

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: August 16, 2016

☒ Consent

☐ Regular

☐ Ordinance

☐ Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a License Agreement with Hive Home, Inc. for its use of a County-owned alley located off of Palm Street in West Palm Beach for a monthly fee of \$840.

Summary: This License Agreement provides for the use of a 43' x 150' strip containing approximately 0.15 acres of vacant County-owned property off of Palm Street in West Palm Beach, for vehicle parking. This alley provides secondary access to the County's Park Avenue warehouse building and is not currently being utilized. In May 2016, an Invitation For Bid (IFB) was issued for the licensing of the County's property exclusively for 14 parking spaces. On June 15, 2016, Hive Home provided the only bid in response to the IFB. Hive Home owns the adjacent property and wishes to provide parking for its employees. Staff recommends awarding the license to Hive Home. The License Agreement is for five (5) years, with no renewal options, at a monthly fee of \$840. This License may be terminated at any time. PREM will have administrative responsibility of the License Agreement. (PREM) District 7 (HJF)

Background and Justification: In May 2016, an IFB was advertised seeking bids from interested parties for the non-exclusive use of approximately 0.15 acres for a fourteen (14) space parking area on a month-to-month basis at a minimum monthly rate of \$840. The IFB was advertised on the PREM's website, on Channel 20's Community Bulletin Board and in the Palm Beach Post on May 8, 2016, and May 15, 2016, and a sign was posted at the property. The IFB required a minimum monthly license fee of \$840 and a security deposit equivalent to one month of the proposed monthly license fee. On June 15, 2016, a single bid was received from Hive Home, Inc. for \$840/month. Praxair, a commercial business located at 418 Palm Street, has access through the property to an adjacent alley way and Hive Home will be required to continue to provide Praxair with 24 hour a day, 7 day a week access through the property. Hive Home, Inc., provided the Disclosure of Beneficial Interests listed as Attachment #3 and identifies Sara B. McCann as holding 100% beneficial interest.

Attachments:

1. Location Map
2. License Agreement
3. Disclosure of Beneficial Interests

Recommended By: Reid

Department Director

7/18/16
Date

Approved By: W. Baker

County Administrator

8/5/16
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$840)	(\$10,080)	(\$10,080)	(\$10,080)	(\$10,080)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(\$840)	(\$10,080)	(\$10,080)	(\$10,080)	(\$10,080)
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current ^{and Proposed} Budget: Yes _____ No <u>X</u>					
Budget Account No:	Fund <u>0001</u>	Dept <u>410</u>	Unit <u>4240</u>	Object <u>RVSC</u>	<u>6202</u>
	Program _____				

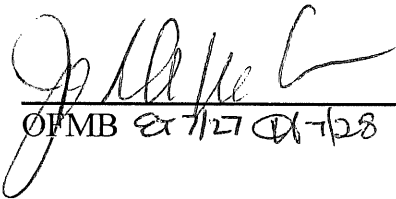
B. Recommended Sources of Funds/Summary of Fiscal Impact:

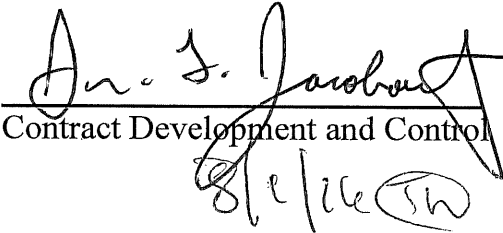
Fixed Asset Number N/A

C. Departmental Fiscal Review: _____


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:


