

341

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: November 21, 2006

☒ Consent ☐ Regular
☐ Ordinance ☐ Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) Approve a standard license agreement for individuals or organizations to conduct commercial activities at the 2300 Building of Vista Center upon approval of their application.

B) Approve a standard license agreement for individuals or organizations to conduct non-commercial activities at the 2300 Building of Vista Center upon approval of their application; and

C) Authorize the County Administrator, or his designee, to sign all future license agreements for the 2300 Building of Vista Center

Summary: The 2300 Building at Vista Center has been deemed a non-public forum per PPM CW-O-024 which means non-County activities are not allowed on the premises. Employee sponsored events which involve outside individuals or organizations will require a license agreement. These license agreements establish the standards terms and conditions under which an individual or organization may conduct an activity on the premises. Under both licenses, an individual or organization desiring to conduct an activity at the 2300 Building of Vista Center will submit an application using the standard application which becomes an attachment to the license agreement. Employee events which involve commercial activity shall be charged a licensee fee while non-commercial events shall be able to use the premises without charge. The Director of Facilities Development & Operations will be authorized to sign the license agreement on behalf of the County. (FDO Admin) Countywide(MJ)

Background and Justification: Some employee sponsored events at Vista Center require outside individuals and organizations to conduct activities within the 2300 Building of Vista Center. In order to streamline and standardize these activities, standard applications and license agreements are being proposed. The individual or organization to conduct the activity will apply using the standard application and sign the standard license agreement. The Director of Facilities Development & Operations will sign the license agreements on behalf of the County.

Attachments:

License Agreement for Commercial Activity at Vista Center
License Agreement for Non-Commercial Activity at Vista Center

Recommended by: Ann Mary Wolf 11/6/06
Department Director Date

Approved by: [Signature] 11/12/06
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No: Fund _____ Department _____ Unit _____ Object _____
Reporting Category _____

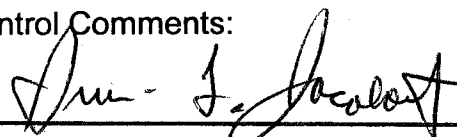
B. Recommended Sources of Funds/Summary of Fiscal Impact: There is no fiscal impact to this item, except Licensee Fee revenue that may be recognized if and when a Commercial Licensee wishes to conduct activity at the Vista Center. Fees range from \$100 - \$200.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS:

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

 10-31-06
OFMB

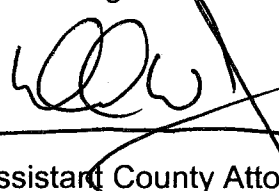
 11/2/06
Contract Dev. and Control

 10/2/06

 10-31-06

JW

B. Legal Sufficiency:

 11/6/06
Assistant County Attorney

C. Other Department Review:

The Application attached to this Agreement may be used to apply to conduct a commercial activity at the 2300 Building of Palm Beach County's Vista Center.

STANDARD LICENSE AGREEMENT FOR COMMERCIAL ACTIVITY AT VISTA CENTER

This License Agreement is made and entered into _____, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as "County" and _____, hereinafter referred to as "Licensee".

WITNESSETH:

WHEREAS, Licensee has applied to conduct a commercial activity at the 2300 Building of Palm Beach County's Vista Center on the Application to Conduct Commercial Activity at Vista Center (the "Application"), attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, County is the owner and operator of Vista Center; and

WHEREAS, County is willing to allow Licensee to use the area within the 2300 Building of Vista Center (the "Premises") identified on Exhibit A for the purposes described on the Application and 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 permits Licensee to use the Premises, as hereinafter defined, upon the terms and conditions contained in this Agreement.

1. Premises

The Premises, for the purpose of this Agreement, is the area within the 2300 Building of Vista Center identified on the Application. The Application is hereby made a part of this Agreement. The Licensee accepts the Premises in its "as is" condition. The County is in no way representing that the Premises is suitable for the Licensee's use and Licensee hereby accepts all risk relating to the use of the Premises.

