

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

Meeting Date: August 22, 2023 Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) adopt** a Resolution authorizing a one (1) year Lease Agreement (Agreement of Lease) with the City of West Palm Beach for the use of seven (7) parking spaces for use as public parking spaces on County-owned property located at 429 Park Place in West Palm Beach; and
- B) approve** a Lease Agreement (Agreement of Lease) with the City of West Palm Beach for parking spaces to use as public spaces on County-owned property located at 429 Park Place in West Palm Beach for a one year term, commencing upon execution, with the option to renew for two (2) successive periods of two (2) years each, at a monthly rent rate of \$350.

Summary: The County owns the property located at 429 Park Place in West Palm Beach. The property has a warehouse currently used by the Clerk's Office for storage. On July 12, 2022, the Board of County Commissioners (Board) authorized entering into a Lease Agreement with the City of West Palm Beach (City) for use of the parking spaces for general use by the public visiting the nearby retail facilities. This Lease Agreement is for seven (7) parking spaces at the property. The term of the lease is for one (1) year with the option to extend for two additional terms of two (2) years. The rent is \$350 per month or \$4,200 annually. City shall install signage, monitor and enforce parking, and be solely responsible for general upkeep of the parking spaces including line striping if that becomes necessary during the term of the lease. County is responsible for all other routine maintenance. Operation of the parking spaces as public spaces shall not interfere with the Clerk's daily operations. Either party may terminate the lease, for any reason, with 60 days prior written notice to the other. Property & Real Estate Management Division will have management responsibility for this Agreement. **(Property & Real Estate Management) District 2 (HJF)**

Background and Policy Issues: The City has requested to lease the seven (7) parking spaces on the front side of 429 Park Place in West Palm Beach. The City has indicated that they have limited parking available in the area and are looking for ways to expand its parking inventory. The parking spaces will be used by the public visiting the businesses in the neighborhood, are located outside of the fenced area surrounding the Clerk's operations, and will have little to no impact to the Clerk's operations as there is sufficient parking within the fenced area. Under Florida Statutes, Section 125.38, no competitive process would be required if the Board desires to enter into a lease agreement with the City, as it is a governmental entity.

Attachments:

- 1. Location Map
- 2. Resolution
- 3. Lease Agreement

Recommended By: 	Department Director	7/20/23
Approved By: 	County Administrator	8/3/23
		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	<u>(\$467)</u>	<u>(\$3,746)</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$467)</u>	<u>(\$3,746)</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 410 Unit 4240 Revenue Source 6225
 Program _____

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

Rent for the Agreement will be \$350 per month; any fraction of a month will be calculated on the basis of a 30 day month and paid on a per diem basis.
 The Agreement shall commence on upon execution (August 22, 2023) for a term of one (1) year (thru August 21, 2024).

Fixed Assets Number N/A

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 7/25/2023
 OFMB 9/7 7/24 QXW 7-25-23
[Signature] 7/28/23
 Contract Development and Control
 Trub 7/28/23

B. Legal Sufficiency:

[Signature] 8/2/23
 Assistant County Attorney
 Lease not signed by City at time of CAO review.

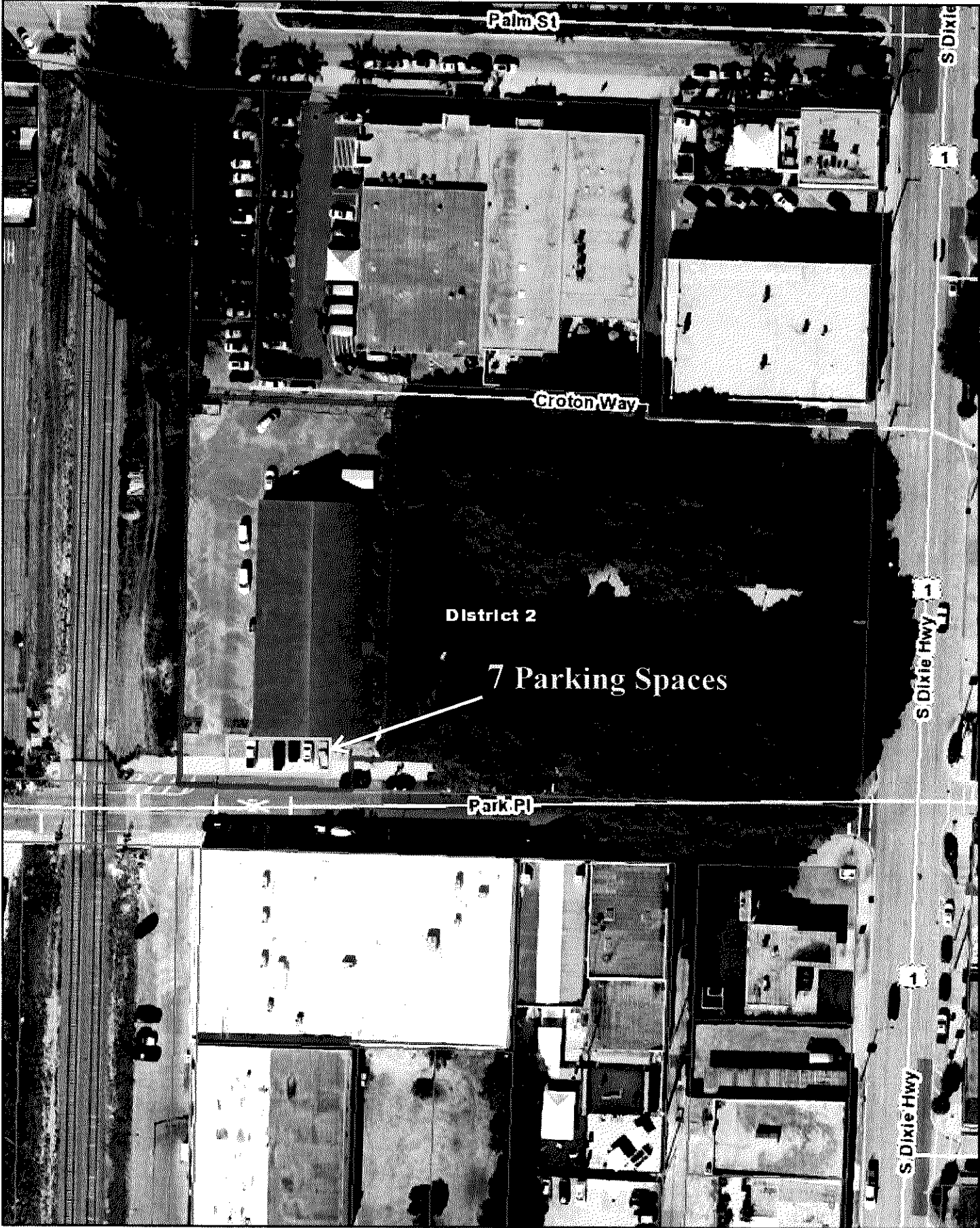
C. Other Department Review:

 Department Director

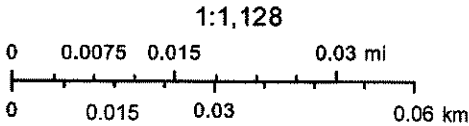
This summary is not to be used as a basis for payment.