OFMB 8/1/16 8/1/16


Contract Development and Control 8/1/16

B. Legal Sufficiency:


Assistant County Attorney 8/2/16

C. Other Department Review:

Department Director

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

TWP 43

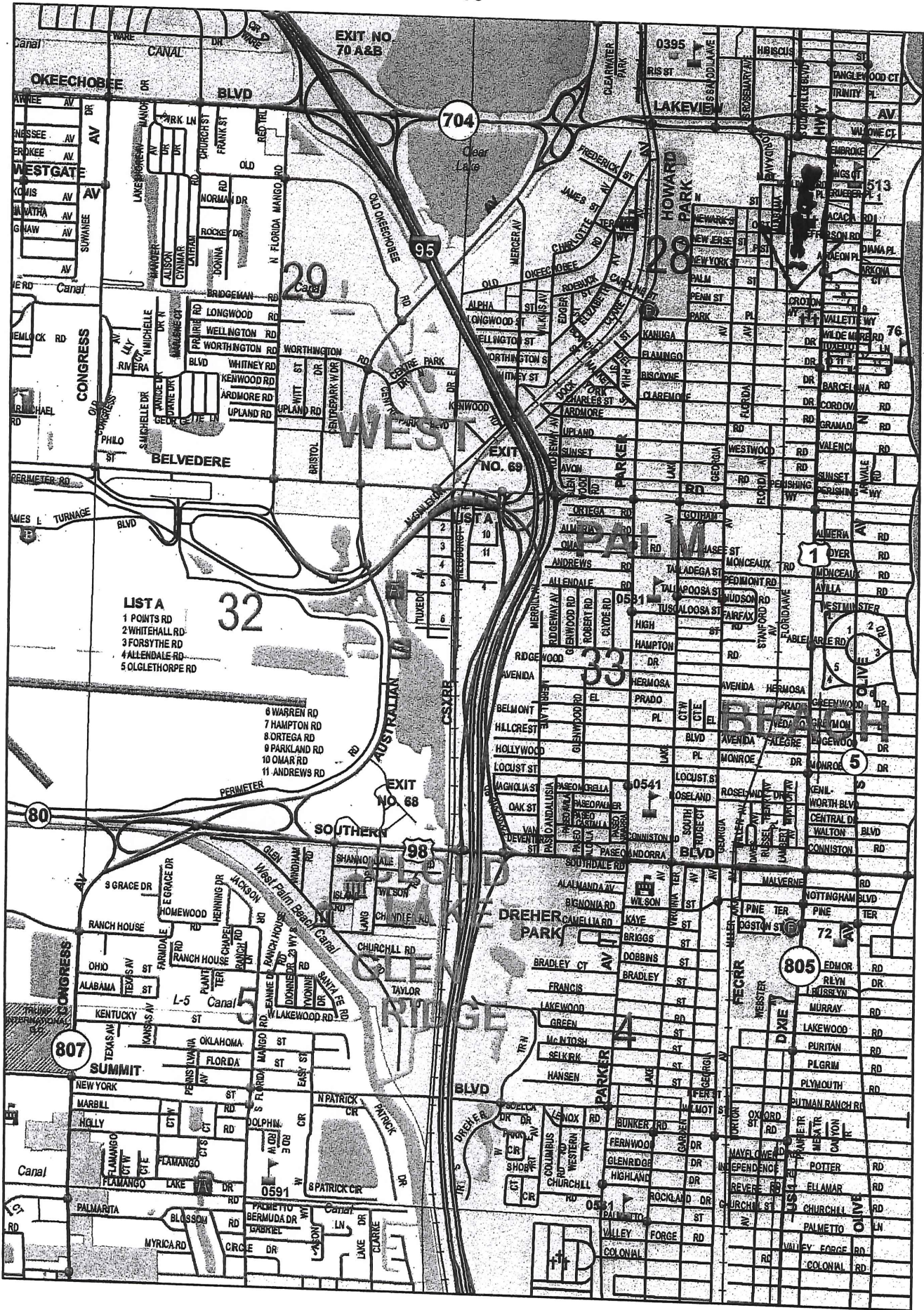
TWP 43

TWP 44

19

20

21



RNG 43

See pg 81

RNG 43

LOCATION MAP

Attachment 1
(1 page)

**LICENSE AGREEMENT
FOR USE OF COUNTY-OWNED PROPERTY**

This License Agreement made and entered into JUNE 10, 2016 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County" and HIVE HOME INC., hereinafter referred to as "Licensee".