Licensee shall use the Premises solely and exclusively for the use listed on the Application; Licensee shall not use, permit or suffer the use of the Premises for any other purpose whatsoever. Licensee shall be entitled to use the Premises only on the days and times listed on the Application. Licensee shall make no improvements, alterations or additions to the Premises. The use of the Premises by Licensee shall not interfere with County's use or operation of the Premises.

Licensee shall immediately report to a County representative any condition or activity on the Premises which poses a risk to persons or property. If directed by the County, Licensee shall postpone its activity until the County notifies the Licensee that it is safe to resume the activity.

2. Length of Term and Commencement Date

The term of this Agreement shall be for the period of time listed on the Application unless terminated earlier pursuant to the provisions of this Agreement. This Agreement shall commence upon execution by both parties (the "Commencement Date").

3. Licensee Fee

The Licensee shall pay the License Fee identified on the Application as determined by the County. The License Fee shall be \$100 per room per day for activities that do not include food and \$200 per room per day for activities that do include food. Additional charges may accrue for custodial, set-up or special requirements as indicated on the Application.

4. Termination

The County may terminate this Agreement at any time upon written notice to the Licensee. Upon written notice from County, this Agreement shall terminate and County shall be relieved of all further obligation hereunder accruing subsequent to the date of such termination. Licensee may terminate this Agreement upon written notice to the County.

5. Waste or Nuisance

Licensee shall not commit or suffer to be committed any waste upon the Premises or 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. Licensee shall not store or dispose any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents, including any petroleum products, used or produced in Licensee's activity, on the Premises or in any manner not permitted by law.

6. Governmental Regulations

Licensee shall, at Licensee's sole cost and expense, secure any required permits and comply with all regulations of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to Licensee or its use of the Premises, and shall faithfully observe in the use of the Premises all municipal and

county ordinances and state and federal statutes now in force or which may hereafter be in force and all applicable association/governing body rules and regulations pertaining to the Licensee's use of the Premises. Licensee shall indemnify, defend and save County, its agents, officers, and employees 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.

7. Non-Discrimination

Licensee assures and certifies that it shall comply with Title VII of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, sexual orientation or disability with respect to their use of the Premises.

8. Surrender of Premises

Upon termination of each use of the Premises by the Licensee, Licensee, at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to the County in at least the same condition the Premises were in at the start of each period of use.

9. Maintenance and Repair

County shall conduct all maintenance or repairs to the Premises. In the event that Licensee damages the Premises, County shall complete the necessary repairs and Licensee shall reimburse County for all expenses incurred by County in doing so.

10. Indemnification of County

To the extent permitted by law, Licensee shall indemnify, defend and save County, its agents, officers, and employees harmless from and against any and all claims, actions, damages, liability and expense, including attorney fees and costs, whether at trial or appellate level or otherwise, in connection with loss of life, personal injury and/or damage to or destruction of property arising from or out of the occupancy or use by Licensee of the Premises or any part thereof, or any act, error or omission of Licensee, its agents, contractors, employees or invitees. In case County shall be made a party to any litigation commenced against Licensee or by Licensee against any third party, then Licensee shall protect and hold County, its agents, officers, and employees harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. This section shall survive termination of this License Agreement. 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.

11. Insurance

A. For Non-Government Entities

Licensee shall, during the entire Term hereof, keep in full force and effect General Liability Insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence combined single limit bodily injury and property damage liability and Workers Compensation insurance covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for Premises - Operations, Contractual and Product Liability, Independent Contractors, Contractual Liability and Personal Injury, and Broad Form Property Damage Liability coverages.

Except for Workers Compensation, all insurance policies shall name the County as Additional Insured. Such insurance shall be with an insurance company licensed to do business in the State of Florida and subject to the approval of the County's Risk Management Department. A Certificate of Insurance evidencing such insurance coverage shall be provided to the County at least fifteen (15) days prior to the Commencement Date, such Certificate indicating at least thirty (30) days prior notice of cancellation or adverse material change in coverage.

