

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: November 15, 2022

Consent [ ] Regular  
 Workshop [ ] Public Hearing

Submitted By: Department of Airports

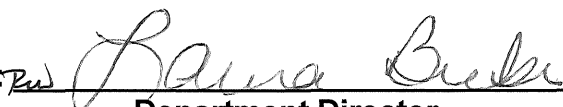
**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to receive and file:** License Agreement with Enterprise Leasing Company of Florida, LLC (Enterprise), commencing October 1, 2022 and expiring October 31, 2022, with automatic month-to-month renewals through September 30, 2025, unless terminated; providing for the use of approximately 185,850 square feet of ground area on 5<sup>th</sup> Street located north of Belvedere Road for the overflow parking of vehicles in connection with Enterprise’s rental car operations at the Palm Beach International Airport (PBI), for payment of license fees in the amount of \$12,390.00 per month.


**Summary:** Enterprise uses the property for overflow parking in support of their rental car operation at PBI. Delegation of authority for execution of the standard County agreement above was approved by the BCC in R-2007-2070. **Countywide (AH)**

**Background and Justification:** N/A

**Attachments:** One (1) License Agreement

Recommended By:   
**Department Director**

10-17-22  
**Date**

Approved By:   
**County Administrator**

10/27/22  
**Date**

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	<u>(\$12,390)</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u><b>(\$12,390)</b></u>	<u><b>\$0.00</b></u>	<u><b>\$0.00</b></u>	<u><b>\$0.00</b></u>	<u><b>\$0.00</b></u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No \_\_\_\_\_  
 Does this item include the use of federal funds? Yes \_\_\_\_\_ No X

Budget Account No: Fund 4100 Department 120 Unit 8340 RSource 4416  
 Reporting Category \_\_\_\_\_

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

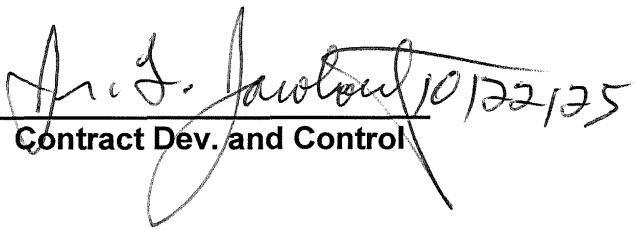
The fiscal impact of the License Agreement will be a license fee of \$12,390.00 per month for the use and occupancy of the property. The Initial Term of the License Agreement is 10/1/22 to 10/31/22, with automatic monthly renewals thereafter but not beyond 9/30/25.

C. Departmental Fiscal Review: 

**III. REVIEW COMMENTS**

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

 10/19  
 MG 10/19 OFMB/HA 10/19

 10/22/25  
 Contract Dev. and Control

**B. Legal Sufficiency:**

 10/25/22  
 Assistant County Attorney

**C. Other Department Review:**

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

REVISED 11/17

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

## **LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** (this "Agreement") made and entered into this 13 day of OCTOBER, 2022, by and between Palm Beach County, a political subdivision of the State of Florida, ("County") and Enterprise Leasing Company of Florida, LLC, a Delaware limited liability company, whose principal place of business is located at 5105 Johnson Road, Coconut Creek, Florida 33073 ("Licensee").

### **WITNESSETH:**

**WHEREAS**, County, by and through its Department of Airports (the "Department"), is the owner and operator of the Palm Beach International Airport (the "Airport"); and

**WHEREAS**, Licensee operates a rental car concession at the Airport pursuant to that certain Agreement for Rental Car Lease and Concession dated August 23, 2022, between County and Licensee, as Concessionaire (R-2022-0832, as may be amended) (the "Concession Agreement"), and has requested to use certain lands at the Airport for overflow parking of rental cars; and

**WHEREAS**, County is the owner of that certain real property as more particularly depicted on the attached Exhibit "A"; and

**WHEREAS**, County is willing to grant Licensee a revocable license to use the Property for the purposes hereinafter defined.