LOCATION MAP

74-43-43-28-00-000-1070



July 13, 2023



ATTACHMENT #1

Attachment #2
Resolution (18 pages)

RESOLUTION NO. 2023-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE LEASE OF CERTAIN REAL PROPERTY TO THE CITY OF WEST PALM BEACH, PURSUANT TO FLORIDA STATUTE SECTION 125.38; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of West Palm Beach, a Florida Municipal Corporation, organized and existing under the laws of the State of Florida (“City”), has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County lease certain real property owned by Palm Beach County to the City for use as public parking; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that the aforementioned use of the spaces for public parking constitutes a use for the community interest and welfare, such real property is required for such use and such real property is not needed for County purposes.

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 lease to the City of West Palm Beach, pursuant to the Lease attached hereto as Exhibit “A” and incorporated herein by reference, for a term of one (1) year at a monthly rental rate of three hundred fifty dollars (\$350.00), the real property identified in such Lease for the use identified above.

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 Gregg K. Weiss, Mayor
- Commissioner Maria Sachs, Vice Mayor
- Commissioner Maria G. Marino
- Commissioner Michael A. Barnett
- Commissioner Marci Woodward
- Commissioner Sara Baxter
- Commissioner Mack Bernard

The Mayor thereupon declared the resolution duly passed and adopted this ____ day of _____, 2023.

PALM BEACH COUNTY, a political subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

JOSEPH ABRUZZO
CLERK OF THE CIRCUIT COURT & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: 
Assistant County Attorney

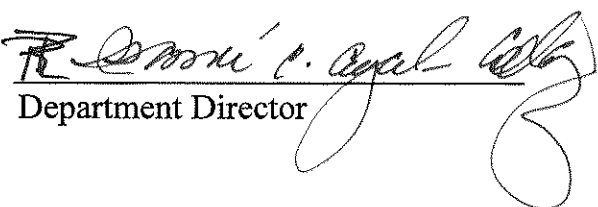
By: 
Department Director

Exhibit "A"

LEASE AGREEMENT with Exhibits "A" and "B"

PALM BEACH COUNTY

LEASE AGREEMENT

between

PALM BEACH COUNTY

A POLITICAL SUBDIVISION OF THE

STATE OF FLORIDA

(County)

and

CITY OF WEST PALM BEACH

A FLORIDA MUNICIPAL CORPORATION

(Tenant)

AGREEMENT OF LEASE

WPB No. 30203

THIS LEASE made and entered into on _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "County" and **CITY OF WEST PALM BEACH**, a Florida Municipal Corporation, organized and existing under the laws of the State of Florida, hereinafter referred to as "Tenant". County and Tenant are jointly referred to hereinafter as "Parties".

W I T N E S S E T H:

WHEREAS, County is the owner of certain real property and/or improvements located at 429 Park Place, West Palm Beach, Florida in Palm Beach County as depicted in **Exhibit "A"** attached hereto and made a part hereof ("Property"); and

WHEREAS, Tenant desires to lease from County, a portion of the Property consisting of seven (7) parking spaces in accordance with the terms and obligations set forth herein; and

WHEREAS, County is willing to lease a portion of such Property to Tenant in accordance with the terms, obligations, and use set forth hereinafter;

NOW THEREFORE, in consideration of the rents, covenants and agreements hereinafter reserved and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I BASIC LEASE PROVISIONS

Section 1.01 Premises.

In consideration of the rents, covenants and agreements hereafter reserved and contained on the part of the Tenant to be observed and performed, the County demises and leases to Tenant, and Tenant rents from County the portion of the Property consisting of seven (7) parking spaces as depicted in **Exhibit "B"** attached hereto and made a part hereof (the "Premises").

Section 1.02 Length of Term and Commencement Date.

The term of this Lease shall commence upon execution (the "Commencement Date"), and shall extend for a period of one (1) year thereafter (the "Term"), unless sooner terminated pursuant to the provisions of this Lease. Either party may terminate this Lease for any reason upon sixty (60) days' prior written notice to the other.

Section 1.03 Option to Extend.

County hereby grants to Tenant, so long as Tenant shall not be in default of any term, covenant, condition or payment of Rent under this Lease, the right and option to extend the Term of this Lease for two (2) successive periods of 2 years each under the same terms and conditions of this Lease and commencing upon the expiration of the initial Term of this Lease or any extension thereof. Tenant shall exercise its option to extend if at all, by written notice to the County received by the County on or before 60 days prior to the expiration of the initial Term of this Lease or any extension thereof. Failure of Tenant to duly and timely exercise its option to extend the Term of this Lease shall be deemed a waiver of Tenant's right to said option and all further options.

ARTICLE II RENT

Section 2.01 Monthly Rent.

Tenant shall pay County the Monthly Rent in the amount of Three Hundred Fifty dollars (\$350.00), commencing on the Commencement Date, during the term of this Lease, together with all applicable sales taxes thereon on the first day of each month, in advance. If the Term hereof commences and/or expires on other than the first or last day of a calendar month, the Rent payable for such month shall be prorated and paid on a per diem basis using a thirty (30) day month. Annual payments may be made in lieu of monthly payments.

The Monthly Rent shall be made payable to the Palm Beach County Board of County Commissioners and shall be delivered to the Palm Beach County Finance Department, Revenue Section, P.O. Box 4036, West Palm Beach, Florida 33402. This Lease shall be what is commonly referred to as "triple net" to County, it being understood by the parties that County shall receive the rent payable hereunder free and clear of any and all impositions, taxes, liens, charges, and expense of any nature whatsoever relating to ownership or operation of the Premises, including without limitation those relating to taxes, if any, insurance, repair, maintenance, use, care, or operation.

