

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: February 27, 2007

Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: License Agreement with the Westgate/Belvedere Homes Community Redevelopment Agency (CRA) that provides for the CRA to use and occupy office space at the County's Airport Center.

Summary: The CRA shall occupy office space within the County's Department of Housing and Community Development (HCD) at Airport Center for use as staff office space and file storage. Originally, the CRA shall occupy approximately 748 square feet of space on the fifth floor of Building 2 until renovations are completed in Building 1. Upon completion of the renovations in Building 1, the CRA shall vacate Building 2 and instead occupy approximately 1,143.7 square feet of space on the fourth floor of Building 1. The license agreement includes the non-exclusive use by the CRA of the common areas (support areas, conference rooms, copy/work rooms) assigned to HCD subject to the scheduling approval of HCD. The CRA shall fund the purchase and installation of all furniture, non-fixed fixtures, and other equipment necessary to operate within HCD. The CRA shall also purchase and install all of its own communications equipment using the existing infrastructure, wiring, and cabling subject to the County's approval. The County shall be responsible for the maintenance of the office space and for all the utilities consumed other than long distance telephone service. There is no fee associated with this license agreement. The term of the agreement is two (2) years. (FDO Admin) District 3 (JB)

Background and Justification: The CRA has been occupying office space within HCD at 3323 Belvedere Road, Building 501 for a number of years without a formal agreement.

Attachments:

- 1. License Agreement

Recommended by: _____

Ann Mary Wolf 2/6/07
Department Director Date

Approved by: _____

[Signature] 2/21/07
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)	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS:

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

Sam Bond 2-14-07
OFMB
2/14/07
CN 2/13/07

[Signature]
2/15/07
Contract Dev. and Control
2/16/07

This Contract complies with our contract review requirements.

B. Legal Sufficiency:

[Signature]
Assistant County Attorney

C. Other Department Review:

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("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 Westgate/Belvedere Homes Community Redevelopment Agency, a dependent special district of Palm Beach County, hereinafter referred to as "Licensee".

WITNESSETH:

WHEREAS, County is the owner of certain real property in Palm Beach County, Florida, known as the Airport Center Property (the "Airport Center"); and

WHEREAS, Licensee desires to use office space within the Airport Center located at 100 Australian Avenue, West Palm Beach, Florida 33406; and

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

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

ARTICLE I BASIC PROVISIONS

Section 1.01 Premises

The Licensee shall have the right to use and occupy a certain area of the Airport Center consisting of approximately 748 square feet of space on the fifth floor of Building 2 as depicted on Exhibit "A", attached hereto and incorporated herein (the "Original Premises") until renovations are completed in Building 1. Upon completion of the renovations occurring in Building 1, the Tenant shall vacate the Original Premises and instead shall have the right to use and occupy a certain area of the Airport Center consisting of approximately 1,143.7 square feet of space on the fourth floor of Building 1 as depicted on Exhibit "B", (the "Final Premises") attached hereto and incorporated herein. For the purposes of this License Agreement, the term "Premises" shall mean: (i) the Original Premises prior to the completion of renovations in Building 1; and (ii) the Final Premises on and after the completion of renovations in Building 1.

Section 1.02 Length of Term and Commencement Date

The term of this Agreement shall be for a period of two (2) years (the "Term"), from the date of first occupancy on January 22, 2007 ("Commencement Date"), unless sooner terminated pursuant to the provisions of this Agreement.

Section 1.03 Non Exclusive License Agreement

This Agreement is non-exclusive and the County reserves the right to enter and use the Premises for its own purposes and enter into agreements with other parties to provide additional space in Buildings 1 and 2. However, subsequent agreements shall not interfere with the Licensee's use of the Premises.

**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 and Hours of Operation

Licensee shall use the Premises solely and exclusively for staff office space and file storage space. Licensee shall not use, permit or suffer the use of the Premises for any other business or purpose whatsoever. Licensee shall ensure that its use of the Premises does not interfere with the County's use of its contiguous property.

The use of the Premises by Licensee shall include the non-exclusive use, in common with others entitled thereto, of the support areas, conference rooms, copy/work rooms (the "Common Areas") assigned to the County's Department of Housing and Community Development (the "HCD") within Buildings 1 and 2, subject however to the terms and conditions of this License and subject to the scheduling approval of HCD.

The Common Areas shall at all times be subject to the exclusive control and management of County, and County shall have the sole and absolute right from time to time to change the areas, locations and arrangement of the Common Areas without seeking Licensee's input or approval thereof. County shall have the right to do and perform such acts in and to the Common Areas as, in the use of good business and/or in the interest of public safety, the County shall determine to be advisable with a view to the improvement of the convenience and use thereof by County, its employees, tenants and their customers. County shall have the full right and authority to employ all personnel and to make all rules and regulations as County may in its sole discretion deem proper, pertaining to the proper operation and maintenance of the Common Areas.

