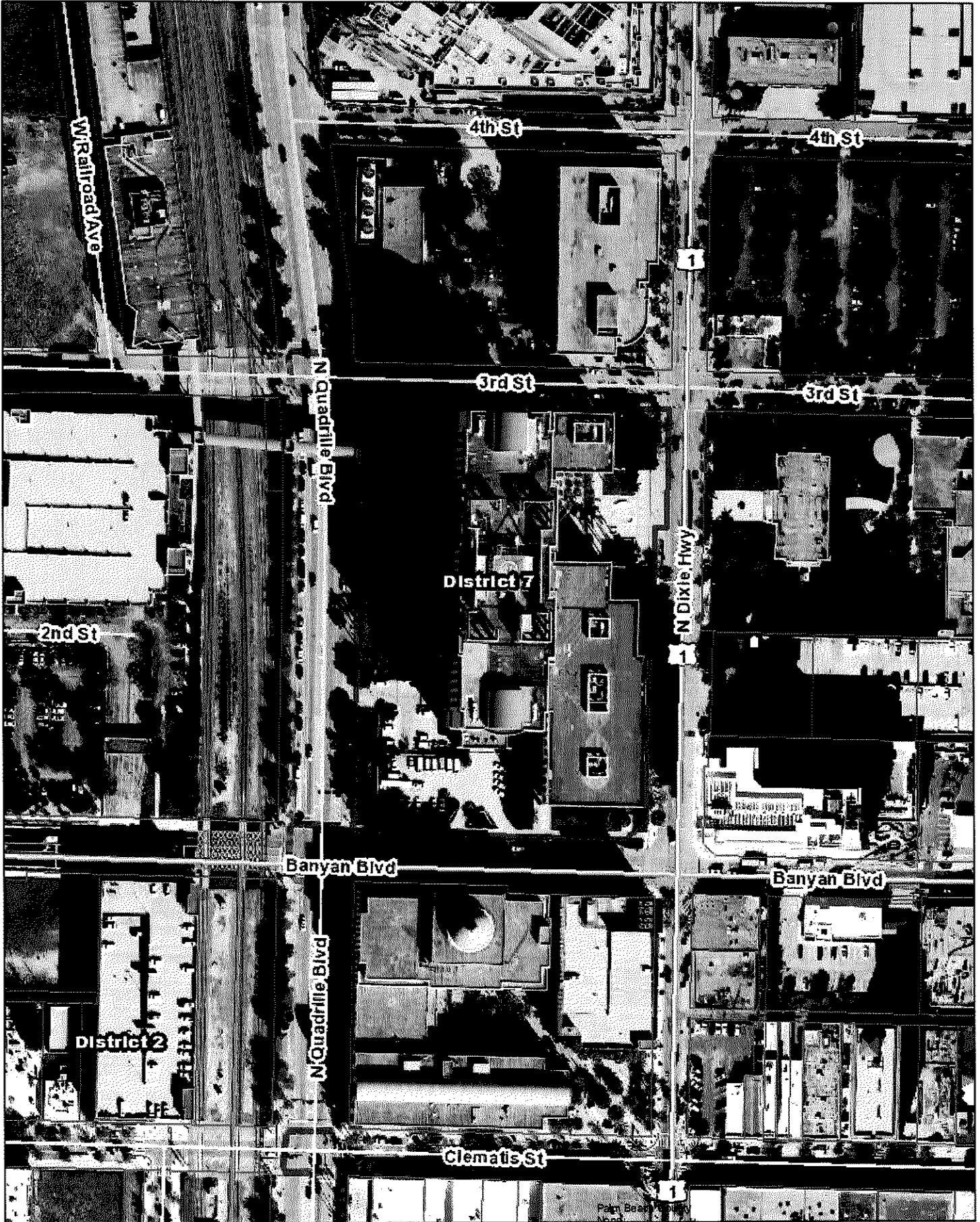
**This summary is not to be used as a basis for payment.**

