



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	* _____	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____
Is Item Included in Current Budget: Yes _____ No _____					
Budget Account No: Fund _____ Dept _____ Unit _____ Object _____ Program _____					

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

\*No fiscal impact.

Fixed Asset Number   n/a  

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

**III. REVIEW COMMENTS**

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

\_\_\_\_\_  
OFMB *6/16/14*  
*6/9/2014*

\_\_\_\_\_  
Contract Development and Control  
*6-13-14*

**B. Legal Sufficiency:**

\_\_\_\_\_  
Assistant County Attorney  
*6/17/14*

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

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

Prepared by & Return to:

Palm Beach County  
Property & Real Estate Management Division  
2633 Vista Parkway  
West Palm Beach, FL 33411-5605

PCN: \_\_\_\_\_

## TEMPORARY CONSTRUCTION EASEMENT

**THIS EASEMENT** made \_\_\_\_\_ by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida ("County") whose mailing address is 301 North Olive Avenue, West Palm Beach, Florida 33401-4791 and \_\_\_\_\_, a \_\_\_\_\_, whose mailing address is \_\_\_\_\_ ("Grantee").

### RECITALS

**Whereas**, County is the owner of the land described in Exhibit "A" attached hereto (the "County Property"); and

**Whereas**, Grantee has requested that County grant a Temporary Construction Easement to allow Grantee to \_\_\_\_\_ on County's Property for \_\_\_\_\_.

Now, therefore, for and in consideration of the sum of TEN DOLLARS (\$10.00) to the County in hand paid by said Grantee, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County does hereby grant to the Grantee, a non-exclusive Temporary Construction Easement upon the real property legally described in Exhibit "B" attached hereto ("the Easement Premises"). The rights granted pursuant to this Easement shall be limited to the right to utilize the Easement Premises solely to \_\_\_\_\_ (the "Project"). The rights granted pursuant to this Easement shall expire and this Easement shall automatically terminate upon the earlier of Grantee's completion of the Project or \_\_\_\_\_ (\_\_\_\_\_) days after the Effective Date. Notwithstanding such automatic termination, Grantee shall promptly deliver to County a Release of Easement, in a form satisfactory to County, upon completion of the Project, if so requested by County.

**1. Conditions to Right of Usage.** Grantee shall obtain from County and any other necessary governmental entities written approval of all plans relating to construction of any improvement within the Easement Premises prior to commencement of construction thereof. Approval shall be obtained from \_\_\_\_\_

\_\_\_\_\_ . All improvements shall be constructed at Grantee's sole cost and expense and within the confines of the Easement Premises in accordance with the approved plans and all permits and applicable statutes, rules, regulations, codes and ordinances. Grantee shall install and maintain a construction fence to secure the Easement Premises area at all times. Grantee shall give County ten (10) days written notice prior to commencement of construction; Grantee shall not be entitled to construct any improvements within the Easement Premises other than those specifically identified herein.

2. **Location of Existing Utilities.** Prior to exercising the rights conferred hereunder, Grantee or any party acting as its agent shall locate the existing utility facilities within the Easement Premises, if any, and shall contact and coordinate with all utilities that have facilities within the Easement Premises. **(Delete if not necessary)**

3. **Use Limitation.** Grantee acknowledges and agrees that the rights granted by this Easement are and shall be strictly limited to those specifically granted herein and that Grantee may not utilize the Easement Premises for any purpose not specifically permitted hereby.

4. **Maintenance, Repair, and Restoration.** Grantee shall be solely responsible for and shall, at all times, maintain and repair at its sole cost and expense the Easement Premises and all improvements currently existing or constructed hereafter therein during the term of this Easement. Grantee shall be solely responsible for and shall, at its own cost and expense, promptly repair any damage arising out of Grantee's exercise of the rights granted hereby and restore any improvements or landscaping now existing or constructed or installed hereinafter within the Easement Premises to the condition it was in prior to such damage, using materials of like kind and quality. In the event that Grantee fails to fulfill these obligations, County may complete the work and Grantee shall reimburse County for all costs and expenses incurred as a result of such failure.