Section 2.02 Assessments and Personal Property Taxes.

Tenant shall pay all sales, use or rent taxes assessed by any governmental authority against the Monthly Rent and/or Additional Rent, if any, even if such tax is intended to be imposed against County. Tenant shall pay before delinquency all ad valorem and non-ad valorem taxes and assessments, whether general or special and all tangible or intangible personal property taxes and assessments of any kind or nature which may be levied by any governmental authority against the Premises, Tenant's leasehold interest in the Premises, Tenant's Alterations or personal property located on the Premises.

Section 2.03 Additional Rent.

Any and all sums of money or charges required to be paid by Tenant under this Lease other than Monthly Rent shall be considered "Additional Rent", whether or not the same is specifically so designated, and County shall have the same rights to enforce due and timely payment by Tenant of all Additional Rent as are available to County with regards to Monthly Rent.

Section 2.04 Unpaid Fees, Holdover.

In the event Tenant fails to make timely payment of any rentals, fees, charges, and payments due and payable in accordance with the terms of this Lease within ten (10) days after same shall become due and payable, interest at the rate of one and one-half percent (1½ %) per month (or the highest rated permitted by law if lower) shall accrue against the delinquent payment(s) from the date due until the date payment is received by County. Such interest shall constitute Additional Rent. Notwithstanding the foregoing, County shall not be prevented from terminating this Lease for default in the payment of rentals, fees, charges, and payments due to County pursuant to this Lease or from enforcing any other provisions contained herein or implied by law. In the event Tenant shall holdover, refuse or fail to relinquish possession of the Premises at the expiration or termination of this Lease, Tenant shall be liable to County for any and all damages, and in addition thereto, Tenant shall also be strictly liable to pay to County during the entire period of such holdover, double the Monthly Rent.

Section 2.05 Accord and Satisfaction.

In the event Tenant pays any amount that is less than the amount stipulated to be paid under this Lease, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed an accord and satisfaction. The County may accept any check or payment without prejudice to County's right to recover the balance due or to pursue any other remedy available to County pursuant to this Lease or under the law.

**ARTICLE III
CONDITION OF LEASED PREMISES, ALTERATIONS**

Section 3.01 Acceptance of Premises by Tenant.

Tenant certifies that Tenant has inspected the Premises and accepts same "As Is", in its existing condition together with any defects, latent or patent, if any, and subject to all easements, encumbrances, restrictions and matters of record. Tenant further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Premises, including, without limitation, the physical condition of the Premises, any improvements or equipment located thereon, if any, or the suitability thereof for Tenant's intended use thereof. No repair work, alterations, or remodeling of the Premises is required to be done by County as a condition of this Lease.

Section 3.02 Alterations.

Tenant shall install signage demarking the parking spaces. Prior approval of content of said signage is required by County. Tenant shall also replace the line stripping of parking spaces within the Premises, as needed, per applicable regulations. No other improvements, additions, modifications or alterations to the Premises shall be permitted. Tenant shall submit detailed plans and specifications for permitted alterations to County for County's written approval prior to commencing work on same. Tenant agrees and acknowledges that all work performed to the Premises, whether pursuant to this Section or otherwise, shall be performed and accomplished solely for the benefit of Tenant, and not for the benefit of County, such work being nevertheless subject to each and every provision of this Lease. All work done by Tenant shall be done in a good and workmanlike manner and shall be diligently pursued to completion strictly in accordance with the approved plans and specifications therefor. The signage shall be removed by Tenant, at Tenant's sole cost and expense, upon the termination or expiration of this Lease.

**ARTICLE IV
CONDUCT OF BUSINESS AND USE OF PREMISES BY TENANT**

Section 4.01 Use of Premises.

Tenant shall be entitled to use and occupy the Premises solely and exclusively for public parking 24 hours a day, seven days a week. Tenant shall not use, permit, or suffer the use of the Premises for any other purpose whatsoever without the prior written consent of County, which consent may be granted or withheld in County's sole discretion.

Tenant, at its sole costs and expense, shall direct users to pay for parking using an electronic application.

Tenant shall be fully responsible for monitoring and enforcement of parking operations. The use of the Premises, by the Tenant shall not interfere with County's Clerk of the Circuit Court & Comptroller's office daily operations at the facility located at the Property as depicted in Exhibit "A".

Section 4.02 Waste or Nuisance.

Tenant shall not commit or suffer to be committed any waste upon the Premises, commit or permit the maintenance or commission of any nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect County's fee interest in the Premises or which results in an unsightly condition. All refuse

is to be removed from the Premises at Tenant's sole cost and expense and Tenant will keep such refuse in proper containers prior to removal. Tenant shall keep the access to the Premises and other contiguous areas to the Premises free and clear of obstruction.

Section 4.03 Governmental Regulations.

Tenant shall, at Tenant's sole cost and expense, comply with all ordinances, laws, statutes and regulations promulgated thereunder of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to Tenant or its use of the Premises, or the Premises generally. Tenant shall not use, maintain, store or dispose of any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents on the Premises or any adjacent land in any manner not permitted by law. To the extent permitted by law, Tenant shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Tenant's failure to perform its obligations in this Section.

Section 4.04 Non-Discrimination.

The County is committed to assuring equal opportunity in the award of Leases and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Tenant warrants and represents that throughout the term of this Lease, including any renewals thereof, if applicable, all individuals shall be treated equally 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 with respect to any activity occurring at the Premises or conducted pursuant to this Lease. Failure to meet this requirement shall be considered default of this Lease.

Section 4.05 Surrender of Premises.

Upon termination or expiration of this Lease, Tenant, at its sole cost and expense, if so directed by County, shall remove Tenant's signage and Alterations from the Premises and shall surrender the Premises to the County in the same condition the Premises were in as of the Commencement Date of this Lease, reasonable wear and tear excepted. Upon surrender of the Premises, any and all remaining improvements or Alterations to the Premises shall vest in County.