WITNESSETH:

WHEREAS, County is the owner of the real property and/or improvements described on Exhibit "A" attached hereto and made a part hereof (the "Property" and/or "Premises"); and

WHEREAS, County is willing to grant Licensee a revocable license to use the Property for the purpose of a parking lot for not more than 14 parking spaces.

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 License Agreement.

1. Premises

The Premises, for the purpose of this License Agreement, is the real property and/or improvements identified on Exhibit "A". 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 not more than 14 parking spaces. Licensee shall not use, permit or suffer the use of the Premises for any other purpose whatsoever. Licensee shall make no improvements, alterations or additions to the Premises without prior approval written from the County. Any improvements, alterations or additions made by Licensee shall be at Licensee's sole cost and expense. All improvements, alterations or additions will become the property of the County at the completion of this License Agreement, unless otherwise agreed to by County. The use of the Premises by Licensee shall not interfere with County's use or operation of the Premises.

Licensee shall provide Praxair access through the Premises to the alley way, 24 hours a day, 7 days a week, during the term of this License Agreement.

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

This License Agreement shall commence on the first day of the month following the execution by the County (the "Commencement Date") and shall automatically terminate after five years from the Commencement Date if not earlier terminated in accordance to the terms of this License Agreement.

3. License Fee

The Licensee shall pay County a License Fee of \$ 840 + 50⁴⁰ TAX together with applicable sales taxes thereon payable on the first day of each month in advance.

4. Termination

The County may terminate this License Agreement at any time upon written notice to the Licensee. Upon Licensee's receipt of written notice from the County, this License Agreement shall terminate and County shall be relieved of all further obligations hereunder accruing subsequent to the date of such termination. Licensee may terminate this License Agreement upon written notice to the County. Notwithstanding such termination, Licensee shall remain obligated to surrender and restore the Premises as required by this License Agreement and for any obligations arising prior to such termination. In no event will such termination be effective earlier than the 1st day of any given month.

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 keep the access to the Premises, the parking areas, driveways and other contiguous areas to the Premises free and clear of obstruction.

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 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. 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. Licensee's indemnification obligations set forth in the foregoing shall survive termination or expiration of this License Agreement.

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, familial status, sexual orientation, disability, gender identity or expression or genetic information with respect to their use of the Premises.

Licensee has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the Licensee does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to County that Licensee will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

8. Surrender of Premises

Upon termination of the use of the Premises by the Licensee, Licensee, at its sole cost and expense, shall remove all of its personal property from the Premises, unless otherwise directed and agreed to by County, and shall surrender the Premises to the County in at least the same condition the Premises were in on the Commencement Date.

9. Maintenance, Security and Repair

County shall not be obligated or required to make or conduct any maintenance or repairs, or provide any security whatsoever to the Premises, except for the existing fence, gate and lock currently installed on the Premises. Licensee shall keep and maintain all portions of the Premises, and all improvements currently existing or constructed hereinafter on or about the Premises, in good condition and repair, at Licensee's sole cost and expense. The gate shall be locked nightly and at all other times the Premises is not in use.

10. Indemnification of County

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, 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, volunteers or invitees. In the event 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, whether at trial or appellate level or otherwise. This Section shall survive termination or expiration of this License Agreement. Nothing 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

Licensee shall, during the entire Term hereof, keep in full force and effect General Liability Insurance in an amount not less than \$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.

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". The additional insured endorsement shall provide coverage on a primary basis. 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 at least fifteen (15) days prior to the Commencement Date, such Certificate indicating at least ten (10) days prior notice of cancellation or adverse material change in coverage, to:

Palm Beach County
c/o Insurance Tracking Services, Inc. (ITS)
P.O. Box 20270
Long Beach, CA 90801
Email: pbc@instracking.com or Facsimile: +1 (562) 435-2999

The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate.

In no event shall the limits of said insurance policies be considered as limiting the liability of Licensee under this License Agreement. 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 License Agreement, County shall have the right of injunction, or County may immediately terminate this License 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.

