

AGENDA ITEM SUMMARY

Meeting Date: **September 15, 2020**

☒ **Consent** ☐ **Regular**
☐ **Ordinance** ☐ **Public Hearing**

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Amended and Restated Lease Agreement with the Town of Lantana (Town), for the continued use of Fire Rescue Station No. 37 (Station 37) located at 500 Greynolds Circle in unincorporated Lantana commencing on October 1, 2020 and extending until September 30, 2025 for \$65,000 per year.

Summary: Since 1997, Fire Rescue has occupied a portion of an approximately 8,250 SF building owned by the Town for operation of Station 37 pursuant to an Interlocal Agreement with the Town (R2004-0364) which expired on September 30, 2009. In 2008, the Town opted into the Fire/Rescue Municipal Services Taxing Unit as a mechanism for the funding and provision of County fire protection and emergency medical services within the municipal boundaries of the Town. On May 17, 2011 (R2011-0745) the Board approved a lease with the Town for a term of five (5) years, with one (1) five (5) year option. The current term of the lease will expire on September 30, 2020. This Amended and Restated Lease is for five (5) years, with one (1) automatic renewal for an additional five (5) year term, unless either party provides one (1) year advance notice of non-renewal. The annual rent is \$65,000 for the first five (5) years, with the first payment due within thirty (30) days of the approval of this item. Subsequent annual payments will be due on October 1st of each year. The annual rent for the renewal term will increase to \$70,000. The County will be responsible for repair and maintenance of the Premises. The County will also pay the Town \$9,785/year for electricity used. In the event the Amended and Restated Lease Agreement terminates or expires prior to September 30, 2030, the Town has agreed to reimburse the County for the prorated costs incurred by County for Alterations up to \$1,000,000. The Town approved the Lease Agreement on August 24, 2020. The Fire Rescue Department supports extending the term of the agreement and will continue to have administrative responsibility for the Lease.

(Property & Real Estate Management) District 7 (HJF)

Background and Justification: The Fire Rescue Department responds to approximately 2,400 calls annually within Station 37's service area. Fire Rescue staff has negotiated this Lease directly with the Town to continue to provide fire rescue services from Station 37.

Continued on Page 3

Attachments:

1. Location Map
2. Amended and Restated Lease Agreement (2)
3. Budget Availability Statement

Recommended By:

Department Director

Date _____

Approved By:

County Administrator

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2020 | 2021 | 2022 | 2023 | 2024 |
|--|------|----------|----------|----------|----------|
| Capital Expenditures | | | | | |
| Operating Costs | \$0 | \$74,785 | \$75,079 | \$75,381 | \$75,692 |
| External Revenues | | | | | |
| Program Income (County) | | | | | |
| In-Kind Match (County) | | | | | |
| NET FISCAL IMPACT | \$0 | \$74,785 | \$75,079 | \$75,381 | \$75,692 |
| # ADDITIONAL FTE POSITIONS (Cumulative) | | | | | |

Is Item Included in Proposed Budget: Yes ☒ No ☐

Does this item include the use of federal funds? Yes ☐ No ☒

Budget Account No: Fund 1300 Dept 440 Unit 4233 Object 4410
Program

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

Operating cost include the annual rent payment of \$65,000 and estimated electric cost for FY2021 of \$9,785 with a 3% escalator for FY2022-2024.

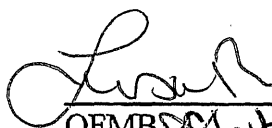
Fixed Asset Number N/A

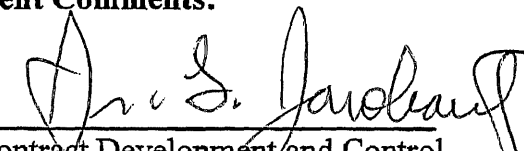
C. Departmental Fiscal Review:



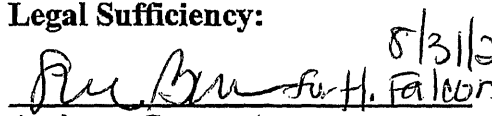
III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