In no event shall the limits of said insurance policies be considered as limiting the liability of Licensee under this Lease. In the event that Licensee shall fail to obtain and maintain in full force and effect any insurance coverage required to be obtained by Licensee under this Agreement, County shall have the right of injunction, or County may immediately terminate this Agreement, notwithstanding any provisions herein to the contrary. Notwithstanding the foregoing, Licensee shall and does nevertheless indemnify, defend and hold County harmless from any loss or damage incurred or suffered by County from Licensee's failure to maintain such insurance.

In the event of loss or damage to the Premises, the Licensee shall look solely to any insurance in its favor without making any claim against the County, and the Licensee shall obtain and deliver to the County, from the insurer under each policy of such insurance, an agreement whereby such insurer waives subrogation of any claim against the County for loss or damage within the scope of the insurance, and the Licensee, for itself and its insurers, waives all such insured claims against the County.

B. For Government Entities

If the Licensee is a government entity, Licensee acknowledges and represents, without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, that Licensee is self-insured for general liability under Florida sovereign immunity statutes with coverage limits of \$100,000 per person and \$200,000 per

occurrence, or such monetary waiver limits that may change and be set forth by the legislature.

In the event that Licensee maintains third-party commercial general liability in lieu of exclusive reliance on self-insurance under Section 768.28, F.S., Licensee shall maintain said insurance policy at limits not less than \$500,000 each occurrence. Licensee shall add the County to the commercial general liability as an "additional insured" with a CG 2026 Additional Insured-Designated Person or Organization endorsement or similar endorsement. The additional insured endorsement shall read "Palm Beach County Board of County Commissioners, a political subdivision of the State of Florida, its officers, employees and agents, c/o Facilities Development & Operations Department. Licensee agrees that the additional insured endorsement shall provide coverage on a primary basis.

Licensee shall maintain or be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statutes Chapter 440.

When requested, Licensee shall provide a statement or certificate of insurance evidencing insurance, self-insurance and/or sovereign immunity status which the County agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing insurance requirements shall not relieve Licensee of its liability and obligations under this License Agreement.

Licensee agrees that its self-insurance or general liability insurance shall be primary with respect to any coverage afforded to or maintained by the County.

12. Rules of Premises

Licensee shall strictly adhere to the Vista Center Rules, listed on the Application, at all times and acknowledges receipt of a copy of the Vista Center Rules with this License Agreement. Licensee also acknowledges that any violation of the Vista Center Rules may result in the suspension or termination of this License Agreement.

13. Subcontracting

The Licensee may not subcontract or assign any rights, responsibilities or obligations of this Agreement.

14. 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. 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.

15. Notices

Any consents, approvals and permissions by the County shall be effective and valid only if in writing and any notice by either party to the other shall be in writing and shall be deemed to be duly given only if mailed prepaid by certified mail return, receipt requested, addressed:

- (a) If to the County at:
FDO Business & Community Agreements Manager
3200 Belvedere Road, Bldg. 1169
West Palm Beach, FL 33406-1544

- (b) If to the Licensee at:

Licensee Name: _____

Licensee Address: _____

16. Severability

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement 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.

17. 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.

18. 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 a state court of competent jurisdiction in Palm Beach County.

19. Recording

Licensee shall not record this Agreement, or any memorandum or short form thereof, without

the written consent and joinder of County.

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.

WITNESS:

LICENSEE:

By: _____
Signature

By: _____
Signature

Witness Name Typed or Printed

Licensee Name Typed or Printed

ATTEST:

PALM BEACH COUNTY, FLORIDA,
A political subdivision of the State of Florida

By: _____
Witness

By: _____
Audrey Wolf, Director
Facilities Development & Operations

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

NAME OF APPLICANT: _____

ORGANIZATION: _____

ADDRESS: _____

PHONE NUMBER OF CONTACT PERSON: _____

ROOM/SPACE REQUESTED: _____

PERIOD OF ACTIVITY: START DATE: END DATE: _____

DAY(S) OF ACTIVITY: _____

TIME(S) OF ACTIVITY: _____ A.M. TO _____ A.M.
P.M. P.M.