12. Utilities

The Licensee shall be solely responsible for, and promptly pay to the utility or other provider of such service, all charges and assessments for water, gas, electricity, trash collection and removal or any other utility used or consumed on the Premises. In no event shall County be liable for an interruption or failure in the supply of any utilities to the Premises.

13. Subcontracting

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

14. Entire Agreement

This License 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 License Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this License Agreement shall be binding upon County or Licensee unless reduced to writing and signed by them.

15. 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, telecopied, faxed or emailed, 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 national overnight delivery service, or on the date of transmission with confirmed answer back if by 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 hereby designate 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:

(a) If to the County at:

FDO Business & Community Agreements Manager
2633 Vista Parkway
West Palm Beach, FL 33411-5605
Fax: (561) 233-0206

with a copy to:

Palm Beach County
Attn: County Attorney
301 North Olive Avenue
West Palm Beach, FL 33401
Fax: (561) 355-6461

(b) If to the Licensee at:

Licensee Name: HIVE HOME INK.
Licensee Address: 424 PALM STREET
WPB, FL 33401
Fax: 561-514-0338

Either party hereto may change the address for service of Notices required or permitted hereunder upon three (3) days' prior written notice to the other party.

16. Severability

If any term or provision of this License Agreement shall be held invalid or unenforceable, the remainder of this License Agreement shall not be affected and every other term and provision of this License 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 LICENSE AGREEMENT.

18. Governing Law and Venue

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

19. Recording

Licensee shall not record this License Agreement, or any memorandum or short form thereof in the public records of Palm Beach County. Any such recording shall constitute a default hereunder and shall result in immediate termination of this License Agreement.

20. Time of Essence

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

21. Palm Beach County Office of the Inspector General

Pursuant to Palm Beach County Code, Sections 2-421 through 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to have 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 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

22. No Third Party Beneficiary

No provision of this License Agreement 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 License Agreement, including but not limited to any citizen or employees of the County and/or Licensee.

IN WITNESS WHEREOF, County and Licensee have executed this License Agreement, or have caused the same to be executed as of the day and year first above written.

Signed and delivered
in the presence of:

WITNESS:

Claudia Coppola
Witness Signature

Claudia Coppola
Print Witness Name

Peter J Applatales
Witness Signature

Peter J Applatales
Print Witness Name

LICENSEE:

By: Sara B. McCann
Signature

SARA B. MCCANN / PRESIDENT
Print Name/Title
HIVE HOME INC.

(Seal)

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

COUNTY

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

By: _____
Deputy Clerk

By: _____
Mary Lou Berger, Mayor

Signed and delivered
in the presence of:

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
Assistant County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: [Signature]
Department Director

EXHIBIT "A" TO THE IFB

PROPERTY DEPICTION



DISCLOSURE OF BENEFICIAL INTERESTS

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY
DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared SARA B. MCCANN, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the PRESIDENT (position - i.e. president, partner, trustee) of HIVE HOME INC. (CORP) (name and type of entity - i.e. ABC Corporation, XYZ Limited Partnership), (the "Tenant") which entity is the lessee of the real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is: 424 PALM STREET, WPB, FL 33401

3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Tenant and the percentage interest of each such person or entity.

4. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

5. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete, and will be relied upon by Palm Beach County relating to its lease of the Property.

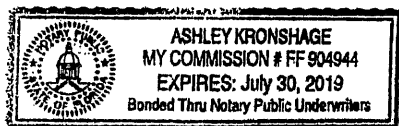
FURTHER AFFIANT SAYETH NAUGHT.

SARA B. MCCANN, Affiant

Print Affiant Name: SARA B. MCCANN

The foregoing instrument was sworn to, subscribed and acknowledged before me this 10th day of JUNE, 2016, by SARA B. MCCANN [☒] who is personally known to me or [☐] who has produced _____ as identification and who did take an oath.

