

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

**Meeting Date:** November 21, 2006

☒ [X] Consent    ☐ [ ] Regular  
☐ [ ] Ordinance   ☐ [ ] Public Hearing

**Department:** Facilities Development & Operations

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a license agreement with the State of Florida, Department of Veterans' Affairs (Department) for the installation and operation of an electronic kiosk to provide information concerning veterans in the lobby of the Government Center.

**Summary:** The Department has developed a project to place touch screen Veterans Outreach Kiosks in selected Florida counties with large veteran populations to provide easy access to information on veterans' benefits. The Department has requested that the County allow a kiosk to be installed in a County facility. The kiosk is funded by the Florida Legislature and the Department shall install, maintain and repair the kiosk. The County would only supply the electricity required to operate the kiosk and provide access to the internet through a data connection. The kiosks will operate on the Department of Highway Safety and Motor Vehicles ( DHSMV) computer network. The kiosk, which will occupy less than two square feet of floor space, will be installed in the lobby of the Government Center next to the Public Affairs' kiosk. There is no license fee associated with this agreement. The license agreement shall extend for five (5) years with an option to renew for one additional five (5) year term. **(FDO Admin) District 7 (MJ)**

**Background and Justification:** The Department has developed a project to place touch screen Veterans Outreach Kiosk in selected Florida counties with large veteran populations to provide easy access to information on veteran's benefits. The Department has requested that the County allow a kiosk to be installed in a County facility. The kiosk, which will occupy less than two square feet of floor space will be installed in the lobby of the Government Center next to the Public Affairs; kiosk. There is no license fee associated with this agreement. The license agreement shall extend for five (5) years with an option to renew for one additional five (5) year term.

**Attachments:**

1. License Agreement

**Recommended by:**

Ann Mary Wolf  
Department Director

10/31/06  
Date

**Approved by:**

Robert W. Worrian  
County Administrator

11/8/06  
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>
<b>NET FISCAL IMPACT</b>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>					

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:**

No fiscal impact associated with this item. Any related cost to the County are very minimal (i.e. utility cost).

**C. Departmental Fiscal Review:**\_\_\_\_\_


### III. REVIEW COMMENTS:

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

11-6-06  
OFMB

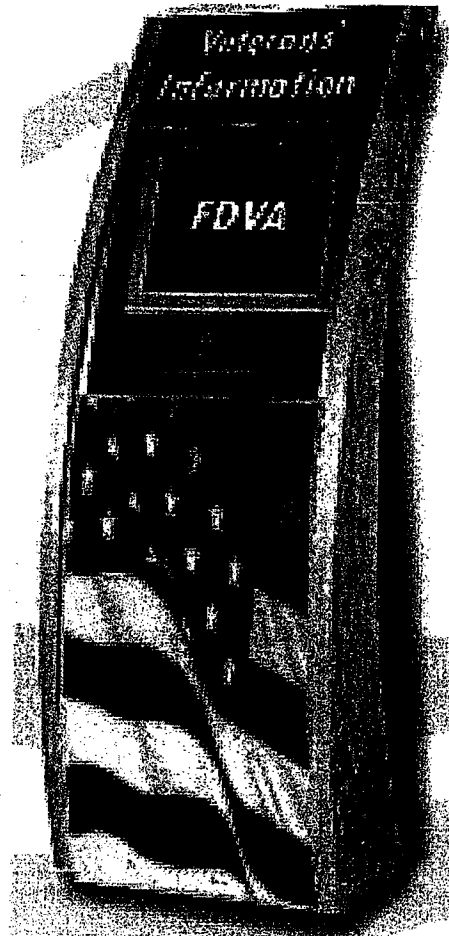
*Dr. J. Jacob* 11/17/06  
Contract Dev. and Control  
Ex 11/17/06  
This License Agreement  
Complies with our  
review requirements.

**B. Legal Sufficiency:**

 4/8/06  
Assistant County Attorney

**C. Other Department Review:**

[illegible]



## **LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** is made and entered into \_\_\_\_\_, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County" and the State of Florida, Department of Veterans' Affairs, hereinafter referred to as "Licensee".

### **WITNESSETH:**

**WHEREAS**, County is the owner of certain real property in Palm Beach County, Florida, known as the Palm Beach County Government Center (the "Government Center") located at 301 North Olive Avenue, West Palm Beach, FL 33401; and

**WHEREAS**, Licensee desires to install and operate an electronic kiosk to provide information concerning veterans in the lobby of the Government Center; and

**WHEREAS**, County is willing to grant Licensee a revocable license to install and operate an electronic kiosk in the lobby of the Government Center.

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

### **ARTICLE I BASIC PROVISIONS**

#### **Section 1.01 Premises**

The Premises which are the subject of this Agreement consist of the area in the lobby of the Government Center upon which the Veterans Outreach Kiosk (the "electronic kiosk") is located.

