

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: March 12, 2019	<input checked="" type="checkbox"/> [X]	Consent	<input type="checkbox"/> []	Regular
	<input type="checkbox"/> []	Workshop	<input type="checkbox"/> []	Public Hearing

Submitted By: Department of Airports

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Second Amendment (Amendment) to Development Site Lease Agreement with Palm Auto Plaza, LLC d/b/a Palm Beach Toyota (Palm Auto) (R-2014-0037, as amended) (Lease), extending the initial term from 10 to 15 years, adding one additional 5-year renewal term, and providing for additional rental adjustments based on appraisal.

Summary: Palm Auto leases approximately 666,825 square feet of ground at 200 South Congress Avenue, south of the Palm Beach International Airport, for the development and operation of a retail automotive sales and service facility. The Lease provides for an initial term of 10 years, plus four 5-year renewal options for a total term of 30 years. The Amendment extends the initial term to 15 years and adds one additional 5-year renewal option for a total term of 40 years, if all renewal options are exercised. The Lease required Palm Auto to expend at least \$5 million in the design, construction, and installation of the initial leasehold improvements. Palm Auto expended more than \$14.5 million and has requested an extension to the term of the Lease in order to fully amortize its investment. The Lease provides for adjustment of rental every three years, commencing October 1, 2019, by the Consumer Price Index (CPI) in addition to one appraisal-only adjustment. The Amendment adds two appraisal-only rental adjustments and provides that the first appraisal adjustment will occur three years earlier than currently provided in the Lease. The extension of the initial term guarantees a minimum of five additional years of rental revenue to the County. The Amendment also updates the insurance and scrutinized companies' provisions.

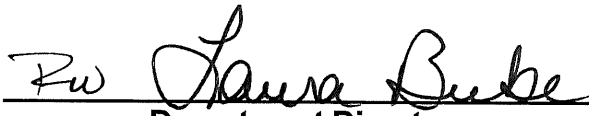
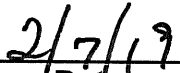


Countywide (HF)

Background and Justification: Palm Auto currently operates a Palm Beach Toyota dealership on the site. The Amendment adds two appraisal only adjustments and advances the first adjustment by three years from 2031 to 2028. Extending the initial term results in additional guaranteed rental revenues to the County. If all renewal options are exercised, the Lease will expire in 2057. Toyota Motor Credit Corporation (TMCC) is the beneficiary under a leasehold mortgage with Palm Auto. TMCC has reviewed and approved the Amendment.

Attachments:

- 1. Second Amendment to Development Site Lease Agreement (3)

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Recommended By:		
	Department Director	Date
Approved By:		
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures					
Operating Costs					
Operating Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes No X
Does this item include the use of federal funds? Yes No X

Budget Account No: Fund 4100 Department 120 Unit 8452 RSource 4416
Reporting Category

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

The initial term was scheduled to expire on January 13, 2027, with four 5-year renewal options. The fiscal impact will be 5 additional years of rental under the initial term beginning in FY2027, plus one additional 5-year renewal term. Current annual rental is \$500,119.

C. Departmental Fiscal Review: C. M. Simmer

III. REVIEW COMMENTS

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

2/15/19
OFMB 2/14 2/2/13

Contract Dev. and Control
2/19/19

B. Legal Sufficiency:

2/20/19
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 11/17

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

From: [Jackie Binns A.](#)
To: [Steve Schlamp](#)
Subject: RE: Palm Auto Plaza
Date: Thursday, February 07, 2019 3:36:04 PM
Attachments: [image001.png](#)

Steve,

The insurance is approved.

Nice work on your Amendment section on Certificates!