**Background and Policy Issues:**

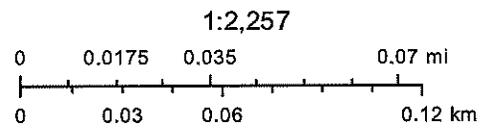
The extended restrictions resulted in a decline in sales and has prompted Blind Services to request additional rent relief. The First Amendment waives rent from July 17, 2020 through April 30, 2021 during which time the café was closed. In addition, it modifies the rental rate for May 2021 through December 2021 to 50% of the rent due and for January 2022 through October 2022 to 60% of the rent due. The percentages are based on the annual visitor count at the Judicial Center compared to pre-pandemic numbers. Finally, Blind Services is requesting that future rental rates be modified to 3.5% of the gross monthly sales in lieu of the guaranteed annual amount. The majority of the County's food concession leases provide for guaranteed annual rent or percentage of sales, whichever is greater, or simply a guaranteed annual rent.

# LOCATION MAP

74-43-43-21-01-052-0010



June 13, 2023



Attachment 1

**Attachment #2**  
**First Amendment to Lease Agreement (2 @ 6 pages)**

## FIRST AMENDMENT TO LEASE AGREEMENT

**THIS FIRST AMENDMENT** to Lease Agreement is made as of \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, herein referred to as "County" and Florida Department of Education, Division of Blind Services, organized and existing under the laws of the State of Florida, hereinafter referred to as "Tenant".

### WITNESSETH:

**WHEREAS**, County entered into that certain Lease Agreement (R2014-1751) dated November 18, 2014 ("Agreement") with Tenant to solely and exclusively operate a snack shop to provide food and beverage service to County employees and visitors to the Palm Beach County Judicial Center ("Judicial Center") located at 205 North Dixie Highway in West Palm Beach; and

**WHEREAS**, Tenant requests a dedicated parking space and County agrees to provide one parking space at the Judicial Center for Tenant's use; and

**WHEREAS**, on May 19, 2020, due to the impacts of Covid-19, the Board of County Commissioners approved rent abatement for a number of County concessionaire agreements, including Tenant, on a day by day basis; and

**WHEREAS**, Tenant's rent was abated from March 9, 2020 through May 31, 2020; and

**WHEREAS**, Tenant paid rent for June 2020 and partial rent for July 2020, closing on July 17, 2020 through April 2021 due to continued restrictions at the Judicial Center; and

**WHEREAS**, the extended pandemic restrictions at the Judicial Center limited entry to courts resulting in a decline in sales for the Tenant; and

**WHEREAS**, Tenant has requested additional rental relief as follows:

- (1) Waive rent from July 17, 2020 through April 30, 2021;
- (2) Payment of rent based on the percentage of annual visitors to the Judicial Center compared to pre-pandemic numbers; specifically the percentage for calendar years 2020 and 2021 is 50% and calendar year 2022 is 60%;
- (3) Future rental payments be percentage rent based on gross revenue sales in lieu of a guaranteed Annual Rent; and

**WHEREAS**, County and Tenant agree that rent owed for each aforementioned period will be equal to said percentage; and

**WHEREAS**, County wishes to approve the request to adjust the rental obligation as set forth herein.

**NOW THEREFORE**, in consideration of the mutual promises contained here, the County and the Tenant agree as follows:

1. The foregoing recitals are true and correct and incorporated herein. Terms not defined herein shall have the same meaning as in the Agreement.
2. **Section 1.01 Premises** is hereby revised to add the following:  
  
One dedicated parking space shall be provided for Tenant's exclusive use.
3. The rent for the period of July 17, 2020 through April, 2021 is hereby waived.
4. The rent due for the period of May 1, 2021 through December 31, 2021 shall be equal to \$6,494.02 which is fifty percent (50%) of the rate due pursuant to the Agreement; and the rent due for the period of January 1, 2022 through October 31, 2022 shall be equal to \$9,951.46 which is sixty percent (60%) of the rate due pursuant to the Agreement.
5. **Section 2.01 Annual Rent** is hereby revised to add the following:

Effective June 1, 2023, in lieu of the guaranteed Annual Rent, Tenant shall pay to the County a Percentage Rent during the remainder of the term of this Agreement in monthly installments, together with all applicable sales taxes thereon, on the first (1<sup>st</sup>) day of each month, without any prior demand therefor or any deduction, holdback or setoff whatsoever. Tenant shall pay County the amount by which 3.5% of the monthly Gross Revenues derived from the operation of the snack shop at the Judicial Center ("Percentage Rent") for the preceding month. With each rental payment, Tenant shall provide County a completed Monthly Report of Tenant's Gross Revenues utilizing the form attached hereto and incorporated herein as Exhibit "E" certifying the gross revenues for the preceding month.