**NOW THEREFORE**, in consideration of the covenants and agreements hereinafter set forth on the part of the Licensee to be observed and performed, the County hereby grants the Licensee a non-exclusive, revocable license to use the Property (as hereinafter defined) upon the following terms and conditions:

### **ARTICLE 1 BASIC PROVISIONS**

1.01 **Recitals.** The foregoing recitals are true and correct and incorporated herein.

1.02 **Property.** The Property, which is the subject of this Agreement, is a portion of the real property more particularly identified in Exhibit "A", attached hereto and incorporated herein (the "Property"), in accordance with the provisions of Article 3 of this Agreement.

**ARTICLE 2  
LENGTH OF TERM AND COMMENCEMENT DATE**

The term of this Agreement shall commence as of October 1, 2022 (the "Commencement Date") and expire on October 31, 2022 (the "Initial Term"), unless terminated earlier as provided for herein. This Agreement shall be automatically renewed for one (1) month intervals thereafter (the "Renewal Term"), unless terminated earlier as provided for herein; provided, however, no Renewal Term shall extend beyond September 30, 2025; and further provided, either party may elect to not renew this Agreement upon providing no less than fifteen (15) days advance written notice to the other party prior to the expiration of the then current term. The Initial Term and Renewal Term shall be collectively referred to as the "Term".

**ARTICLE 3  
LICENSE FEE**

3.01 License Fee. Licensee shall pay to County, for the use and occupancy of the Property identified in Exhibit "A", containing approximately 185,850 square feet of ground area on 5<sup>th</sup> Street, West Palm Beach, FL 33406, a license fee in the amount of Twelve Thousand Three Hundred Ninety and 00/100 Dollars (\$12,390.00), per month together with applicable sales taxes thereon. The license fee shall be payable in advance, without demand and without any deduction, holdback or set off whatsoever, on or before the first day of each and every month throughout the Term of this Agreement with the first payment becoming due and payable on the Commencement Date.

3.02 Relocation of the Property; Adjustment of License Fee. Upon written approval by the Director of Airports, the Property location, area and description, and the license fee therefor, may be amended, whereupon this Agreement shall be considered amended to incorporate, or replace, the description of the Property, as attached as Exhibit "A" with such updated Property description, without formal amendment hereto. The Director of Airports shall have sole and absolute discretion to approve any adjusted Property Description. The Director of Airports' approval shall specify the commencement date and the corresponding license fee for Licensee's use of the adjusted Property.

**ARTICLE 4  
CONDUCT OF BUSINESS AND USE OF PROPERTY BY LICENSEE**

4.01 Use of Property. Licensee shall use the Property solely and exclusively for parking of vehicles in connection with Licensee's rental car operation at the Airport. Licensee shall not use, permit or suffer the use of the Property for any other business or purpose whatsoever. Licensee shall insure that all auto-transport/car-carrier operations occur entirely within the limits of the Property, versus on lands not included within the limits of the Property.

4.02 Improvements. Licensee shall make no improvements, alterations or additions to the Property whatsoever, without the prior written consent of the Department, which may be granted or withheld in the Department's sole and absolute discretion. Any perimeter barriers installed by Licensee shall be removed by Licensee upon the expiration or earlier termination of this Agreement.

4.03 Condition of Property. Licensee acknowledges that the Property was previously improved with buildings that have been razed. Licensee accepts the Property in its "As is", "Where is" condition as of the Commencement Date. Licensee further acknowledges that County has not made any warranties or representations of any nature whatsoever regarding the Property including, but not limited to, any warranties or representations relating to the physical condition of the Property or any improvements located therein, or the suitability of the Property or any improvements for the Licensee's intended use.

4.04 Waste or Nuisance. Licensee shall not commit or suffer to be committed any waste upon the Property or any nuisance or other act or thing which may result in damage or depreciation of value of the Property.