Jackie

Jacqueline Binns, ARM-P
Property & Casualty Insurance and Claims Manager
Palm Beach County
Risk Management Division
100 Australian Av, Suite 200
West Palm Beach, FL 33406
jbinns@pbcgov.org
(561) 233-5422



From: Steve Schlamp <schlamp@pbia.org>
Sent: Thursday, February 07, 2019 12:47 PM
To: Risk-InsReq <Risk-InsReq@pbcgov.org>; Jackie Binns A. <JBinns@pbcgov.org>
Subject: Palm Auto Plaza

Hello Jackie – Palm Auto Plaza dba Palm Beach Toyota at 200 S. Congress Ave is our tenant per a Development Site Lease Agmt. We're sending a Second Amendment to the Agmt to the Board so we need you to approve their COIs. The Second Amendment is attached as a FYI. Attached is the Agmt's insurance requirements. Also attached are their COIs. The COIs look good to me to make Palm Auto Plaza compliant but please review as we're sending the Second Amendment to the Board. Thank you.

Steve

Steven K. Schlamp
Assistant Airports Properties Manager
Palm Beach County Department of Airports
846 Palm Beach International Airport
West Palm Beach, FL 33406



CERTIFICATE OF GARAGE INSURANCE

DATE (MM/DD/YYYY)

12/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Services Central, Inc.
Southfield MI Office
3000 Town Center
Suite 3000
Southfield MI 48075 USA

CONTACT
NAME:
PHONE
(A/C, No, Ext): 8662837122
E-MAIL
ADDRESS:

FAX
(A/C, No): 8003630105

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : The Travelers Indemnity Co of CT

25682

INSURER B : Travelers Property Cas Co of America

25674

INSURER C :

INSURER D :

INSURER E :

INSURER F :

INSURED
Palm Auto Plaza, LLC
dba Palm Beach Toyota/Palm Beach Scion
521-581 S. Military Trail
West Palm Beach FL 33415 USA

COVERAGES PROD / CUSTOMER ID: 570000034380

CERTIFICATE #: 570074409167

REVISION #:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURED	SUBROGATION WAIVED	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GARAGE LIABILITY	<input type="checkbox"/> HIRED AUTOS ONLY		HC2EGAR-3607A935-19	01/01/2019	01/01/2020	AUTO ONLY (Ea accident)
	<input checked="" type="checkbox"/> ANY AUTO	<input type="checkbox"/> NON-OWNED AUTOS USED IN GARAGE BUSINESS					\$5,000,000
	<input type="checkbox"/> OWNED AUTOS ONLY						OTHER THAN AUTO ONLY
A	<input checked="" type="checkbox"/> GARAGE KEEPERS LIABILITY			HC3EADR03607A923-19 SIR applies per policy terms & conditions	01/01/2019	01/01/2020	EA ACCIDENT
	<input checked="" type="checkbox"/> LEGAL LIABILITY						\$5,000,000
	<input type="checkbox"/> DIRECT BASIS						AGGREGATE
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			HC2EADR-3607A923-19	01/01/2019	01/01/2020	COMP / OTC SPECIFIED PERILS
	<input type="checkbox"/> CLAIMS-MADE	<input checked="" type="checkbox"/> OCCUR					LOC
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER:						LOC
	<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PROJECT	<input type="checkbox"/> LOC				EACH OCCURRENCE
	OTHER:						\$5,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)
	<input type="checkbox"/> UMBRELLA LIAB	<input type="checkbox"/> OCCUR					\$1,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					MED EXP (Any one person)
	<input type="checkbox"/> DED	<input type="checkbox"/> RETENTION					EXCLUDED
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			HC2JUB3607A90A19 AOS	01/01/2019	01/01/2020	PERSONAL & ADV INJURY
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				\$5,000,000
	If yes, describe under REMARKS below	<input checked="" type="checkbox"/> N					GENERAL AGGREGATE
							\$10,000,000
							PRODUCTS - COMP/OP AGG
							\$5,000,000
							EACH OCCURRENCE
							AGGREGATE
							<input checked="" type="checkbox"/> PER STATUTE
							OTH-ER
							E.L. EACH ACCIDENT
							\$1,000,000
							E.L. DISEASE - EA EMPLOYEE
							\$1,000,000
							E.L. DISEASE - POLICY LIMIT
							\$1,000,000

REMARKS (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: RFQ555156R/KM Named Insured includes: Palm Auto Plaza dba Palm Beach Toyota, 551 S. Military Trail, West Palm Beach, FL 33415. Palm Beach County, Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents are included as Additional Insured in accordance with the policy provisions of the Garage Liability policy. Garage keepers legal liability limit \$1,000,000.