Section 4.06 Hazardous Substance

Tenant shall not use, maintain, store or dispose of any contaminants including, but not limited to, Hazardous Materials or toxic substances, chemicals or other agents used or produced in Tenant's operations, on the Premises or any adjacent land in any manner not permitted by Environmental Laws. Furthermore, Tenant shall not cause or permit the Disposal of Hazardous Materials upon the Premises or upon adjacent lands and shall operate and occupy the Premises in compliance with all Environmental Laws. For purposes hereof, Hazardous Materials shall mean any hazardous or toxic substance, material, waste of any kind, petroleum product or by-product, contaminant or pollutant as defined or regulated by Environmental Laws. Disposal shall mean the release, storage, use, handling, discharge or disposal of such Hazardous Materials. Environmental Laws shall mean any applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restrictions.

Any Disposal of a Hazardous Material, whether by Tenant or any third party, shall be reported to County immediately upon the knowledge thereof by Tenant. Tenant shall be solely responsible for the entire cost of remediation and cleanup of any Hazardous Materials disposed of or discovered upon the Premises or emanating from the Premises onto adjacent lands, as a result of the use and occupancy of the Premises by Tenant, or Tenant's agents, licensees, invitees, subcontractors or employees.

To the extent permitted by law, Tenant hereby agrees to indemnify, defend and hold harmless County from and against any and all claims, suits, judgments, loss, damage, fines or liability which may be incurred by County, including reasonable attorney's fees and costs, which may arise directly, indirectly or proximately as a result of any violation of the Disposal of any Hazardous Materials upon the Premises or violation of this provision. Tenants responsibility hereunder shall continue and apply to any violation hereof, whether the same is discovered during the term hereof or otherwise. While this provision establishes contractual liability of Tenant, it shall not be deemed to alter or diminish any statutory or common law liability of Tenant.

Tenant acknowledges that County would not have entered into this Lease without the indemnification contained herein and acknowledges the receipt and sufficiency of separate good and valuable consideration for such indemnification. This provision shall survive expiration or termination of this Lease.

ARTICLE V REPAIRS AND MAINTENANCE OF PREMISES

Section 5.01 Responsibility of County and Tenant.

Except as otherwise set forth herein, County shall conduct all maintenance or repairs to the Premises. Tenant shall, at its sole cost and expense, be responsible for any damages caused by the Tenant or its invitees to the Premises.

Section 5.02 Representatives.

The County's representative/liason during the term of this lease agreement shall be Facilities Management Division's Regional Manager, Central Region at 561.233.4450 during business hours or 561.712.6428 after business hours.

The Tenant's representative/liason during the term of this lease agreement shall be Ed Davis, Parking Administrator, 561.822.1495.

ARTICLE VI INSURANCE

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the Tenant represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended. Tenant shall cause any contractor or subcontractor performing work on the Premises on behalf of Tenant to, at all times during the performance of such work, maintain in full force and effect insurance of the same type and amount as Tenant required herein.

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

Should Tenant contract with a third-party (Contractor) to perform any service related to the Lease, Tenant 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 Tenant and County as Additional Insureds. Tenant 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 Tenant shall provide an affidavit or Certificate of Insurance evidencing self-insurance.

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

Tenant agrees its self-insurance, general liability, automobile liability, and property insurance shall be primary with respect to any coverage afforded to or maintained by County.

ARTICLE VII INDEMNIFICATION

It is understood and agreed that Tenant is merely a Tenant of County and is an independent contractor and is not an agent, servant or employee of County or its Board of County Commissioners. Tenant shall to the extent permitted by law, indemnify, defend and save harmless the County from and against any and all claims, suits, actions, damages and/or causes of action arising during the Term of this Lease related to and arising as a result of Tenant's use of the Premises, any personal injury, loss of life, environmental contamination, and/or damage to property sustained about the Premises by reason, during or as a result of the use of the Premises by the Tenant, its agents, employees, licensees, invitees and the general public, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney's fees, expenses and liabilities incurred in and about the defense of any such claim at trial or on appeal. In the event County shall be made a party to any litigation commenced against Tenant or by Tenant against any third party, then Tenant shall, to the extent permitted by law, 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. Notwithstanding anything herein to the contrary, Tenant shall not be obligated to indemnify or hold harmless County for matters which are judicially determined to be attributable to the negligent or intentional acts or omissions of County to the extent permitted by law. Tenant recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the County in support hereof in accordance with the laws of the State of Florida. This section shall survive the termination of this Lease. Nothing contained herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes, by either the County or the Tenant.

ARTICLE VIII DEFAULT

Section 8.01 Default by Tenant.

The occurrence of any one or more of the following shall constitute an Event of Default by Tenant under this Lease: (i) Tenant's failure to pay any sum due hereunder within fifteen (15) days after the same shall become due; (ii) Tenant's failure to perform or observe any of the agreements, covenants or conditions contained in the Lease on Tenant's part to be performed or observed if such failure continues for more than thirty (30) days after notice from County unless the same is of such a nature that it cannot reasonably be cured within such a time period, in which event Tenant shall be entitled to a reasonable period under the circumstances; or (iii) Tenant's vacating or abandoning the Premises. If any Event of Default occurs, then at any time thereafter while the Event of Default continues, County shall have the right to give Tenant notice that County intends to

terminate this Lease upon a specified date not less than thirty (30) days after the date notice is received by Tenant, and this Lease shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Lease. If, however, the default is cured within the thirty (30) day period and the County is so notified, this Lease will continue.

Section 8.02 Default by County.

County shall not be in default unless County fails to perform obligations required of County within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to County, specifying wherein County has failed to perform such obligations; provided, however, that if the nature of County's obligations is such that more than thirty (30) days are required for performance then County shall not be in default if County commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion.

**ARTICLE IX
ANNUAL BUDGETARY FUNDING**

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. All obligations of Tenant hereunder are subject to and contingent upon annual budgetary funding and appropriations by the City Commission of the City of West Palm Beach. Notwithstanding anything in this Lease to the contrary, either party may cancel this Lease for any reason upon sixty (60) days prior written notice to Tenant as provided by statute and Section 1.02 above.

**ARTICLE X
QUIET ENJOYMENT**

Upon payment by the Tenant of the Rent, Additional Rent, and other charges herein provided, and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term hereby demised without hindrance or interruption by County or any other person or persons lawfully or equitably claiming by, through or under the County, subject, nevertheless, to the terms and conditions of this Lease.

**ARTICLE XI
MISCELLANEOUS**

Section 11.01 Entire Agreement.