4.05 Compliance with Laws. Licensee shall, at its sole cost and expense, secure any and all required licenses and permits and shall comply with all local, state and federal laws pertaining to Licensee or its use of the Property, including all applicable zoning, building and fire laws and regulations. Licensee acknowledges and agrees that County has made no representations whatsoever regarding Licensee's ability to use the Property for the purposes set forth in this Agreement. Licensee shall ensure that its invitees, guests and any all other persons entering the Property with or without Licensee's consent or knowledge comply with all applicable laws on the Property. Licensee shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Licensee's failure to perform its obligations specified in this Section. The foregoing indemnification agreement shall survive the expiration or earlier termination of this Agreement.

4.06 Non-Discrimination. Licensee shall, at all times during the Term of this Agreement, and any extension thereof, comply with the County and Federal nondiscrimination provisions of the Concession Agreement, which provisions are incorporated herein by reference. Any amendments to such provisions to the nondiscrimination provisions of the Concession Agreement shall apply equally to this Agreement.

4.07 Surrender of Property. Upon expiration or earlier termination of Licensee's license to use the Property, Licensee, at its sole cost and expense, shall surrender the Property to the County in at least the same condition as the Property was in as of the Commencement Date of this Agreement.

4.08 County's Right to Enter. County shall have the right to enter the Property at any time, without notice, for any purpose whatsoever. County agrees to exercise reasonable efforts to minimize interference with or disruption of Licensee's operations on the Property; provided, however, County shall not be required to expend additional sums of money in order to comply with the foregoing requirement. In the event that a County work activity must take place within the Property during Licensee's operating hours, which will disrupt or interfere with the Licensee's operations, County will endeavor to provide prior notice to Licensee. The notice requirements provided under Section 10.04 shall not apply to this Section.

**ARTICLE 5  
REPAIRS AND MAINTENANCE OF PROPERTY/SECURITY**

5.01 Repairs & Maintenance. County shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Property. All portions of the Property and all improvements erected on the Property shall be kept in good repair and condition by Licensee. Licensee shall maintain the Property free of trash and debris. Upon expiration or earlier termination of this Agreement, Licensee shall deliver the Property to County in good repair and condition as specified herein, free of all improvements constructed by Licensee, if any. In the event of any damage to the Property, County may complete the necessary repairs or maintenance of the Property and Licensee shall reimburse County for all expenses incurred by County in doing so, plus a twenty five percent (25%) overhead, within fifteen (15) days after written request for reimbursement from County.

5.02 Security. Licensee acknowledges and accepts full responsibility for the security and protection of the Property and any and all personal property and improvements now existing or hereafter placed on or installed in or upon the Property, and for the prevention of unauthorized access to the Property. Licensee fully understands that the police security protection provided by County is limited to that provided to any other business situated in Palm Beach County by the Palm Beach County Sheriff's Office and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Property, shall be the sole responsibility of Licensee and shall involve no additional cost to County.

**ARTICLE 6  
INSURANCE**

Licensee shall maintain, on a primary basis and at its sole expense, at all times during the Term of this Agreement, and any extension thereof, the insurance coverages and limits set forth in the Lease Agreement, which insurance coverages are incorporated herein by reference. The requirements contained herein, as well as County's review or acceptance of insurance maintained by Licensee is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Licensee under this Agreement. Any modification to such insurance provisions of the Concession Agreement shall apply equally to this Agreement.

**ARTICLE 7  
INDEMNIFICATION**

Licensee shall indemnify, defend and save County harmless from and against any and all claims, actions, damages, liability and expense in connection with: (i) loss of life, personal injury and/or damage to or destruction of property arising from or out of any occurrence in, upon or at the Property; (ii) the occupancy or use by Licensee of the Property or any part thereof; or (iii) any act or omission of Licensee, its agents, contractors, employees or invitees. In the event the County is made a party to any litigation commenced against Licensee or by Licensee against any third party, then Licensee shall protect and hold County harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. Licensee recognizes the broad nature of this indemnification provision and specifically acknowledges the receipt of good and value separate consideration in support thereof. This provision shall survive expiration or earlier termination of this Agreement.

**ARTICLE 8  
ASSIGNMENT**

Licensee may not assign, sublet or rent any portion of the Property.