CERTIFICATE HOLDER

CANCELLATION

Palm Beach County
Board of County Commissioners
c/o Insurance Tracking Services Inc.
PO Box 20270
Long Beach CA 90801 USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Harry J. Hudes



ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Central, Inc.		NAMED INSURED Palm Auto Plaza, LLC	
POLICY NUMBER See Certificate Number: 570074409167		EFFECTIVE DATE:	
CARRIER See Certificate Number: 570074409167	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 30 FORM TITLE: Certificate of Garage Insurance

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR TYPE OF INSURANCE LTR	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICYEFFECTIVE DATE (MM/DD/YY)	POLICYEXPIRATION DATE (MM/DD/YY)	Limits
Garage Liability						
A			HC2EGAR-3607A935-19	01/01/2019	01/01/2020	Aggregate auto \$10,000,000
Garage Keepers Liability						
A			HC3EADR03607A923-19 SIR applies per policy terms & conditions	01/01/2019	01/01/2020	Garagekeepers L \$1,000,000
Workers Compensation						
B		N/A	HRJUB3607A91119 WI	01/01/2019	01/01/2020	



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
12/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Services Central, Inc.
Southfield MI Office
3000 Town Center
Suite 3000
Southfield MI 48075 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105
E-MAIL ADDRESS:

INSURED
Penske Automotive Group, Inc.
2555 Telegraph Road
Bloomfield Hills MI 48302-0954 USA

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	The Travelers Indemnity Co of CT	25682
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 570074408854

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)
							MED EXP (Any one person)
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						GENERAL AGGREGATE
	OTHER:						PRODUCTS - COMP/OP AGG
A	AUTOMOBILE LIABILITY			HC2EADR-3607A923-19	01/01/2019	01/01/2020	COMBINED SINGLE LIMIT (Ea accident)
A	<input checked="" type="checkbox"/> ANY AUTO			AOS			\$5,000,000
	<input type="checkbox"/> OWNED AUTOS ONLY			HC2EGAR3607A935-19	01/01/2019	01/01/2020	BODILY INJURY (Per person)
	<input type="checkbox"/> HIRED AUTOS ONLY			FL, HI, VA			BODILY INJURY (Per accident)
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)
	<input type="checkbox"/> NON-OWNED AUTOS ONLY						
	UMBRELLA LIAB						EACH OCCURRENCE
	EXCESS LIAB						AGGREGATE
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						
	DED RETENTION						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE
	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				OTH-ER
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT
							E.L. DISEASE-EA EMPLOYEE
							E.L. DISEASE-POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of Insurance

CERTIFICATE HOLDER

CANCELLATION

Palm Beach County
Board of County Commissioners
c/o Insurance Tracking Services Inc.
PO Box 20270
Long Beach CA 90801 USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Harry J. Hudson



Factory Mutual Insurance Company
25050 Country Club Blvd.
Great Northern Corporate Center III
Suite 400
North Olmsted, Ohio
44070
United States of America
Tel: (1) 216 362-4820
Fax: (1) 216 362-4825

CERTIFICATE OF INSURANCE

This document is issued as a matter of information only and confers no rights upon the document holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions, conditions, or other provisions afforded by the policy. We hereby certify that insurance coverage is now in force with our Company as outlined below.

Policy No.:	1039487	Policy Term	
Account No.:	1-53139	Effective Date:	01 June 2018
NAMED INSURED:		Expiration Date:	01 June 2019

Penske Automotive Group, Inc. and Palm Auto Plaza, LLC

DESCRIPTION AND LOCATION OF PROPERTY COVERED:

Real and Personal Property	Location No.:	INDEX No.:
	MP9	
Builders Risk, Construction at: Palm Auto Plaza, LLC dba Palm Beach Toyota 200 South Congress Ave West Palm Beach, Florida 33403, USA		

COVERAGE IN FORCE: (subject to limits of liability, deductibles and conditions in the Policy)

Insurance Provided:	Peril:	Limit Of Liability:
Property Damage	All Risk	USD 11,800,000

ADDITIONAL INTERESTS:

Additional interests as detailed below are covered in accordance with Certificates of Insurance issued to such interests and on file with this Company. Loss, if any, shall be payable to such additional interests, as their interests may appear, and in accordance with loss payment provisions of the Policy.