 8/25/2020
OFMB 8/24 AP 8/24 8/24

 8/28/2020
Contract Development and Control
8-28-20 Ta

B. Legal Sufficiency:

 8/31/2020
Assistant County Attorney

C. Other Department Review:


Department Director

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

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Background and Justification: The current annual rent is \$60,000. Rent will increase to \$65,000 for the first five (5) years. Rent during the renewal term will be \$70,000 per year. In addition to the annual rent, until such time as the Fire Station is separately metered, an estimated annual electric payment of \$9,785 will be made to Town. The estimate is based upon the average electric utility cost of five (5) County fire rescue stations of similar size and will be subject to an annual reconciliation. The County has spent \$533,970 dollars in renovations which are included in the calculation of reimbursable expenses.

An aerial photograph of a residential neighborhood in Jacksonville, Florida. The map shows a grid of streets including W Perry St, W Jennings St, W Central St, W Central Blvd, E Central Blvd, E Hart St, E Lake Dr, E Stems St, E Moon Cir, E Coast Ave, and Hypoluxo Rd. A large, dark, irregularly shaped building complex is visible in the center, surrounded by a circular road labeled 'Greyhounds Cir'. Other streets shown include S Broadway, S Dixie Hwy, S Arnold Ave, S 9th St, S 10th St, S 11th St, S 12th St, S 13th St, S 14th St, S 15th St, S 16th St, S 17th St, S 18th St, S 19th St, S 20th St, S 21st St, S 22nd St, S 23rd St, S 24th St, S 25th St, S 26th St, S 27th St, S 28th St, S 29th St, S 30th St, S 31st St, S 32nd St, S 33rd St, S 34th St, S 35th St, S 36th St, S 37th St, S 38th St, S 39th St, S 40th St, S 41st St, S 42nd St, S 43rd St, S 44th St, S 45th St, S 46th St, S 47th St, S 48th St, S 49th St, S 50th St, S 51st St, S 52nd St, S 53rd St, S 54th St, S 55th St, S 56th St, S 57th St, S 58th St, S 59th St, S 60th St, S 61st St, S 62nd St, S 63rd St, S 64th St, S 65th St, S 66th St, S 67th St, S 68th St, S 69th St, S 70th St, S 71st St, S 72nd St, S 73rd St, S 74th St, S 75th St, S 76th St, S 77th St, S 78th St, S 79th St, S 80th St, S 81st St, S 82nd St, S 83rd St, S 84th St, S 85th St, S 86th St, S 87th St, S 88th St, S 89th St, S 90th St, S 91st St, S 92nd St, S 93rd St, S 94th St, S 95th St, S 96th St, S 97th St, S 98th St, S 99th St, S 100th St. The map also shows a large body of water on the right side, likely the Jacksonville River. The text 'Palm Beach' is visible at the bottom right. The map is oriented with North at the top.

1:4,514

0 0.0375 0.075 0.15 mi

0 0.05 0.1 0.2 km



Attachment 1
1 page

**AMENDED AND RESTATED
LEASE AGREEMENT**

between

THE TOWN OF LANTANA

(Landlord)

and

**PALM BEACH COUNTY,
A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA
BY AND THROUGH ITS
BOARD OF COMMISSIONERS
(County)**

G:\PREM\PM\Out Lease\Fire Res STN #37 Lantana\2020 Amd & Restated Lease Agmt\HF & Town Attny Approved 8.13.2020.docx

DISCLOSURE WARNING. THE INFORMATION IN THIS DOCUMENT MAY BE CONFIDENTIAL AND/OR EXEMPT UNDER FLORIDA LAW. THE RECEIVING PARTY SHALL HOLD AND MAINTAIN THE CONFIDENTIAL INFORMATION IN STRICTEST CONFIDENCE FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE COUNTY. RECEIVING PARTY SHALL CAREFULLY RESTRICT ACCESS TO CONFIDENTIAL INFORMATION. RECEIVING PARTY SHALL NOT, WITHOUT PRIOR WRITTEN APPROVAL OF COUNTY, USE, PUBLISH, COPY, OR OTHERWISE DISCLOSE TO OTHERS THE CONFIDENTIAL INFORMATION. THE RECEIVING PARTY SHALL MAINTAIN THE EXEMPT STATUS OF THE INFORMATION. THE RECEIVING PARTY SHALL REDIRECT ALL PUBLIC RECORDS REQUESTS, INVOLVING THIS DOCUMENT, TO THE COUNTY.