Section 3.02 Licensee's Work

Licensee shall make no improvements, alterations or additions to the Premises without the prior written consent of County. Licensee agrees and acknowledges that any such work performed by Licensee whether pursuant to this Section or otherwise, is performed and accomplished solely for the

benefit and convenience of Licensee, and not for the benefit of County, such work being nevertheless subject to each and every provision of this Agreement.

The Licensee shall fund the purchase and installation of all furniture, non-fixed fixtures and other equipment necessary to operate on the Premises. Licensee shall purchase and install, at its own expense, all its communications equipment (telephone and data) using the existing infrastructure/wiring/cabling on the Premises with the approval of the County's Department of Facilities Development & Operations Division of Facilities Management. The Licensee's communications equipment shall in no way conflict with the County's communication equipment. In the event that the installation of the communications equipment requires dedicated or additional electrical circuits (beyond those already existing in the Premises) to be installed, the Licensee shall pay the County to perform the electrical work.

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 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 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 any activity occurring on the Premises.

Section 3.06 Criminal History Records Check

Licensee shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance") if Licensee's employees or subcontractors are required

under this Agreement to enter or work at the site of a "critical facility" as identified in Resolution R2003-1274. Licensee acknowledges and agrees that all employees and subcontractors who are to perform work in a critical facility will be subject to a fingerprint based criminal history check.

Prior to commencement of work within a critical facility, Licensee shall make arrangements through the County's Electronic Services and Security Division/Access Section for its employees and those of its subcontractors to have finger print based criminal history record checks performed. Those employees clear of disqualifying offenses will be granted an ID badge which must be worn at all times. A list of disqualifying offenses is available of upon request. Any person found to have a disqualifying criminal offense will be denied unescorted access to the critical facility. Licensee will be charged a nominal fee for lost cards.

Although County agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, Licensee shall be solely responsible for all direct and indirect costs associated with complying with Ordinance 2003-030.

Section 3.07 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 all of its personal property and equipment 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 occupancy, reasonable wear and tear excepted.

ARTICLE IV REPAIRS AND MAINTENANCE OF PREMISES

Section 4.01 Responsibility of Licensee

Licensee has no responsibility for maintenance of the Premises, but to use it only for its intended purpose. 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 by the Licensee, County may complete the necessary repairs and Licensee shall reimburse County for all expenses incurred by County in doing so.

Section 4.02 Responsibility of County

County agrees to maintain, repair and keep the Premises in good condition and repair at County's sole cost and expense. Licensee agrees to adopt and enforce any reasonable operational rules and regulations necessary to assist the County in carrying out its maintenance responsibilities pursuant to this Section.

Section 4.03 County's Right to Enter

County shall have the right to enter the Premises at any time necessary, without notice, to implement its responsibilities pursuant to this Section and for purposes of inspection of the Premises generally. The County agrees to exercise reasonable efforts to minimize interference with or disruption of Licensee's operations on the Premises; provided, however, the County shall not be required to expend additional sums of money in order to comply with the foregoing requirement. In the event that a County work activity must take place within the Premises during Licensee's operating hours and will disrupt with or interfere with the Licensee's operation, the County's designee will provide 48 hours notice to the Licensee.

Section 4.04 Utilities

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, water, sewer, trash collection and removal, gas, security, local telephone service, and internet service used or consumed on the Premises. In no event shall County be liable for an interruption or failure in the supply of any such utility to the Premises.

Licensee shall pay directly to the utility company or the provider of services all charges and assessments associated with its long distance telephone services.

**ARTICLE V
INSURANCE AND INDEMNITY**

Section 5.01 Insurance

Without waiving the right to sovereign immunity as provided by Florida Statute, Chapter 768.28, Licensee acknowledges to be self-insured for General Liability and Automobile Liability. Licensee acknowledges to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute, Chapter 440.

Section 5.03 Indemnification

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, Licensee shall indemnify, defend, and hold harmless County from and against any and all actions, claims, or damages arising out of the Licensee's acts, errors, or omissions in connection with this License Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 728.68, nor shall the same be construed to constitute an agreement by either party to indemnify the other for the other party's own acts, errors, or omissions.

