

**AGREEMENT BY AND BETWEEN PORT OF PALM BEACH DISTRICT
AND
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**

This Agreement ("Agreement") executed this 11th day of July, 2023, between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners ("COUNTY"), and the Port of Palm Beach District, a special independent taxing district and political subdivision of the state of Florida organized and existing under the laws of the State of Florida ("PORT"), each individually a "Party" and together referred to collectively as the "Parties," to provide coordination and support of vehicle for hire licensing efforts at the Port of Palm Beach District.

The County regulates vehicle for hire ("VFH") services, through its Division of Consumer Affairs (DCA), in incorporated and unincorporated areas of Palm Beach County ("the COUNTY"). Such regulation includes the issuance of VFH permits to businesses who operate within the COUNTY.

The Parties, in recognition that it would be mutually beneficial to cooperate in regulating VFH services at the PORT because cooperation would eliminate duplication of regulatory efforts within the COUNTY, both with initial permit application and ongoing insurance monitoring, and streamline the permitting process for the VFH industry, hereby commit to perform the following duties.

This Agreement delineates responsibility of the COUNTY and the PORT for activities related to the permitting of VFH services at the PORT.

COUNTY Responsibilities:

COUNTY will perform the following duties in support of this Agreement:

1. Conduct VFH permitting activities consistent with requirements listed in Exhibit 1 to include: accepting applications; reviewing application for minimum requirements; creating charges, payments, and receipts; issuing and tracking of issued decals/permits.
2. Maintain office hours Monday – Friday during non-County Holidays and non-scheduled closures from 8:00 a.m. – 5 p.m. to accept permit applications.
3. Provide permit application information for persons and/or businesses operating for-hire services at the PORT to include, but not limited to, posting permit requirements and application information on the VFH tab of the DCA website and respond to e-mails, faxes, letters, and in-person inquiries regarding licensing requirements.
4. Document and store licensing information in an electronic licensing database, to include scanning of application, insurance certificate, receipts, decal issuance, and other related licensing information.
5. Send permit application packages inclusive of the PORT permit application via US Mail and/or email to existing businesses at least 30 days prior to the begin of the permit year.
6. Charge permit fees as approved by PORT, which may be amended from time to time.
7. Retain permitting information in accordance with Florida Public Records Laws.
8. Provide reports as requested to the PORT for businesses permit applications issued, to include business name, contact, mailing address, phone number, e-mail address, and the vehicle make, model, and tag number for each decal issued.

9. Enforce the VFH Ordinance throughout the COUNTY including on PORT property.
10. Inform the PORT contact or designee anytime a VFH operator fails to maintain required insurance or other licensing/permit requirements.
11. Remit 70% of the PORT decal/licensing fees collected twice per fiscal year, within 60 days of the close of the period, as follows: 1.) October 1– March 31th and 2.) April 1 – September 30th.
12. The contact information for this entity is as follows:
Rob Shelt, Director of the Consumer Affairs Division
Palm Beach County Public Safety Department, Consumer Affairs Division
50 South Military Trail, Suite 201
West Palm Beach, FL 33415
Phone: (561) 712-6605

PORT of Palm Beach Responsibilities:

The PORT will perform the following duties in support of this Agreement:

1. Monitor vehicle permits that enter the PORT and enforce PORT permitting requirements.
2. Cooperate with DCA enforcement activities for VFH code requirements at the PORT.
3. Authorize COUNTY to retain 30% of PORT permit fees as administrative costs for providing licensing services.
4. Provide administrative direction on matters involving PORT permit requirements as questions arise.
5. Direct businesses inquiring about PORT transportation permits to DCA.
6. The contact information for this entity is as follows:
Tacaria Anderson Jones, Senior Manager of Contract Compliance & AR
Port of Palm Beach District
1 East 11th Street – 6th Floor
Riviera Beach, FL 33404
Phone: (561) 383-4136

This Agreement shall commence on the date when it is approved by the Board of County Commissioners and shall be valid for a one-year term period, and shall automatically renew every year on the 30th day of April for up to seven (7) years, unless either Party gives written notice to the other Party of its intent not to renew no fewer than thirty (30) days prior to the renewal date.

General Terms:

- I. **TERMINATION.** This Agreement may be terminated by the PORT upon thirty (30) days' prior written notice to COUNTY in the event of substantial failure by COUNTY to perform in accordance with the terms of this Agreement through no fault of the PORT. It may also be terminated, in whole or in part, by COUNTY, with cause upon five (5) business days written notice to the PORT or without cause upon ten (10) business days written notice to the PORT.
- II. **INDEMNIFICATION.** Each Party shall be liable for its own actions and negligence and, to the extent permitted by law, COUNTY shall indemnify, defend and hold harmless the PORT against any actions, claims or damages arising out of COUNTY's negligence in connection with this Contract, and the PORT shall indemnify, defend and hold harmless COUNTY against any actions, claims, or damages arising out of COUNTY's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver by either

Party of sovereign immunity beyond the limits set forth in section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement by either Party to indemnify the other Party for such other Party's negligent, willful or intentional acts or omissions.

III. INSURANCE. Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, ("Statute"), the PORT represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If the PORT is not self-insured, the PORT shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this Agreement, insurance coverage at limits not less than those contained in the Statute.

Should the PORT purchase excess liability coverage, the PORT agrees to include COUNTY as an Additional Insured.

The PORT agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with chapter 440, Florida Statutes.

Should the PORT contract with a third-party ("Contractor") to perform any service related to this Agreement, the PORT shall require the Contractor to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include the PORT and COUNTY as Additional Insureds. The PORT shall also require that the Contractor include a Waiver of Subrogation against COUNTY.
- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the PORT shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the PORT of its liability and obligations under this Agreement.