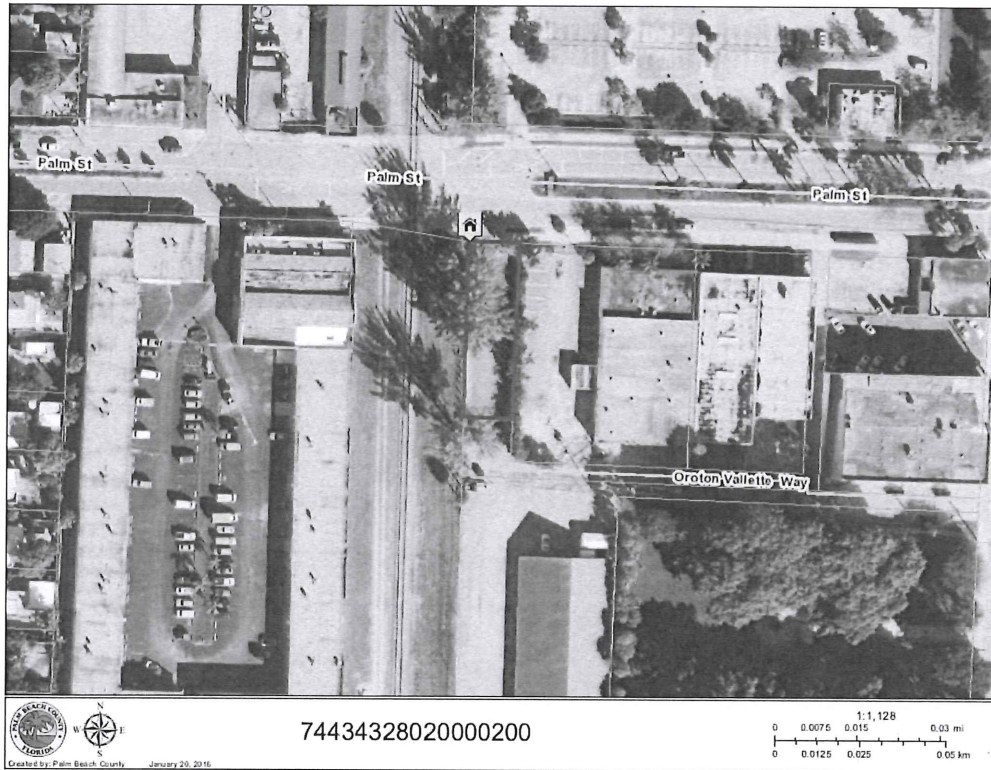
Ashley E. Kronshage
Notary Public



Ashley E. Kronshage
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: JULY 30, 2019

EXHIBIT "A"
to the DISCLOSURE OF BENEFICIAL INTERESTS
PROPERTY



Tenant is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Tenant must identify individual owners. If, by way of example, Tenant is wholly or partially owned by another entity, such as a corporation, Tenant must identify such other entity, its address and percentage interest, as well as such information for the individual owners of such other entity.

PERCENTAGE OF INTEREST

(HIVE HOM INC. IS 100% OWNED BY SARA MCCANN)

Below is rent only information justifying the figures listed on the attached BAS for the Hive Home, Inc. License Agreement.

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$840.00)	(\$10,080.00)	(\$10,080.00)	(\$10,080.00)	(\$10,080.00)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(\$840.00)	(\$10,080.00)	(\$10,080.00)	(\$10,080.00)	(\$10,080.00)

For FY2016:

- 09/01/16 - 09/30/16 = 1 month @ \$840.00 per month = \$840.00

FY2016 TOTAL = \$840.00

For FY2017:

- 10/01/16 – 09/30/17 = 12 months @ \$840.00 per month = \$10,080.00

FY2017 TOTAL = \$10,080.00

For FY2018:

- 10/01/17 – 09/30/18 = 12 months @ \$840.00 per month = \$10,080.00

FY2018 TOTAL = \$10,080.00

For FY2019:

- 10/01/18 – 09/30/19 = 12 months @ \$840.00 per month = \$10,080.00

FY2019 TOTAL = \$10,080.00

For FY2020:

- 10/01/19 – 09/30/20 = 12 months @ \$840.00 per month = \$10,080.00

-

FY2020 TOTAL = \$10,080.00