The initial monthly Percentage Rent shall be due on August 1, 2023 for the months of June and July, 2023.

"Gross Revenue" for the purpose of this Agreement shall be defined as all sales of food, beverages, and sundry items generated as a result of the Tenant's operations at or associated with the Judicial Center. Gross Revenue shall not include:

1. Sales tax collections,
2. Gratuities,
3. Funds collected for food consumed by the Concessionaire's employees, or
4. Funds that were collected but have been refunded to the customer.

Sales of food and collections of sales tax shall be accounted for separately at the point of sale. If the Tenant is unable to do this, it shall calculate sales tax from gross receipts using a method approved by the Florida Department of Revenue. References to Annual Rent in the Agreement shall mean Percentage Rent hereafter.

6. Except as modified by this First Amendment, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof, and the parties hereby ratify, confirm and adopt the Agreement, as amended.

**The remainder of this page intentionally left blank**

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written.

WITNESS:

Florida Department of Education,  
organized and existing under the laws  
of the State of Florida

*[Handwritten Signature]*  
Witness Signature

By: *[Handwritten Signature]*  
Signature

David Ellinger  
Print Witness Name

Manny Diaz, Jr. *Anastoyes*  
Print Name *Kovachis*

*[Handwritten Signature]*  
Witness Signature

Commissioner *Chief of Staff*  
Title

Mary Lee Mayo  
Print Witness Name

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: *[Handwritten Signature]*  
~~Deputy~~ General Counsel

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed on the day and year first above written.

ATTEST:

JOSEPH ABRUZZO  
CLERK OF THE CIRCUIT COURT  
& COMPTROLLER

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

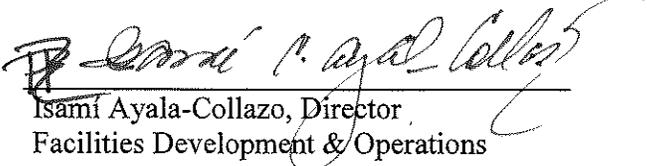
By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Gregg K. Weiss, Mayor

APPROVED AS TO LEGAL  
SUFFICIENCY:

APPROVED AS TO TERMS AND  
CONDITIONS:

By:  \_\_\_\_\_  
Assistant County Attorney

By:  \_\_\_\_\_  
Isami Ayala-Collazo, Director  
Facilities Development & Operations

**EXHIBIT "E"**  
**TO THE LEASE AGREEMENT**

**Monthly Report of Tenant's Gross Revenue for the Preceding Month**  
**(Due by the 1st of each month)**

Palm Beach County Judicial Center      Date: \_\_\_\_\_  
205 N. Dixie Hwy., West Palm Beach

Tenant Name: \_\_\_\_\_

Period Covered: From \_\_\_\_\_ To \_\_\_\_\_

**A. Itemization of Monthly Gross Revenue (excluding subcontractor gross revenue)**

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**B. Subcontractor Monthly Gross Revenue**

Subcontractor is defined in paragraph 10.01 of this Agreement. If there are multiple subcontractors, please include the total for all subcontractors on this line; and, list the name of each subcontractor on this form, or on an attached second sheet. If additional space is required, attach second sheet.

_____	\$ _____
_____	\$ _____
_____	\$ _____

**C. Total Monthly Gross Revenue (A+B)      \$ \_\_\_\_\_**

**D. Total Payable**  
Percentage Rent 3.5% x Total Monthly Gross Revenue (C)      \$ \_\_\_\_\_