**ARTICLE VI
ASSIGNMENT AND SUBLETTING**

Section 6.01 Assignment and Subletting

Licensee may not assign, mortgage, pledge or encumber this Agreement in whole or in part, nor sublet or rent, nor enter into any concession or license agreement with respect to all or any portion of the Premises, nor grant any easements affecting the Premises, without written consent of the County, which may be granted or withheld at County's absolute discretion. This provision shall be construed to include a prohibition against any assignment, mortgage, pledge, encumbrance, or sublease, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

**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 County for any reason whatsoever upon notice to Licensee and the County shall have no obligation whatsoever to provide replacement space. 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 obligations 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

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 or faxed, 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,

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or on the date of transmission with confirmed answer back by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties designate the following addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

(a) If to the County at:

Property and Real Estate Management Division
Attention: Director
3200 Belvedere Road, Building 1169
West Palm Beach, Florida 33406-1544

With a copy to:

County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

(b) If to the Licensee at:

Westgate/Belvedere Homes CRA
Attn: Executive Director
3323 Belvedere Road, Building 501
West Palm Beach, FL 33406
(561) 233-3633

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, Florida.

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.

ATTEST:
SHARON R. BOCK,
CLERK & COMPTROLLER

COUNTY:
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: Audrey Wolf
Audrey Wolf, Director
Facilities Development & Operations MJD

WITNESS

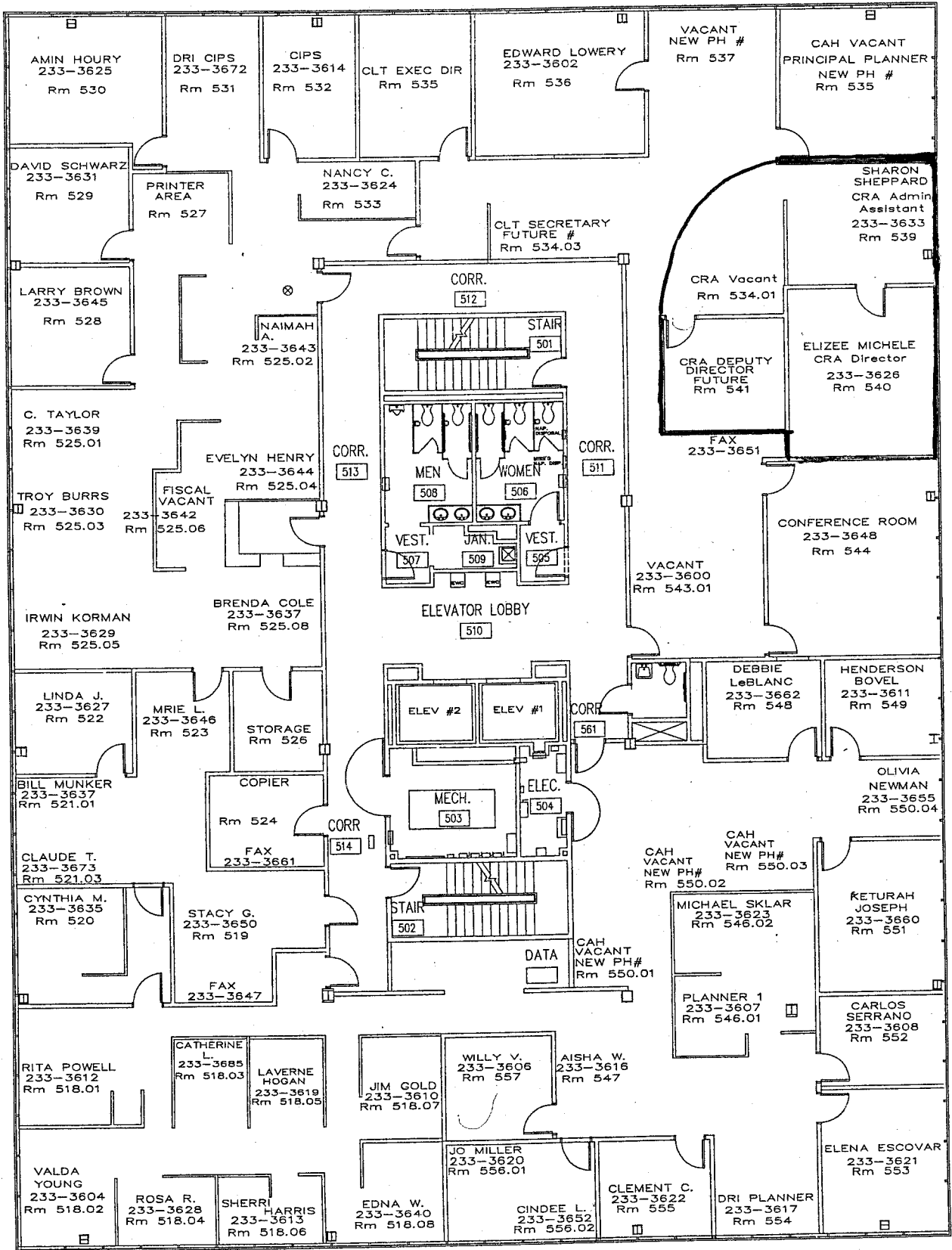
WESTGATE/BELVEDERE HOMES
COMMUNITY REDEVELOPMENT AGENCY
BOARD OF COMMISSIONERS

By: Sharon Sheppard
Signature

By: Frederick G. Wade
Frederick G. Wade, Chairman

By: Elize Michel
Signature

Exhibit "A"
ORIGINAL PREMISES



AIRPORT CENTER BUILDING

HCD TEMPORARY PLAN DECEMBER 1, 2006
5th Floor

Scale: Not To Scale

70

Exhibit "B"
FINAL PREMISES

(11)