This Lease and any Exhibits attached thereto, constitute all agreements, conditions and understandings between County and Tenant concerning the Premises. All representations, either oral or written, shall be deemed to be merged into this Lease. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Lease shall be binding upon County or Tenant unless reduced to writing and signed by them.

Section 11.02 Notices.

All notices, consents, approvals, 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 national overnight delivery service (provided in each case a receipt is obtained), telecopied, faxed or emailed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any such notice shall be the date of delivery of the notice if by personal delivery, courier service, or national overnight delivery service,

or on the date of transmission with confirmed answer back if telecopier, fax or email 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 designate the following addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to party:

(a) If to the County at:

Property and Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, FL 33411-5605
Telephone: 561-233-0217
Fax: 561-233-0210

with a copy to:

Palm Beach County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
Telephone: 561-355-2225
Fax: 561-355-4398

(b) If to the Tenant at:

City of West Palm Beach
Attn: City Administrator
401 Clematis Street
West Palm Beach, FL 33401
Telephone: 561-822-1400

With a copy to:

City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401
Telephone: 561-822-1350
Email: LegalServices@wpb.org

Any party may from time to time change the address at which notices under this Lease shall be given such party, upon three (3) days prior written notice to the other parties.

Section 11.03 Severability.

If any term of this Lease or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 11.04 Recording.

Tenant shall not record this Lease, or any memorandum or short form thereof, without the written consent and joinder of County, which may be granted or withheld at County's sole discretion.

Section 11.05 Waiver of Jury Trial.

THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH PROCEEDINGS OR COUNTER CLAIMS, BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER, IN CONNECTION WITH THIS LEASE.

Section 11.06 Governing Law and Venue.

This Lease shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Lease will be held in a State 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.

Section 11.07 Time of Essence.

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

Section 11.08 Waiver.

The waiver by County of any default of any term, condition or covenant herein contained shall not be a waiver of such term, condition or covenant, or any subsequent default of the same or any other term, condition or covenant herein contained.

The consent or approval by County to or of any act by Tenant requiring County's consent or approval shall not be deemed to waive or render unnecessary County's consent to or approval of any subsequent similar act by Tenant.

Section 11.09 Non-exclusivity of Remedies.

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 or 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.

Section 11.10 Construction.

No party shall be considered the author of this Lease since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Lease shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

Section 11.11 Incorporation by Reference.

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Lease by reference.

Section 11.12 Survival

Notwithstanding any early termination of this Lease, Tenant shall remain obligated hereunder to perform any duty, covenant or obligation imposed upon Tenant hereunder arising prior to the date of such termination.

Section 11.13 No Third Party Beneficiary.

No provision of this Lease 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 Lease, including but not limited to any citizen or employees of the County and/or Tenant.

Section 11.14 Palm Beach County Office of the Inspector General Audit Requirements.

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.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

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

ATTEST:

TENANT:

CITY OF WEST PALM BEACH
a Florida municipal corporation

Shaquita Edward, City Clerk

By: _____
Keith A. James, Mayor

Witness Signature

Date: _____, 2023

Print Witness Name

City Attorney's Office
Approved as to form and legality

By: _____

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: _____
Department Director

EXHIBIT "A"

The Property

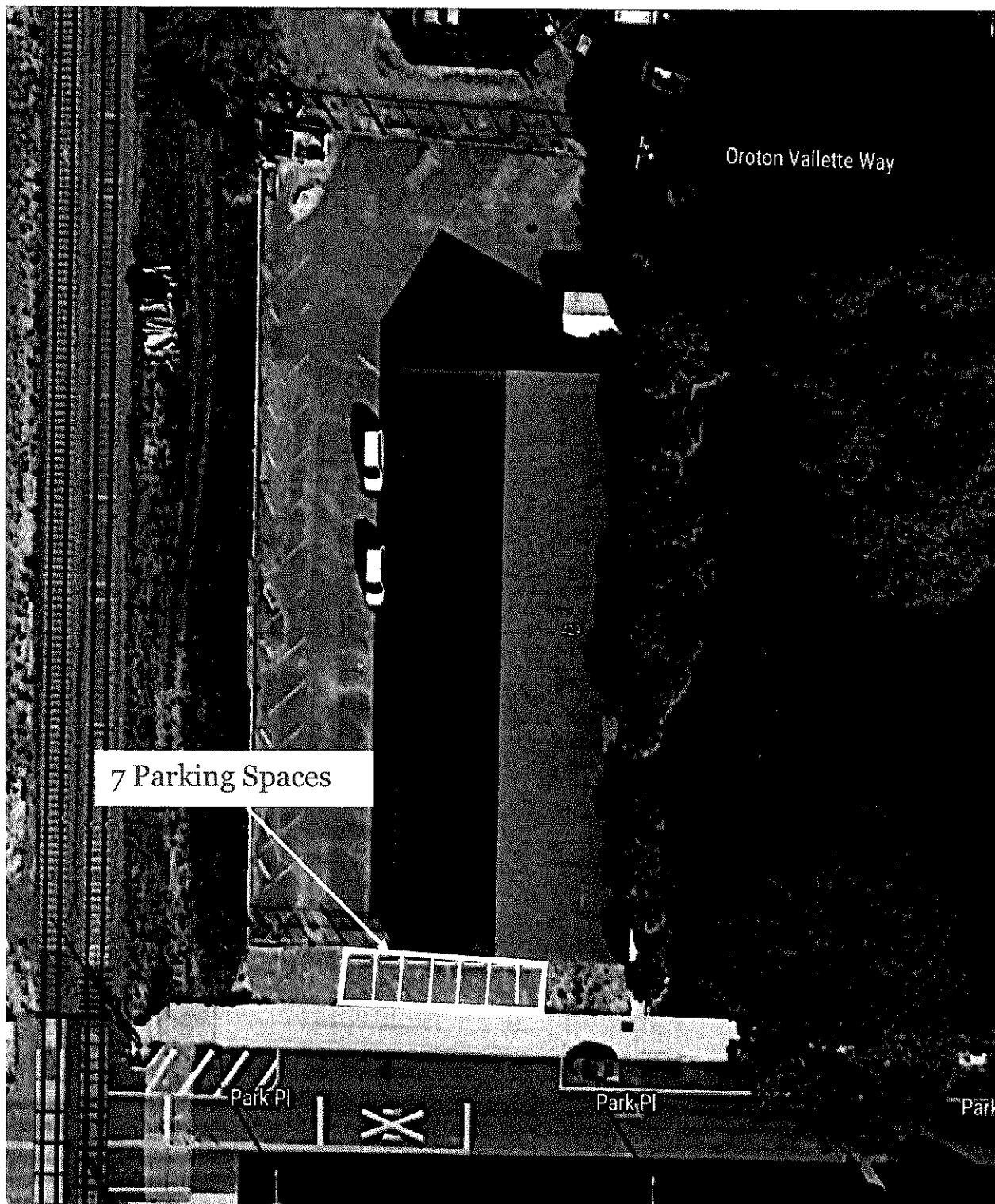


74-43-43-28-00-000-1070



EXHIBIT "B"