CERTIFICATE TERM:	Effective: 01 June 2018
	Expires: 01 June 2019

INTEREST TYPE:

Loss Payee in accordance with the Additional Interest clause stated above.


Palm Beach County Board of
County Commissioners
c/o Palm Beach County Department of Airports
846 Palm Beach International Airport
West Palm Beach, Florida 33406, USA

At the request of the Insured, the Company has agreed that if the coverage as described on this Certificate of Insurance is cancelled, the Company will provide the following notice(s) of cancellation to the interest as specified on this Certificate of Insurance:

Cancellation by the Company: The Company may cancel such coverage by giving written notice 30 days prior to the effective date of cancellation.

Certificate No: 00233-002
Replacing No: 00233-001

Palm Beach County Board of County
Commissioners, a Political Subdivision of
the State of Florida, its Officers, and Employees
c/o Insurance Tracking Services, Inc.
P.O. Box 20270
Long Beach, California 90801, USA


Authorized Signature / Issue Date
Thomas Mossbrugger / 23 July 2018
For questions, contact: Andrew Rieck

Account No.:

1-53139

Certificate No:

00233-002

Policy No.:

1039487

Job address: 200 South Congress Ave, West Palm Beach, Florida
Job Name: Future site of Palm Beach Toyota
Estimated Start/Completion dates: February 1, 2017 - July 31, 2018
Construction Cost (at completion): 11,800,000

Repair or Replacement:

The loss amount will not exceed the lesser of the cost to repair or the cost to rebuild or replace on the same site with new materials of like size, kind and quality, subject to all the terms and conditions of the VALUATION section of the policy.

This Policy covers property, as described in this Policy, against ALL RISKS OF PHYSICAL LOSS OR DAMAGE including Flood, wind, Gross Profit-12 months (Business Interruption Insurance), Law and Ordinance and builders risk.

AFFIDAVIT OF LIMITED LIABILITY COMPANY

STATE OF MICHIGAN

COUNTY OF OAKLAND

BEFORE ME, the undersigned authority, personally appeared, the undersigned who by me being first duly sworn, depose(s) and say(s) that:

1. The undersigned is the Assistant Secretary of **Palm Auto Plaza, LLC**, limited liability company organized and existing under the laws of the State of Delaware ("Company").
2. An Application by Foreign Limited Liability Company for Authorization to Transact Business In Florida has been filed, and are on-file with, the Florida Department of State and such Application is incorporated herein by reference.
3. The Company is in good standing and is authorized to transact business in the State of Florida as of the date hereof.
4. The company is a member managed limited liability company.
5. The undersigned is the sole managing member of the Company or has been authorized by majority vote of the managing members to act on behalf of the Company and legally bind the Company and execute contracts and other instruments relating to the transaction of business of the Company.
6. Robert H. Kurnick, Jr., Assistant Secretary of the Company, has the right and authority to execute that certain **Second Amendment to Development Site Lease Agreement** (the "Agreement"), which is incorporated herein by reference and made a part hereof, and such other instruments as may be necessary and appropriate for the Company to fulfill its obligations under such Agreement, including amendment(s) and termination of such Agreement.
7. Upon execution and delivery of such Agreement and documents by the undersigned, all of the aforesaid shall be valid agreements of and be binding upon the Company.
8. The transactions contemplated herein will not violate any of the terms and conditions of the Company's member agreement, operating agreement certificate of organization or of any other agreement and amendments thereto of whatever kind between the Company and any third person.

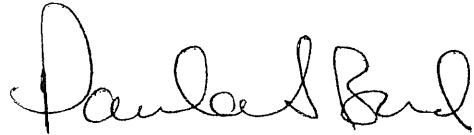
9. The undersigned acknowledges that affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

FURTHER AFFIANT SAYETH NAUGHT,



Maggie Feher, Assistant Secretary of
Palm Auto Plaza, LLC and its Sole Member
Penske Automotive Group, Inc.