**ARTICLE 9  
REVOCATION OF LICENSE/DEFAULT**

9.01 Revocation of License. Notwithstanding any provision of this Agreement to the contrary, the rights granted to Licensee hereunder amount only to a non-exclusive license to use the Property, which license is expressly revocable by County for any reason whatsoever upon notice to Licensee. Upon notice from County of the revocation of the license granted hereby, this Agreement shall terminate and County shall be relieved of all further obligations hereunder accruing subsequent to the date of such termination.

9.02 Termination for Convenience by Licensee. Licensee may terminate this Agreement for convenience upon five (5) days prior written notice to County, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations accruing prior to the date of such termination and those obligations which expressly survive termination of this Agreement.

9.03 Default. Failure to perform or observe any of the agreements, covenants or conditions contained in this Agreement to be performed or observed by such party upon five (5) days prior written notice shall constitute a default of this Agreement.

9.04 Expiration or Earlier Termination of the Concession Agreement. This Agreement shall automatically terminate concurrent with the expiration or earlier termination of the Concession Agreement.

**ARTICLE 10  
MISCELLANEOUS**

10.01 Subordination to Bond Resolution. This Agreement and all rights granted to Licensee hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented (the "Bond Resolution"), and County and Licensee agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by Licensee and County with the terms and provisions of this Agreement and Bond Resolution.

10.02 Subordination to State/Federal Agreements. This Agreement shall be subject and subordinate to all the terms and conditions of any instrument and documents under which the County acquired the land or improvements thereon, of which the Property are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Licensee understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between County and the United States of America, the State of Florida or any of their respective agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

10.03 Entire Agreement. This Agreement and any Exhibits attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between County and Licensee concerning the Property. All representations, either oral or written, shall be deemed to be merged into this Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Agreement shall be binding upon County or Licensee unless reduced to writing and signed by them.

10.04 Notices. All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight mail, telecopied or faxed (provided in each case a receipt is obtained), or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or overnight mail, or on the date of transmission with confirmed answer back 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 the 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 as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:



(a) If to the County at:

Palm Beach County Department of Airports  
Attn: Airport Director  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470  
Fax: (561) 471-7427

(b) If to the Licensee at:

Enterprise Leasing Company of Florida, LLC  
5105 Johnson Road  
Coconut Creek, FL 33073  
Fax: (954) 354-5001

Either party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other party.

10.05 Recording. Licensee shall not record this Agreement or any memorandum or short form thereof.

10.06 Waiver of Jury Trial. The parties hereto waive trial by jury in connection with proceedings or counterclaims brought by either of the parties hereto against the other, in connection with this Agreement.

10.07 Governing Law and Venue. This Agreement shall be governed by and interpreted according to the laws of the State of Florida and venue shall be in Palm Beach County.

10.08 Time of Essence. Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

10.09 Captions. The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

10.10 Severability. In the event that any section, paragraph, sentence, clause or provision of this Agreement is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

10.11 Waiver. No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

10.12 Office of the Inspector General. 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's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Licensee, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in 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.

10.13 No Third Party Beneficiaries. No provision of this Agreement 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 Agreement, including but not limited to any citizen or employees of County and/or Licensee.

10.14 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, Licensee certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to Section 215.4725, Florida Statutes. When contract value is greater than \$1 million, as provided in Section 287.135, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, Licensee certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria. If the County determines, using credible information available to the public, that a false certification has been submitted by Licensee, this Agreement may be terminated and a civil penalty equal to the greater of \$2 Million Dollars or twice the amount of this Agreement shall be imposed, pursuant to Section 287.135, Florida Statutes. The aforementioned certification must also be submitted at the time of any Agreement renewal, if applicable.

10.15 Effective Date. This Agreement shall become effective when executed by the parties hereto.

**(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)**

IN WITNESS WHEREOF, County and Licensee have executed this Agreement, or have caused the same to be executed as of the day and year first above written.