The Premises



Attachment #3
Agreement of Lease
(1 @ 15 pages)

PALM BEACH COUNTY

LEASE AGREEMENT

between

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

(County)

and

**CITY OF WEST PALM BEACH
A FLORIDA MUNICIPAL CORPORATION**

(Tenant)

AGREEMENT OF LEASE

WPB No. 30203

THIS LEASE made and entered into on _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "County" and **CITY OF WEST PALM BEACH**, a Florida Municipal Corporation, organized and existing under the laws of the State of Florida, hereinafter referred to as "Tenant". County and Tenant are jointly referred to hereinafter as "Parties".

W I T N E S S E T H:

WHEREAS, County is the owner of certain real property and/or improvements located at 429 Park Place, West Palm Beach, Florida in Palm Beach County as depicted in **Exhibit "A"** attached hereto and made a part hereof ("Property"); and

WHEREAS, Tenant desires to lease from County, a portion of the Property consisting of seven (7) parking spaces in accordance with the terms and obligations set forth herein; and

WHEREAS, County is willing to lease a portion of such Property to Tenant in accordance with the terms, obligations, and use set forth hereinafter;

NOW THEREFORE, in consideration of the rents, covenants and agreements hereinafter reserved and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I BASIC LEASE PROVISIONS

Section 1.01 Premises.

In consideration of the rents, covenants and agreements hereafter reserved and contained on the part of the Tenant to be observed and performed, the County demises and leases to Tenant, and Tenant rents from County the portion of the Property consisting of seven (7) parking spaces as depicted in **Exhibit "B"** attached hereto and made a part hereof (the "Premises").

Section 1.02 Length of Term and Commencement Date.

The term of this Lease shall commence upon execution (the "Commencement Date"), and shall extend for a period of one (1) year thereafter (the "Term"), unless sooner terminated pursuant to the provisions of this Lease. Either party may terminate this Lease for any reason upon sixty (60) days' prior written notice to the other.

Section 1.03 Option to Extend.

County hereby grants to Tenant, so long as Tenant shall not be in default of any term, covenant, condition or payment of Rent under this Lease, the right and option to extend the Term of this Lease for two (2) successive periods of 2 years each under the same terms and conditions of this Lease and commencing upon the expiration of the initial Term of this Lease or any extension thereof. Tenant shall exercise its option to extend if at all, by written notice to the County received by the County on or before 60 days prior to the expiration of the initial Term of this Lease or any extension thereof. Failure of Tenant to duly and timely exercise its option to extend the Term of this Lease shall be deemed a waiver of Tenant's right to said option and all further options.

ARTICLE II RENT

Section 2.01 Monthly Rent.

Tenant shall pay County the Monthly Rent in the amount of Three Hundred Fifty dollars (\$350.00), commencing on the Commencement Date, during the term of this Lease, together with all applicable sales taxes thereon on the first day of each month, in advance. If the Term hereof commences and/or expires on other than the first or last day of a calendar month, the Rent payable for such month shall be prorated and paid on a per diem basis using a thirty (30) day month. Annual payments may be made in lieu of monthly payments.

The Monthly Rent shall be made payable to the Palm Beach County Board of County Commissioners and shall be delivered to the Palm Beach County Finance Department, Revenue Section, P.O. Box 4036, West Palm Beach, Florida 33402. This Lease shall be what is commonly referred to as "triple net" to County, it being understood by the parties that County shall receive the rent payable hereunder free and clear of any and all impositions, taxes, liens, charges, and expense of any nature whatsoever relating to ownership or operation of the Premises, including without limitation those relating to taxes, if any, insurance, repair, maintenance, use, care, or operation.

Section 2.02 Assessments and Personal Property Taxes.

Tenant shall pay all sales, use or rent taxes assessed by any governmental authority against the Monthly Rent and/or Additional Rent, if any, even if such tax is intended to be imposed against County. Tenant shall pay before delinquency all ad valorem and non-ad valorem taxes and assessments, whether general or special and all tangible or intangible personal property taxes and assessments of any kind or nature which may be levied by any governmental authority against the Premises, Tenant's leasehold interest in the Premises, Tenant's Alterations or personal property located on the Premises.

Section 2.03 Additional Rent.

Any and all sums of money or charges required to be paid by Tenant under this Lease other than Monthly Rent shall be considered "Additional Rent", whether or not the same is specifically so designated, and County shall have the same rights to enforce due and timely payment by Tenant of all Additional Rent as are available to County with regards to Monthly Rent.

Section 2.04 Unpaid Fees, Holdover.

In the event Tenant fails to make timely payment of any rentals, fees, charges, and payments due and payable in accordance with the terms of this Lease within ten (10) days after same shall become due and payable, interest at the rate of one and one-half percent (1½ %) per month (or the highest rated permitted by law if lower) shall accrue against the delinquent payment(s) from the date due until the date payment is received by County. Such interest shall constitute Additional Rent. Notwithstanding the foregoing, County shall not be prevented from terminating this Lease for default in the payment of rentals, fees, charges, and payments due to County pursuant to this Lease or from enforcing any other provisions contained herein or implied by law. In the event Tenant shall holdover, refuse or fail to relinquish possession of the Premises at the expiration or termination of this Lease, Tenant shall be liable to County for any and all damages, and in addition thereto, Tenant shall also be strictly liable to pay to County during the entire period of such holdover, double the Monthly Rent.

Section 2.05 Accord and Satisfaction.

In the event Tenant pays any amount that is less than the amount stipulated to be paid under this Lease, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed an accord and satisfaction. The County may accept any check or payment without prejudice to County's right to recover the balance due or to pursue any other remedy available to County pursuant to this Lease or under the law.