5. **Other Obligations.** Grantee agrees to diligently pursue all work performed hereunder to completion and to exercise the rights granted hereunder in a manner that does not unreasonably interfere with and minimizes the impact on the County's use of the County's Property. Grantee acknowledges and accepts the Special Conditions as set forth in Exhibit "C" attached hereto and made a part hereof. **(Delete last sentence if not necessary)**

6. **Personal Property.** County shall have no liability or responsibility whatsoever for Grantee's improvements, equipment, personal or other property, nor that of any other person or entity, placed upon or located within the Easement Premises.

7. **Prohibition Against Liens.** Neither County's nor Grantee's interest in the Easement Premises shall be subject to liens arising from Grantee's or any other person or entity's use of the Easement Premises, or exercise of the rights granted hereunder. Grantee shall promptly cause any lien imposed against the Easement Premises or the County Property to be discharged or bonded off, pursuant to Chapter 255.05 and Chapter 713 of the Florida Statutes. In addition, Grantee shall either require all contractors to furnish a payment and performance bond in accordance with Florida Statutes Section 255.05, naming County as an obligee or, require such contractors to comply with County's Bond Waiver Program as set forth in PPM #CW-F-016 as the same may be amended from time to time, which is hereby incorporated herein by reference. Any required payment or performance bond shall be delivered to County prior to commencement of construction.

8. **Insurance.**

A. For Non-Governmental Entities

Grantee shall provide, maintain and keep in full force and effect Automobile Liability and 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 coverage and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for the Easement Premises, Operations, Contractual Liability, Independent Contractors Contractual Liability, X, C, U and Broad Form Property Damage Liability coverages.

Except for Workers Compensation and Automobile, all insurance policies shall name the County as Additional Insured. Such insurance shall be underwritten by an insurance company licensed to do business in the State of Florida and approved by the County. A Certificate of Insurance evidencing such insurance coverage shall be provided to County's Property & Real Estate Management Division at the address set forth in Section 16 below prior to the commencement of any work pursuant to this Easement. Such Certificate shall require at least thirty (30) days prior notice of cancellation or adverse material change in coverage. Grantee shall ensure that any contractor or subcontractor entering the Easement Premises on its behalf has and maintains insurance coverage at least equal to that required of the Grantee under the provisions of this Paragraph 8.

In no event shall the limits of said insurance policies be considered as limiting the liability of Grantee under this Easement. Furthermore, Grantee shall and hereby does hold County harmless from any loss or damage incurred or suffered by County due to Grantee's failure to maintain such insurance.

or

B. For Government Entities

If the Grantee is a government entity, Grantee acknowledges, without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, that Grantee is self-insured for general liability under Florida sovereign immunity statutes with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the legislature.

In the event that Grantee maintains third-party commercial general liability in lieu of exclusive reliance on self-insurance under Section 768.28, Florida Statutes, Grantee shall maintain said insurance policy at limits not less than \$500,000 each occurrence. Grantee 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. The additional insured endorsement shall provide coverage on a primary basis.

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

If requested, Grantee 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 Grantee of its liability and obligations under this License Agreement.

Grantee's self-insurance or general liability insurance shall be primary with respect to any coverage afforded to or maintained by the County.

**9. Indemnification.** Grantee, its successors and assigns shall indemnify, defend and hold the County harmless from and against any damages, liability, actions, claims or expenses (including reasonable attorney's fees and expenses at trial and all appellate levels) arising out of the exercise of the rights granted hereby and use of this Easement by any person whomsoever, including, without limitation, loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon the Easement Premises or access routes or in connection with the use or operation of the Easement Premises or access routes.

10. **No Dedication.** The grant of Easement contained herein is solely for the use and benefit of Grantee, and Grantee's authorized agents and employees, and is not intended, and shall not be construed as a dedication to the public of any portion of the Easement Premises for public use.

11. **Time of Essence.** The parties expressly agree that time is of the essence in this Easement.

12. **Matters of Record.** Grantee hereby accepts the Easement Premises "As-Is", without warranty or representation and subject to zoning and other governmental restrictions, matters reflected on any plat relating to the Easement Premises, and all other easements, restrictions, conditions, encumbrances and other matters of record.