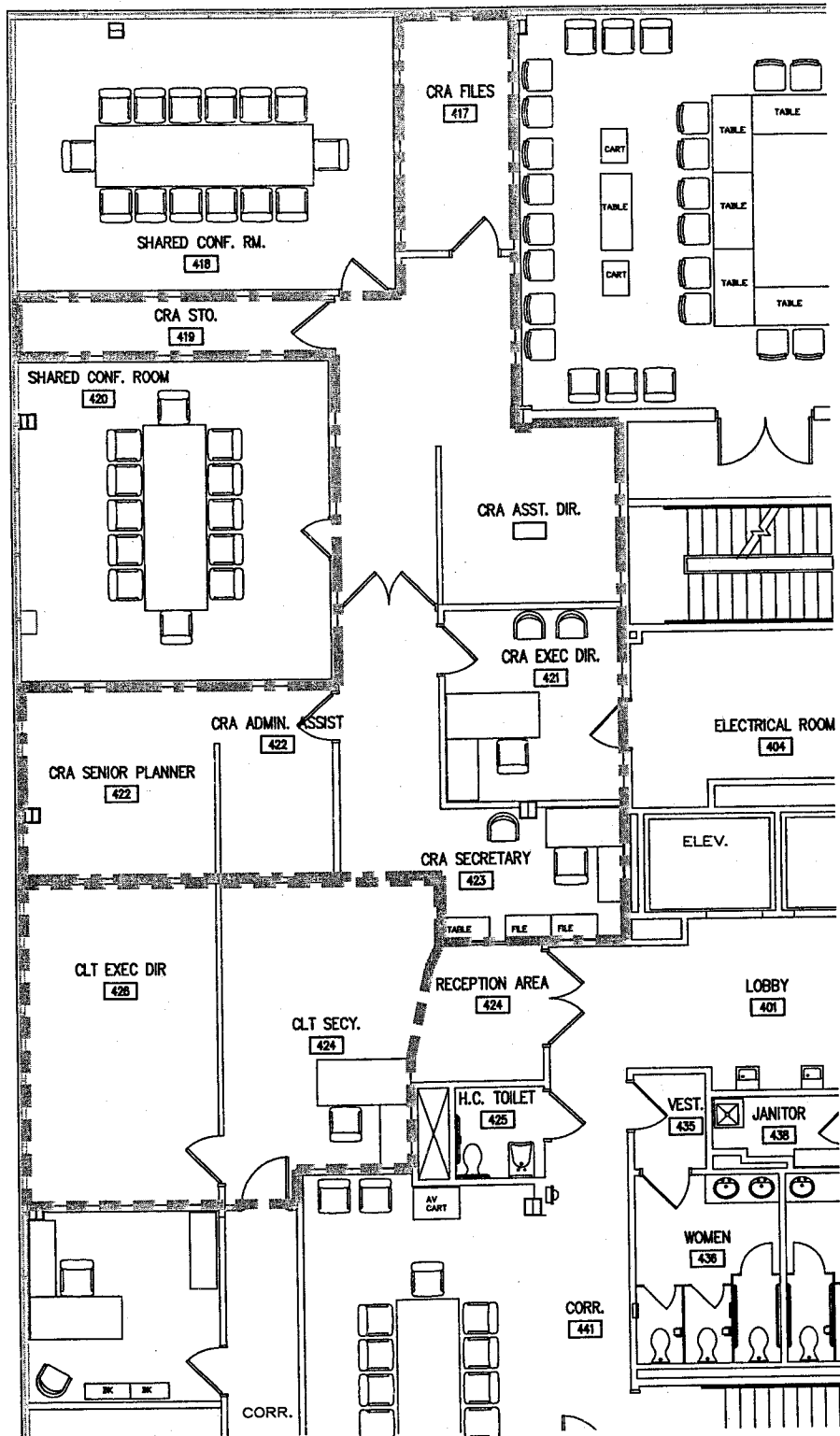


EXHIBIT "B"
BLDG. 1, 4th FLOOR

COMMUNITY REDEVELOPMENT AGENCY (CRA) = 1,143.7 SF
COMMUNITY LAND TRUST (CLT) = 506.8 SF