**ARTICLE III
CONDITION OF LEASED PREMISES, ALTERATIONS**

Section 3.01 Acceptance of Premises by Tenant.

Tenant certifies that Tenant has inspected the Premises and accepts same "As Is", in its existing condition together with any defects, latent or patent, if any, and subject to all easements, encumbrances, restrictions and matters of record. Tenant further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Premises, including, without limitation, the physical condition of the Premises, any improvements or equipment located thereon, if any, or the suitability thereof for Tenant's intended use thereof. No repair work, alterations, or remodeling of the Premises is required to be done by County as a condition of this Lease.

Section 3.02 Alterations.

Tenant shall install signage demarking the parking spaces. Prior approval of content of said signage is required by County. Tenant shall also replace the line stripping of parking spaces within the Premises, as needed, per applicable regulations. No other improvements, additions, modifications or alterations to the Premises shall be permitted. Tenant shall submit detailed plans and specifications for permitted alterations to County for County's written approval prior to commencing work on same. Tenant agrees and acknowledges that all work performed to the Premises, whether pursuant to this Section or otherwise, shall be performed and accomplished solely for the benefit of Tenant, and not for the benefit of County, such work being nevertheless subject to each and every provision of this Lease. All work done by Tenant shall be done in a good and workmanlike manner and shall be diligently pursued to completion strictly in accordance with the approved plans and specifications therefor. The signage shall be removed by Tenant, at Tenant's sole cost and expense, upon the termination or expiration of this Lease.

**ARTICLE IV
CONDUCT OF BUSINESS AND USE OF PREMISES BY TENANT**

Section 4.01 Use of Premises.

Tenant shall be entitled to use and occupy the Premises solely and exclusively for public parking 24 hours a day, seven days a week. Tenant shall not use, permit, or suffer the use of the Premises for any other purpose whatsoever without the prior written consent of County, which consent may be granted or withheld in County's sole discretion.

Tenant, at its sole costs and expense, shall direct users to pay for parking using an electronic application.

Tenant shall be fully responsible for monitoring and enforcement of parking operations. The use of the Premises, by the Tenant shall not interfere with County's Clerk of the Circuit Court & Comptroller's office daily operations at the facility located at the Property as depicted in Exhibit "A".

Section 4.02 Waste or Nuisance.

Tenant shall not commit or suffer to be committed any waste upon the Premises, commit or permit the maintenance or commission of any nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect County's fee interest in the Premises or which results in an unsightly condition. All refuse

is to be removed from the Premises at Tenant's sole cost and expense and Tenant will keep such refuse in proper containers prior to removal. Tenant shall keep the access to the Premises and other contiguous areas to the Premises free and clear of obstruction.

Section 4.03 Governmental Regulations.

Tenant shall, at Tenant's sole cost and expense, comply with all ordinances, laws, statutes and regulations promulgated thereunder of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to Tenant or its use of the Premises, or the Premises generally. Tenant shall not use, maintain, store or dispose of any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents on the Premises or any adjacent land in any manner not permitted by law. To the extent permitted by law, Tenant shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Tenant's failure to perform its obligations in this Section.

Section 4.04 Non-Discrimination.

The County is committed to assuring equal opportunity in the award of Leases and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Tenant warrants and represents that throughout the term of this Lease, including any renewals thereof, if applicable, all individuals shall be treated equally 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 with respect to any activity occurring at the Premises or conducted pursuant to this Lease. Failure to meet this requirement shall be considered default of this Lease.

Section 4.05 Surrender of Premises.

Upon termination or expiration of this Lease, Tenant, at its sole cost and expense, if so directed by County, shall remove Tenant's signage and Alterations from the Premises and shall surrender the Premises to the County in the same condition the Premises were in as of the Commencement Date of this Lease, reasonable wear and tear excepted. Upon surrender of the Premises, any and all remaining improvements or Alterations to the Premises shall vest in County.

Section 4.06 Hazardous Substance

Tenant shall not use, maintain, store or dispose of any contaminants including, but not limited to, Hazardous Materials or toxic substances, chemicals or other agents used or produced in Tenant's operations, on the Premises or any adjacent land in any manner not permitted by Environmental Laws. Furthermore, Tenant shall not cause or permit the Disposal of Hazardous Materials upon the Premises or upon adjacent lands and shall operate and occupy the Premises in compliance with all Environmental Laws. For purposes hereof, Hazardous Materials shall mean any hazardous or toxic substance, material, waste of any kind, petroleum product or by-product, contaminant or pollutant as defined or regulated by Environmental Laws. Disposal shall mean the release, storage, use, handling, discharge or disposal of such Hazardous Materials. Environmental Laws shall mean any applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restrictions.

Any Disposal of a Hazardous Material, whether by Tenant or any third party, shall be reported to County immediately upon the knowledge thereof by Tenant. Tenant shall be solely responsible for the entire cost of remediation and cleanup of any Hazardous Materials disposed of or discovered upon the Premises or emanating from the Premises onto adjacent lands, as a result of the use and occupancy of the Premises by Tenant, or Tenant's agents, licensees, invitees, subcontractors or employees.

To the extent permitted by law, Tenant hereby agrees to indemnify, defend and hold harmless County from and against any and all claims, suits, judgments, loss, damage, fines or liability which may be incurred by County, including reasonable attorney's fees and costs, which may arise directly, indirectly or proximately as a result of any violation of the Disposal of any Hazardous Materials upon the Premises or violation of this provision. Tenants responsibility hereunder shall continue and apply to any violation hereof, whether the same is discovered during the term hereof or otherwise. While this provision establishes contractual liability of Tenant, it shall not be deemed to alter or diminish any statutory or common law liability of Tenant.

Tenant acknowledges that County would not have entered into this Lease without the indemnification contained herein and acknowledges the receipt and sufficiency of separate good and valuable consideration for such indemnification. This provision shall survive expiration or termination of this Lease.

ARTICLE V REPAIRS AND MAINTENANCE OF PREMISES

Section 5.01 Responsibility of County and Tenant.

Except as otherwise set forth herein, County shall conduct all maintenance or repairs to the Premises. Tenant shall, at its sole cost and expense, be responsible for any damages caused by the Tenant or its invitees to the Premises.

Section 5.02 Representatives.