13. **Non-Discrimination.** The parties agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, gender identity or expression, genetic information, or sexual orientation be excluded from the benefits of, or be subjected to, any form of discrimination under any activity conducted pursuant to this Easement.

14. **Palm Beach County Office of the Inspector General** Palm Beach County has established the Office of the Inspector General in the Palm Beach County Code, Section 2-421-2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the contractor, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All contractors and parties doing business with the County and receiving County funds shall fully cooperate with the Inspector General including receiving access to records relating to Bid or any resulting contract.

15. **Construction.** The terms of this Easement 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 be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Easement and the same shall remain in full force and effect.

16. **Entire Understanding.** This Easement represents the entire understanding between the parties and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Easement.

17. **Notices.** All notices 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 notice shall be the date of delivery of the notice if by personal delivery, courier services, or overnight delivery service, or on the date of transmission with confirmed answer back if 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 hereby designated the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

County:

Property & Real Estate Management Division  
Attention: Director  
2633 Vista Parkway  
West Palm Beach, Florida 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, FL 33401  
Telephone: 561-355-2225  
Fax: 561-355-4398

Grantee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_

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



18. **Default.** In the event Grantee fails or refuses to perform any term, covenant, or condition of this Easement for which a specific remedy is not set forth in this Easement, County shall, in addition to any other remedies provided at law or in equity, have the right of specific performance thereof.

19. **Governing Law & Venue.** This Easement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Easement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

20. **Prohibition Against Assignment.** This Easement may not be assigned by Grantee.

21. **No Third Party Beneficiary.** No provision of this Easement 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 Easement, including but not limited to any citizens of County or employees of County or Grantee.

22. **Effective Date of Easement.** This Easement is expressly contingent upon the approval of the Director of Facilities Development & Operations and shall become effective only when signed by all parties.

23. **Reservation of Rights.** County hereby retains all rights relating to the Easement Premises not specifically conveyed by this Easement including the right to use the Easement Premises and any improvements now existing or constructed hereinafter therein, and the right to grant to third parties additional easements in the Easement Premises or the right to use the improvements therein.

24. **Waste or Nuisance.** Grantee 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. Grantee shall keep the access to the Premises, the parking areas, driveways and other contiguous areas to the Premises free and clear of obstruction.

25. **Governmental Regulations.** Grantee shall, at Grantee'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 Grantee 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 Grantee's use of the Premises. Grantee 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 Grantee's activity, on the Premises or in any manner not permitted by law. Grantee 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 Grantee's failure to perform its obligations specified in this Section. Grantee's indemnification obligations set forth in the foregoing shall survive termination or expiration of this License Agreement.

**26. Surrender of Premises.** Upon termination of each use of the Premises by the Grantee, Grantee, 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.

**27. Subcontracting.** The Grantee may not subcontract or assign any rights, responsibilities or obligations of this License Agreement

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Temporary Construction Easement as of the day and year first above written.

Signed, sealed, and delivered in the presence of:

**Grantee:**

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness Name Printed

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness Signature

(SEAL) **OR**  
(SEAL) (corporation not for profit)

\_\_\_\_\_  
Witness Name Printed

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_, of \_\_\_\_\_ a \_\_\_\_\_ (\_\_\_\_) who is personally known to me OR (\_\_\_\_) who has produced \_\_\_\_\_ as identification and who (\_\_\_\_) did (\_\_\_\_) did not take a oath.

(Notary Seal)

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Type, print or stamp name

Commission Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**ATTEST:**

**COUNTY:**

**SHARON R. BOCK  
CLERK & COMPTROLLER**

**PALM BEACH COUNTY, a political  
subdivision of the State of Florida**

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

By: \_\_\_\_\_  
Director, Facilities Development & Operations

*(witness signatures are not required if contract terms will be satisfied within a year)*

Signed and delivered  
in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS  
AND CONDITIONS**

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

By: \_\_\_\_\_  
Department Director

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**EXHIBIT "A"**  
**COUNTY'S PROPERTY**

**EXHIBIT "B"**  
**EASEMENT PREMISES**

**EXHIBIT "C"**

**SPECIAL CONDITIONS**

**(NOTE: If Required, Special Conditions Will Be Added As It Relates To The Purpose/Use Of The County Property)**