SWORN TO AND SUBSCRIBED before me on this 7th day of January, 2019, by
Maggie Feher, Assistant Secretary of of **Palm Auto Plaza, LLC**, on behalf of the
Company who is personally known to me OR who produced _____
_____, as identification and who did take an oath.



Notary Signature

Paula S. Bond

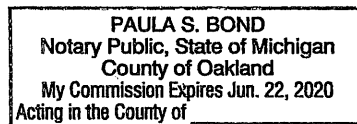
Print Notary Name

NOTARY PUBLIC

State of MICHIGAN at large

My Commission Expires:

June 22, 2020



**SECOND AMENDMENT TO DEVELOPMENT SITE LEASE AGREEMENT
BETWEEN PALM BEACH COUNTY AND PALM AUTO PLAZA, LLC**

This Second Amendment to Development Site Lease Agreement (this "Amendment") is made and entered into this _____, 2019 ("Effective Date") by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and Palm Auto Plaza, LLC d/b/a Palm Beach Toyota, a Delaware limited liability company, having its office and principal place of business at 200 South Congress Avenue, West Palm Beach, FL 33406 ("Tenant").

W I T N E S S E T H:

WHEREAS, County, by and through its Department of Airports, owns and operates the Palm Beach International Airport, which is located in Palm Beach County, Florida; and

WHEREAS, the parties entered into that certain Development Site Lease Agreement dated January 14, 2014 (R-2014-0037), as amended (the "Lease"); and

WHEREAS, Tenant has requested an extension to the Initial Term of the Lease from ten (10) years to fifteen (15) years, and an extension to the Renewal Term to provide for one (1) additional renewal term of five (5) years, in order to provide additional time to amortize its investment in the Initial Leasehold Improvements; and

WHEREAS, the parties desire to amend the Lease as provided for herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Terms not defined herein shall have the meanings set forth in the Lease.

2. Article 2, Definitions, of the Lease is hereby amended to delete Section 2.09, Base Rental, and Section 2.10, Base Rental Year, in their entirety and to replace them with the following:

2.09 "Base Rental" means the initial annual ground rental set forth in Section 5.01 for the rental adjustments occurring prior to an Appraisal Adjustment Date, and the rental established pursuant to Section 5.03(C) for rental adjustments occurring after an Appraisal Adjustment Date.

2.10 "Base Rental Year" means calendar year 2017 for rental adjustments occurring prior to the first Appraisal Adjustment Date, and calendar year of the Appraisal Adjustment Date for rental adjustments occurring after an Appraisal Adjustment Date.

3. Section 3.01, Term, of the Lease is hereby deleted in its entirety and replaced with the following:

3.01 Term. The term of this Lease shall commence on the Effective Date and expire January 13, 2032, unless sooner terminated pursuant to the terms of this Lease (the "Initial Term"). For purposes of this Lease, the term "Date of Beneficial Occupancy" means January 14, 2017.

4. Section 3.02, Option to Renew, of the Lease is hereby deleted in its entirety and replaced with the following:

3.02 Option to Renew. Provided Tenant is not in default of any of the terms and conditions of this Lease, Tenant shall have the option to renew this Lease for five (5) additional periods of five (5) years each (each a "Renewal Term"), by notifying County in writing of Tenant's intent to exercise an option to renew not later than one hundred twenty (120) days prior to the expiration of the Initial Term or then current Renewal Term, as applicable, with time being of the essence. Such renewal shall be upon the same terms and conditions set forth herein.

5. Section 5.03, Adjustment of Rental, of the Lease is hereby amended to delete subsection (C) in its entirety and replace with it the following:

(C) Notwithstanding any provision of this Lease to the contrary, on October 1, 2028, and each twelve (12) year anniversary thereof (each such date an "Appraisal Adjustment Date") during the Initial Term and any Renewal Term, the then current rental rate shall be adjusted and new rental rate shall be determined as set forth in this Section 5.03(C) by appraisal and shall not be subject to the provisions of Section 5.03(B). Prior to an Appraisal Adjustment Date, County, at its sole cost and expense, shall obtain an appraisal of the Premises (exclusive of the Tenant Improvements) to determine its fair market rental value. Prior to an Appraisal Adjustment Date, County shall provide a complete copy of the appraisal to Tenant. In the event Tenant objects to the fair market rental value set forth in the appraisal obtained by County, Tenant shall notify County in writing of its objection within thirty (30) days of receipt of County's appraisal. Provided Tenant has notified County in writing of its objection to County's appraisal within the aforementioned thirty (30) day period, Tenant, at its sole cost and expense, may obtain a second appraisal. Tenant shall provide County with a copy of the second appraisal within sixty (60) days of the date of Tenant's objection notice. In the event a second appraisal is not obtained, the rental rate shall be adjusted on the Appraisal Adjustment Date in accordance with the rental rate set forth in the first appraisal. In the event a second appraisal is obtained, and the rental rates established in the two (2) appraisals vary by an amount less than or equal to twenty five percent (25%) of the average of the two (2) appraisals, then the rental rates shall be adjusted on the Appraisal Adjustment Date based on the average of the two (2) appraisals. In the event the two (2) appraisals vary by an amount greater than twenty five percent (25%) of the average of the two (2) appraisals, then County and Tenant shall jointly retain an appraiser, reasonably acceptable to both parties, to perform a third appraisal. Except as otherwise provided for below, the cost of the third appraisal shall be borne equally by the parties. In the event the parties are unable to agree upon the selection of the appraiser to conduct the third appraisal, County shall have the right to select the third appraiser; provided, however, the cost of the third appraisal shall be borne solely by County. In the event a third appraisal is obtained, rental rate shall be adjusted, effective as of the Appraisal Adjustment Date, by the average of the three (3) appraisals. The rental rate established pursuant to this Section 5.03(C) shall become the new Base Rental for purposes of future rental adjustments pursuant to Section 5.03(B). Notwithstanding any provision of this Lease to the contrary, in no event shall the new Base Rental be less than the rental rate for the prior period. The parties agree that any appraisers selected pursuant to this Section 5.03(C) shall be qualified M.A.I. appraisers with demonstrated experience in appraising commercial properties.

6. Section 10.09, Certificate of Insurance, of the Lease is hereby amended to delete subsection (B) in its entirety and replace with it the following:

- (B) All certificates of insurance must include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage is canceled or is not renewed, Tenant shall endeavor to provide County a new certificate of insurance or certificates of insurance evidencing replacement coverage no later than ten (10) days prior to the expiration or cancellation of the coverage. The Certificate Holder address shall read: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406 (schlamp@pbia.org)", or as otherwise approved or modified by County.

7. Section 26.20, Scrutinized Companies, is hereby deleted in its entirety and replaced with the following:

26.20 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Tenant certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to Section 215.4725, Florida Statutes. When contract value is greater than \$1 million, as provided in Section 287.135, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Tenant certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria. If the County determines, using credible information available to the public, that a false certification has been submitted by Tenant, this Lease may be terminated and a civil penalty equal to the greater of \$2 Million Dollars or twice the amount of this Lease shall be imposed, pursuant to Section 287.135, Florida Statutes. The aforementioned certification must also be submitted at the time of any Lease renewal, if applicable.

8. Except as modified herein, all terms and conditions of the Lease shall remain in full force and effect.

9. This Amendment shall become effective when signed by both parties and approved by the Palm Beach County Board of County Commissioners.

{Remainder of page intentionally left blank.}

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment, or have caused the same to be executed by their duly authorized representatives, as of the day and year first above written.

ATTEST:

SHARON R. BOCK
Clerk and Comptroller

PALM BEACH COUNTY, a political
subdivision of the State of Florida by
its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: *Laura Bube*
Director, Department of Airports

Signed, sealed and delivered in the
presence of two witnesses for
TENANT:

TENANT:
PALM AUTO PLAZA, LLC

Munette Shinozaki
Signature

By: *Robert H. Kurnick, Jr.*
Signature

Munette Shinozaki
Print Name

Robert H. Kurnick, Jr.
Print Name

Lisa Doyle-Jose
Signature

Assistant Secretary
Title

Lisa Doyle-Jose
Print Name

(SEAL)