WITNESSES:

Ray Walter  
Signature  
Ray Walter  
Typed or Printed Name

Rebecca Reed  
Signature  
Rebecca Reed  
Typed or Printed Name

PALM BEACH COUNTY, FLORIDA,  
A POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA

By: Laura Burke  
Director of Airports

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: Anne Helgand  
County Attorney

WITNESSES:

Aaron Toombs  
Signature  
Aaron Toombs  
Typed or Printed Name  
Group Property Development & Facilities Manager

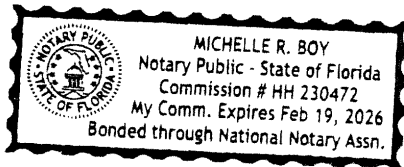
Michelle R. Boy  
Signature  
Michelle R. Boy  
Typed or Printed Name

LICENSEE:  
ENTERPRISE LEASING COMPANY  
OF FLORIDA, LLC

By: Dave Schmidt  
Signature  
Dave Schmidt  
Typed or Printed Name

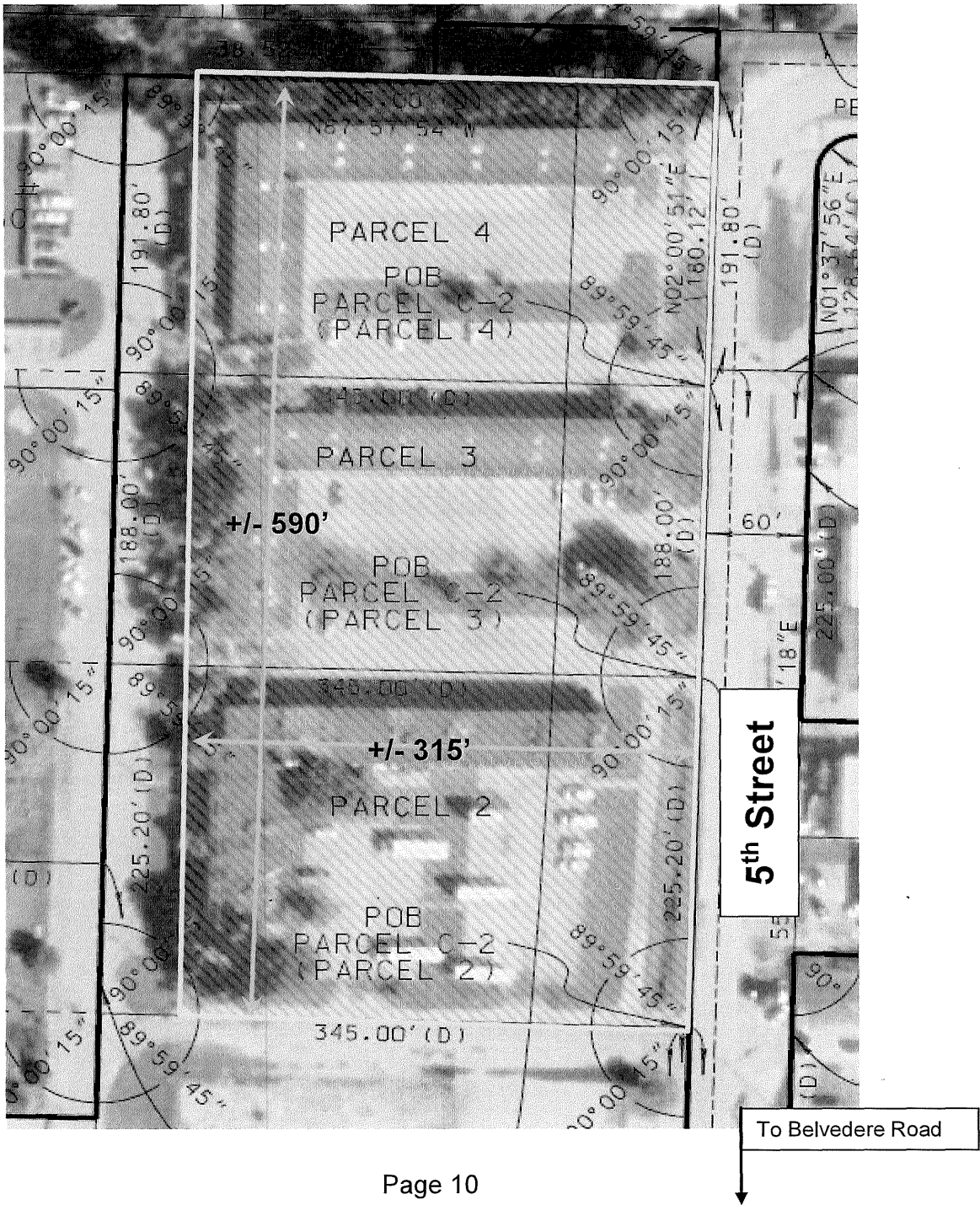
Title: Vice President / General Manager

(Seal)



**EXHIBIT "A"**  
**THE PROPERTY**

A parcel of land on 5<sup>th</sup> Street in West Palm Beach, measuring approximately 315' x 590', or 185,850 square feet. Said parcel being a portion of that certain parcel of land identified as Parcel C-1 in the certain Affidavit of Waiver recorded in Official Records Book 24384, Page 1486, of the public records of Palm Beach County, Florida, as generally depicted below:



**AFFIDAVIT OF LIMITED LIABILITY COMPANY**

STATE OF FLORIDA  
(State)  
COUNTY OF BROWARD  
(County)

BEFORE ME, the undersigned authority, personally appeared, the undersigned who by me being first duly sworn, depose(s) and say(s) that:

1. The undersigned is the Vice President / General Manager of Enterprise Leasing Company of Florida, LLC, a limited liability company organized and existing under the laws of the State of Delaware ("Company").

2. Articles of Organization of the Company have been filed, and are on-file with, the Florida Department of State and such articles are incorporated herein by reference.

3. The Company is in good standing and is authorized to transact business in the State of Florida as of the date hereof.

4. The company is a [select (a) or (b)] (a) manager managed or (b) member managed limited liability company.