The County's representative/liaison during the term of this lease agreement shall be Facilities Management Division's Regional Manager, Central Region at 561.233.4450 during business hours or 561.712.6428 after business hours.

The Tenant's representative/liaison during the term of this lease agreement shall be Ed Davis, Parking Administrator, 561.822.1495.

ARTICLE VI INSURANCE

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the Tenant represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended. Tenant shall cause any contractor or subcontractor performing work on the Premises on behalf of Tenant to, at all times during the performance of such work, maintain in full force and effect insurance of the same type and amount as Tenant required herein.

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

Should Tenant contract with a third-party (Contractor) to perform any service related to the Lease, Tenant 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 Tenant and County as Additional Insureds. Tenant 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 Tenant shall provide an affidavit or Certificate of Insurance evidencing self-insurance.

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

Tenant agrees its self-insurance, general liability, automobile liability, and property insurance shall be primary with respect to any coverage afforded to or maintained by County.

ARTICLE VII INDEMNIFICATION

It is understood and agreed that Tenant is merely a Tenant of County and is an independent contractor and is not an agent, servant or employee of County or its Board of County Commissioners. Tenant shall to the extent permitted by law, indemnify, defend and save harmless the County from and against any and all claims, suits, actions, damages and/or causes of action arising during the Term of this Lease related to and arising as a result of Tenant's use of the Premises, any personal injury, loss of life, environmental contamination, and/or damage to property sustained about the Premises by reason, during or as a result of the use of the Premises by the Tenant, its agents, employees, licensees, invitees and the general public, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney's fees, expenses and liabilities incurred in and about the defense of any such claim at trial or on appeal. In the event County shall be made a party to any litigation commenced against Tenant or by Tenant against any third party, then Tenant shall, to the extent permitted by law, 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. Notwithstanding anything herein to the contrary, Tenant shall not be obligated to indemnify or hold harmless County for matters which are judicially determined to be attributable to the negligent or intentional acts or omissions of County to the extent permitted by law. Tenant recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the County in support hereof in accordance with the laws of the State of Florida. This section shall survive the termination of this Lease. Nothing contained herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes, by either the County or the Tenant.

ARTICLE VIII DEFAULT

Section 8.01 Default by Tenant.

The occurrence of any one or more of the following shall constitute an Event of Default by Tenant under this Lease: (i) Tenant's failure to pay any sum due hereunder within fifteen (15) days after the same shall become due; (ii) Tenant's failure to perform or observe any of the agreements, covenants or conditions contained in the Lease on Tenant's part to be performed or observed if such failure continues for more than thirty (30) days after notice from County unless the same is of such a nature that it cannot reasonably be cured within such a time period, in which event Tenant shall be entitled to a reasonable period under the circumstances; or (iii) Tenant's vacating or abandoning the Premises. If any Event of Default occurs, then at any time thereafter while the Event of Default continues, County shall have the right to give Tenant notice that County intends to

terminate this Lease upon a specified date not less than thirty (30) days after the date notice is received by Tenant, and this Lease shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Lease. If, however, the default is cured within the thirty (30) day period and the County is so notified, this Lease will continue.

Section 8.02 Default by County.

County shall not be in default unless County fails to perform obligations required of County within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to County, specifying wherein County has failed to perform such obligations; provided, however, that if the nature of County's obligations is such that more than thirty (30) days are required for performance then County shall not be in default if County commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion.

**ARTICLE IX
ANNUAL BUDGETARY FUNDING**

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. All obligations of Tenant hereunder are subject to and contingent upon annual budgetary funding and appropriations by the City Commission of the City of West Palm Beach. Notwithstanding anything in this Lease to the contrary, either party may cancel this Lease for any reason upon sixty (60) days prior written notice to Tenant as provided by statute and Section 1.02 above.

**ARTICLE X
QUIET ENJOYMENT**

Upon payment by the Tenant of the Rent, Additional Rent, and other charges herein provided, and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term hereby demised without hindrance or interruption by County or any other person or persons lawfully or equitably claiming by, through or under the County, subject, nevertheless, to the terms and conditions of this Lease.

**ARTICLE XI
MISCELLANEOUS**

Section 11.01 Entire Agreement.

This Lease and any Exhibits attached thereto, constitute all agreements, conditions and understandings between County and Tenant concerning the Premises. All representations, either oral or written, shall be deemed to be merged into this Lease. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Lease shall be binding upon County or Tenant unless reduced to writing and signed by them.

Section 11.02 Notices.

All notices, consents, approvals, 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 national overnight delivery service (provided in each case a receipt is obtained), telecopied, faxed or emailed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any such notice shall be the date of delivery of the notice if by personal delivery, courier service, or national overnight delivery service,

or on the date of transmission with confirmed answer back if telecopier, fax or email 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 designate the following addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to party:

(a) If to the County at:

Property and Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, FL 33411-5605
Telephone: 561-233-0217
Fax: 561-233-0210

with a copy to:

Palm Beach County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
Telephone: 561-355-2225
Fax: 561-355-4398

(b) If to the Tenant at:

City of West Palm Beach
Attn: City Administrator
401 Clematis Street
West Palm Beach, FL 33401
Telephone: 561-822-1400

With a copy to:

City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401
Telephone: 561-822-1350
Email: LegalServices@wpb.org

Any party may from time to time change the address at which notices under this Lease shall be given such party, upon three (3) days prior written notice to the other parties.

Section 11.03 Severability.

If any term of this Lease or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 11.04 Recording.

Tenant shall not record this Lease, or any memorandum or short form thereof, without the written consent and joinder of County, which may be granted or withheld at County's sole discretion.

Section 11.05 Waiver of Jury Trial.

THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH PROCEEDINGS OR COUNTER CLAIMS, BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER, IN CONNECTION WITH THIS LEASE.

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

ATTEST:

TENANT:


CITY OF WEST PALM BEACH
a Florida municipal corporation


Shaquita Edward, City Clerk

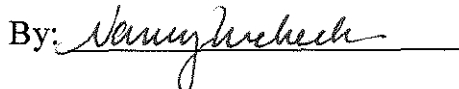
By: 
Keith A. James, Mayor

Date: 8-8, 2023


Witness Signature


Print Witness Name

City Attorney's Office
Approved as to form and legality

By: 

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: 
Department Director

EXHIBIT "A"

The Property



74-43-43-28-00-000-1070



EXHIBIT "B"

The Premises