TYPE OF ACTIVITY: (Please Check One)

TRAINING _____ EDUCATION _____ MEETING _____ OTHER _____

MAXIMUM NUMBER OF PARTICIPANTS: _____

ACTIVITY INCLUDES FOOD: YES _____ NO _____

APPLICANT REQUIRES SET-UP OR CLEAN-UP: _____ YES _____ NO

DESCRIPTION OF ACTIVITY (Explain in detail and specify any accommodations or equipment required):

1. Licensee shall be responsible for items left on the Premises by guests, workers, employees or representatives of the Licensee. The County shall not be responsible for items left by the Licensee.
2. Licensee shall return the Premises, including any equipment therein, in the same condition it

was received. Licensee shall remove any refuse, repair any damages, and clean the Premises and equipment. Licensee shall compensate the County for any repairs or cleaning required but not accomplished by the Licensee as determined by FD&O.

- 3. Licensee shall be responsible for all deliveries of equipment or other objects to the Premises.
- 4. Licensee shall not use the Premises, or any part thereof, for any purpose other than the use contained in the Application without written consent from FD&O.
- 5. Licensee shall not use or store, nor permit to be used or stored, in the Premises, or any part thereof, any substance or object prohibited by law or ordinance, or by standard fire insurance policies issued by companies operating in Florida, including any illuminating oils, candles, oil lamps, turpentine, benzene, naphtha, or similar substances, or explosives of any kind.
- 6. Licensee shall not store, possess or use intoxicating beverages, drugs or gambling devices in the Premises, nor permit others to do so.
- 7. Licensee shall not permit smoking in the Premises.
- 8. Licensee shall not post signs, banners, posters or any other displays on or in the Premises or affix decorations to walls or ceilings without the approval of FD&O.
- 9. Licensee shall not employ noise amplification devices unless approved by FD&O.
- 10. Licensee shall abide by all laws of the United States, the State of Florida, the County of Palm Beach and all regulations of the Palm Beach County Fire Rescue Department and the Public Health Department.

By signing below, I certify that I have the authority to represent and obligate the organization listed above and I agree to comply with the terms of this Application and the Vista Center Rules.

Signature of Applicant as Authorized Representative: _____

TO BE PROVIDED BY THE COUNTY (after evaluation of the Application):

LICENSE FEE: \$ _____ / PER DAY

Special Conditions: _____

**STANDARD LICENSE AGREEMENT FOR NON-COMMERCIAL ACTIVITY AT
VISTA CENTER**

This License Agreement is made and entered into _____, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as "County" and _____, hereinafter referred to as "Licensee".

In consideration of the covenants and agreements hereinafter set forth on the part of the Licensee to be observed and performed, the County hereby permits Licensee to use the Premises, as hereinafter defined, upon the terms and conditions contained in this Agreement.

1. Premises

The Premises, for the purpose of this Agreement, is defined as the area within the 2300 Building of Vista Center identified on the Application to Conduct Non-Commercial Activity at Vista Center (the "Application"), attached hereto and incorporated herein by reference. The Licensee accepts the Premises in its "as is" condition. The County is in no way representing that the Premises is suitable for the Licensee's use and Licensee hereby accepts all risk relating to the use of the Premises.

2. Length of Term and Commencement Date

The term of this Agreement shall be for the period of time listed on the Application unless terminated earlier pursuant to the provisions of this Agreement. This Agreement shall commence upon execution by both parties (the "Commencement Date").

3. Licensee Fee

Licensee shall be entitled to use the Premises without charge.

4. Termination

The County may terminate this Agreement at any time upon written notice to the Licensee. Upon written notice from County, this Agreement shall terminate and County shall be relieved of all further obligation hereunder accruing subsequent to the date of such termination. Licensee may terminate this Agreement upon written notice to the County.

Licensee acknowledges that any violation of the Vista Center Rules or terms of this Agreement may result in the suspension or termination of this License Agreement and denial of future license agreements.

NAME OF APPLICANT: _____

ORGANIZATION: _____

ADDRESS: _____

PHONE NUMBER OF CONTACT PERSON: _____

ROOM/SPACE REQUESTED: _____

PERIOD OF ACTIVITY: START DATE: END DATE: _____

DAY(S) OF ACTIVITY: _____

TIME(S) OF ACTIVITY: _____ A.M. TO _____ A.M.
P.M. P.M.