IV. SUCCESSORS AND ASSIGNS. COUNTY and the PORT each binds itself and its partners, successors, executors, administrators and assigns to the other Party and to the partners, successors, executors, administrators and assigns of such other Party, in respect to all covenants of this Agreement. Except as above, neither COUNTY nor the PORT shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other.

- V. **REMEDIES.** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any Party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any Party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

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 the PORT.

- VI. **EXCUSABLE DELAYS.** The Parties shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Parties or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.
- VII. **ARREARS.** The PORT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness.
- VIII. **DISCLOSURE AND OWNERSHIP OF DOCUMENTS.** All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any Party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

Notwithstanding any other provision in this Contract, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of the Inspector General, Palm Beach County Code, Sections 2-421 - 2-440, as amended.

- IX. **INDEPENDENT CONTRACTOR RELATIONSHIP.** The PORT is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the PORT's sole direction, supervision, and control. The PORT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the PORT's relationship and the relationship of its employees to COUNTY shall be that of an Independent Contractor and not as employees or agents of COUNTY.

The PORT does not have the power or authority to bind COUNTY in any promise, agreement or representation.

- X. NON-DISCRIMINATION.** The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the PORT warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Contract.
- XI. SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
- XII. MODIFICATIONS OF WORK.** Modifications to the provisions of this Agreement, shall only be valid by a formal written amendment to the Agreement.
- XIII. NOTICE.** All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to COUNTY, notices shall be addressed to:

Palm Beach County Division of Consumer Affairs
Attn: Rob Shelt, Director
50 South Military Trail, Suite 201
West Palm Beach, FL 33415

With copy to:

Palm Beach County Attorney's Office
301 North Olive Ave.
West Palm Beach, Florida 33401

If sent to the PORT, notices shall be addressed to:

Department of Administration
Port of Palm Beach District
1 East 11th Street – 6th Floor
Riviera Beach, FL 33404

With copy to:

John Fumero, Esq.
750 Park of Commerce Blvd.
Boca Raton, Florida 33487

- XIV. ENTIRETY OF CONTRACTUAL AGREEMENT.** COUNTY and the PORT agree that this Agreement sets forth the entire agreement between the Parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the Parties hereto in accordance with XII. MODIFICATIONS OF WORK.
- XV. COUNTERPARTS.** This Agreement, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same Agreement. COUNTY may execute the Agreement through electronic or manual means. The PORT shall execute by manual means only, unless COUNTY provides otherwise.
- XVI. E-VERIFY - EMPLOYMENT ELIGIBILITY.** The Parties warrant and represent that they are in compliance with section 448.095, Florida Statutes, as may be amended, and that the Parties: (1) are registered with the E-Verify System (E-Verify.gov), and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers; (2) covenant to continue to do so throughout the term of this Agreement; and (3) further covenants to comply with the other applicable requirements of section 448.095, Florida Statutes.

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IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and PORT has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO

PALM BEACH COUNTY
CLERK AND COMPTROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk


By: _____
Gregg K. Weiss, Mayor

Date: _____

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Richard Sena
County Attorney

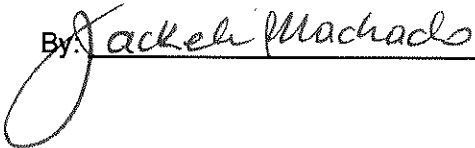
APPROVED AS TO TERMS AND CONDITIONS

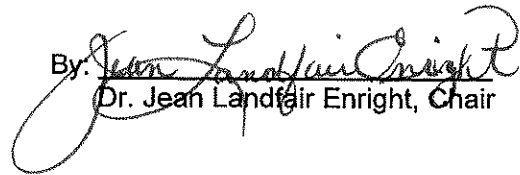
By: 
Stephanie Sejnoha
Department Director

ATTEST:

PORT:

PORT OF PALM BEACH, a Special
Independent Taxing District and Political
Subdivision of the State of Florida

By: 
Jackeli Machado

By: 
Dr. Jean Landfair Enright, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
John J. Fumero, Port Counsel

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EXHIBIT 1

Port Permit Requirements

1. The permit shall be valid May 1 – April 30.
2. Complete application inclusive of owner's signature. If applicant is a corporation the president or vice president signature is required.
3. Worker's Compensation Insurance, if the company has (3) or more employees.
4. Current Palm Beach County Vehicle for Hire Operating Permit and County decal, if required.
5. Vehicle for Hire Companies who make more than 3 drop-offs/pickups at the PORT in a year are required to obtain a permit.
6. Current vehicle registration.
7. Fees:
 - \$300: Vehicles with an occupancy capacity of less than 17 passengers. Includes 2 vehicle decals.
 - \$500: Vehicles with an occupancy greater than 17 passengers. Includes 2 vehicle decals.
 - \$25 for each additional vehicle decal.
 - Pro-ration: Permit fees, except additional vehicle decal fees, shall be 50% of the cost of the yearly permit fee when there is 6 months or less remaining in the permit year.
8. Minimum level of Insurance as follows:
 - \$125,000 for injuries per person in any one occurrence or accident; and
 - \$250,000 for injuries per occurrence or accident; or
 - \$300,000 Combined Single Limit (CSL); and
 - \$50,000 for property damage in any one occurrence or accident; and
 - Worker's Compensation Insurance if company has (3) three or more employees.
9. Certificate of Insurance showing Port of Palm Beach as additional insured:
Port of Palm Beach
Department of Administration
1 East 11th Street; 6th Floor
Riviera Beach, FL 33404