#### **Section 1.02 Length of Term and Commencement Date**

The term of this Agreement shall be five (5) years from the effective date of this Agreement (the "Term"), unless sooner terminated pursuant to the provisions of this Agreement. The Agreement may be renewed for one additional five (5) year term upon written agreement by both parties.

### **ARTICLE II LICENSE FEE**

#### **Section 2.01 License Fee**

Licensee shall be entitled to use the Premises without charge.

**ARTICLE III**  
**CONDUCT OF BUSINESS AND USE OF PREMISES BY LICENSEE**

**Section 3.01 Use of Premises**

Licensee shall use the Premises solely and exclusively for the installation and operation of an electronic kiosk to provide information concerning veterans. Licensee shall not use, permit or suffer the use of the Premises for any other business or purpose whatsoever. The use of the Premises by Licensee shall not interfere with the County's or general public's use of the Government Center.

**Section 3.02 Licensee's Work**

Licensee shall make no improvements, alterations or additions to the Premises.

**Section 3.03 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 Government Center or which may affect County's fee interest in the Government Center. 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 operations, on the Premises or in any manner not permitted by law.

**Section 3.04 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. Licensee shall comply with all ecological requirements to operate its business on the Premises. Licensee shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Licensee's failure to perform its obligations specified in this Section.

**Section 3.05 Non-Discrimination**

Licensee shall assure and certify that it will comply with the 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 the provision of services occurring on the Premises.

### **Section 3.06 Surrender of Premises**

Upon expiration or earlier termination of Licensee's license to use the Premises, Licensee, at its sole cost and expense, shall remove the electronic kiosk from the Premises and shall surrender the Premises to the County in at least the same condition the Premises were in as of the date of this Agreement.

## **ARTICLE IV REPAIRS AND MAINTENANCE**

### **Section 4.01 Responsibility of County and Licensee**

County shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the electronic kiosk located on the Premises. The electronic kiosk shall be kept in good repair and condition by Licensee.

Upon expiration or earlier termination of this Agreement, Licensee shall deliver the Premises to County in good repair and condition as specified herein. In the event of any damage to the Premises, County may complete the necessary repairs and Licensee shall reimburse County for all expenses incurred by County in doing so.

## **ARTICLE V INSURANCE AND INDEMNITY**

### **Section 5.01 Insurance**

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.

#### **Section 5.02 Indemnification**

Each party acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28 and acknowledges that such statute permits actions at law to recover damages in tort for monetary damages up to the limits set forth in such statute for death, personal injury or damage caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. The parties agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

### **ARTICLE VI UTILITIES**

The County shall be solely responsible for and promptly pay directly to the utility company or the provider of such service all charges and assessments for electricity used or consumed by the electronic kiosk on the Premises. In no event shall County be liable for an interruption or failure in the supply of any such utility to the electronic kiosk on the Premises. The County shall provide access to the internet through a data connection for the electronic kiosk on the Premises. The Licensee shall provide the all the network systems and software necessary to operate the electronic kiosk.

### **ARTICLE VII REVOCATION OF LICENSE**

#### **Section 7.01 Revocation of License**

Notwithstanding anything to the contrary contained herein, the rights granted to Licensee hereunder amount only to a license to use the Premises, which license is expressly revocable by

Veterans Kiosk License  
Final - 101706

County for any reason whatsoever upon notice to Licensee. Upon Licensee's receipt of notice from County of the revocation of the license granted hereby, this Agreement shall terminate and County shall be relieved of all further obligation hereunder accruing subsequent to the date of such termination.

## **ARTICLE VIII MISCELLANEOUS**

### **Section 8.01 Entire Agreement**

This Agreement and any Exhibits attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between County and Licensee concerning the Premises. 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.

### **Section 8.02 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:  
Facilities Dev. & Ops.  
Attention: Business Agreements Manager  
3200 Belvedere Road, Building 1169  
West Palm Beach, Florida 33406-1544
  
- (b) If to the Licensee at:  
Jim Lieupo, Chief Information Officer  
Florida Department of Veterans' Affairs (FDVA)  
11351 Ulmerton Road, Suite 311-O  
Largo, FL 33778  
(727) 518-3202 X501

### **Section 8.03 Recording**

Licensee shall not record this Agreement, or any memorandum or short form thereof, without the written consent and joinder of County.



**Section 8.04 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.

**Section 8.05 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.

**Section 8.06 Time of Essence**

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

**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.

SHARON R. BOCK,  
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA BY ITS  
BOARD OF COUNTY COMMISSIONERS

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

By: \_\_\_\_\_  
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

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

By: Annmy Wolf  
Director, Facilities Dev & Ops *nyd*

ATTEST:

DEPARTMENT OF VETERANS' AFFAIRS

By: N.E. Daniels, Ch. of Staff  
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Warren R. McPherson  
Warren R. McPherson, Executive Director

By: \_\_\_\_\_  
General Counsel's Office