TYPE OF ACTIVITY: (Please Check One)

TRAINING _____ EDUCATION _____ MEETING _____ OTHER _____

MAXIMUM NUMBER OF PARTICIPANTS: _____

ACTIVITY INCLUDES FOOD: **YES** **NO**

APPLICANT REQUIRES SET-UP OR CLEAN-UP: YES NO

DESCRIPTION OF ACTIVITY (Explain in detail and specify any accommodations or equipment required):

1. Licensee shall not commit or suffer to be committed any waste upon the Premises or 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. Licensee shall not store or dispose any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents, including any petroleum products, used or produced in Licensee's activity, on the Premises or in any manner not permitted by law.

2. Licensee shall, at Licensee's sole cost and expense, secure any required permits and comply with all regulations of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to Licensee or its use of the Premises, and shall faithfully observe in the use of the Premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force and all applicable association/governing body rules and regulations pertaining to the Licensee's use of the Premises. Licensee shall indemnify, defend and save County, its agents, officers, and employees 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.
 3. The Licensee shall not subcontract or assign any rights, responsibilities or obligations of this Agreement.
 4. Licensee assures and certifies that it shall comply with Title VII of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, sexual orientation or disability with respect to their use of the Premises.
 5. Licensee shall return the Premises, including any equipment therein, in the same condition it was received. Licensee shall remove any refuse, repair any damages, and clean the Premises and equipment. Licensee shall compensate the County for any repairs or cleaning required but not accomplished by the Licensee as determined by FD&O.
 6. Licensee shall be responsible for all deliveries of equipment or other objects to the Premises. Licensee shall be responsible for items left on the Premises by guests, workers, employees or representatives of the Licensee. The County shall not be responsible for items left by the Licensee.
 7. Licensee shall not use the Premises, or any part thereof, for any purpose other than the use contained in the Application without written consent from FD&O. Licensee shall be entitled to use the Premises only on the days and times listed on the Application. Licensee shall make no improvements, alterations or additions to the Premises.
 8. Licensee shall not interfere with County's use or operation of the Premises.
 9. Licensee shall immediately report to a County representative any condition or activity on the Premises which poses a risk to persons or property. If directed by the County, Licensee shall postpone its activity until the County notifies the Licensee that it is safe to resume the activity.
 10. Licensee shall not use or store, nor permit to be used or stored, in the Premises, or any part thereof, any substance or object prohibited by law or ordinance, or by standard fire insurance policies issued by companies operating in Florida, including any illuminating oils, candles, oil lamps, turpentine, benzene, naphtha, or similar substances, or explosives of any kind.
 11. Licensee shall not store, possess or use intoxicating beverages, drugs or gambling devices in
- Standard Vista Non-Commercial License Agreement
092506

the Premises, nor permit others to do so. Licensee shall not permit smoking in the Premises.

12. Licensee shall not post signs, banners, posters or any other displays on or in the Premises or affix decorations to walls or ceilings without the approval of FD&O. Licensee shall not employ noise amplification devices unless approved by FD&O.
13. Licensee shall abide by all laws of the United States, the State of Florida, the County of Palm Beach and all regulations of the Palm Beach County Fire Rescue Department and the Public Health Department.
14. Upon termination of each use of the Premises by the Licensee, Licensee, at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to the County in at least the same condition the Premises were in at the start of each period of use.

By signing below, I certify that I have the authority to represent and obligate the organization listed above and I agree to comply with the terms of this Application and the Vista Center Rules.

Signature of Applicant as Authorized Representative: _____

TO BE PROVIDED BY THE COUNTY (after evaluation of the Application):

Special Conditions: _____

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.

WITNESS:

LICENSEE:

By: _____
Signature

By: _____
Signature

Witness Name Typed or Printed

Licensee Name Typed or Printed

Reviewed as to terms and conditions

PALM BEACH COUNTY, FLORIDA,
A political subdivision of the State of Florida

By: _____
Nancy J. Dolan
Business & Community Agrmt. Mgr.

By: _____
Audrey Wolf, Director
Facilities Development & Operations