5. The undersigned is the sole managing member of the Company or has been authorized by majority vote of the managing members to act on behalf of the Company and legally bind the Company and execute contracts and other instruments relating to the transaction of business of the Company.

6. That DAVE SCUMERT has the right and authority to enter into that certain License Agreement between Palm Beach County, a political subdivision of the State of Florida and the Company (the "Agreement"), which is incorporated herein by reference and made a part hereof, and such other instruments as may be necessary and appropriate for the Company to fulfill its obligations under such Agreement, including amendment(s) and termination of such Agreement.

7. Upon execution and delivery of such Agreement and documents by the undersigned, all of the aforesaid shall be valid agreements of and be binding upon the Company.

8. The transactions contemplated herein will not violate any of the terms and conditions of the Company's member agreement, operating agreement certificate of organization or of any other agreement and amendments thereto of whatever kind between the Company and any third person.

9. The undersigned acknowledges that affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

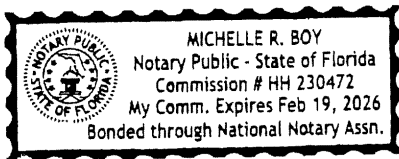
FURTHER AFFIANT SAYETH NAUGHT,

*Dave Schmidt*  
[sign name]

DAVE SCHMIDT, Individually and as  
[print name]  
[select one] Manager or Member]

Sworn to (or affirmed) and subscribed before me by means of [select one]  physical presence -OR-  online notarization, this 3RD day of OCTOBER, 2022, by MICHELLE BOY,  
[name of person making statement]

[select one] Manager/Member of Enterprise Leasing Company of Florida, LLC, on behalf of the Company, who [select one] is personally known to me -OR- produced \_\_\_\_\_, as identification and who did take an oath.



*Michelle R. Boy*  
Notary Signature

MICHELLE BOY  
Print Notary Name

NOTARY PUBLIC  
State of FLORIDA at large

My Commission Expires:

2/19/2026