AMENDED AND RESTATED
LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (the “Lease”), made and entered into _____, by and between the Town of Lantana, a Florida municipal corporation, hereinafter referred to as “Landlord” and Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, on behalf of Palm Beach County Fire-Rescue, hereinafter referred to as “County”.

W I T N E S S E T H:

WHEREAS, Landlord is the owner of certain real property with an address of 500 Greynolds Circle, located in the Town of Lantana, Florida, County of Palm Beach and State of Florida (the “Property”); and

WHEREAS, a portion of the Property is improved with a fire rescue station which is known as Palm Beach County Fire Station #37 (the “Building”); and

WHEREAS, pursuant to an Interlocal Agreement (R2004-0364), which expired on September 30, 2009, the County occupied a portion of the Building and provided fire rescue services to the Landlord; and

WHEREAS, in accordance with the Town Ordinances No. O-10-2007 and No. O-15-2017 and County Ordinance 2007-024, Landlord has opted into and has been accepted by the County into the Fire/Rescue Municipal Services Taxing Unit (the “MSTU”) as a mechanism for the funding and provision of County fire protection and emergency medical services within the Town of Lantana for services commencing October 1, 2008; and

WHEREAS, the Landlord acknowledges and agrees that the County does not owe the Landlord any monies in connection with the County’s prior use and occupancy of the Building, the Property or any portion thereof, except as otherwise provided herein; and

WHEREAS, the County continues to occupy and use the Building for fire-rescue services to the Landlord pursuant to the Lease Agreement dated May 17, 2011 (R2011-0745) which expires on September 30, 2020; and

WHEREAS, the County desires to continue leasing the Premises (as defined in Section 1.01) for the purpose of operating a fire-rescue station; and

WHEREAS, Landlord is willing to lease the Premises (as defined in Section 1.01) to the County for the purposes hereinafter defined.

NOW THEREFORE, in consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of the County to be observed and performed, the Landlord demises and leases to County, and the County rents from Landlord the Premises (as hereinafter defined) upon the following terms and conditions:

ARTICLE I BASIC LEASE PROVISIONS

Section 1.01 Premises.

The Premises subject to this Lease shall consist of the Building consisting of approximately 8,250 total gross square feet as depicted on Exhibit "A" attached hereto and made a part of hereof (the "Premises") together with any improvements now existing or constructed hereinafter thereon. The County shall have the exclusive use and occupancy of the Building.

Section 1.02 Parking and Common Areas.

The use and occupancy of the Premises by the County shall include the right to the non-exclusive use of the Property common areas depicted on Exhibit "B" attached hereto and made a part hereof, including without limitation, parking areas and driveways of the Property (the "Common Areas"). The County shall have the non-exclusive right to use, on a first come first served basis, parking spaces in the Common Areas for County vehicles, including fire-rescue trucks, County employee and visitor parking. Landlord shall repair and maintain the parking areas and driveways within the Common Areas at its sole cost and expense. The parking areas and driveways within the Common Areas shall be paved and shall be maintained at a level which is sufficient to accommodate the daily use of such areas by fire-rescue trucks and vehicles. Landlord shall provide unrestricted public access across the parking areas and driveways within the Common Areas to and from the Building and Greynolds Circle. Such access shall be provided twenty-four (24) hours per day, seven (7) days a week. Landlord shall not, even on a temporary basis, impede or block the County's ability to use the parking areas and driveways within the Common Areas for access to and from the Building and Greynolds Circle without the County's prior written consent, which shall not be unreasonably withheld.

Section 1.03 Length of Term and Effective Date.

The term of this Lease (the "Term") shall commence on October 1, 2020 (the "Commencement Date"), and shall continue for a period of five (5) years thereafter (the "Initial Term"), and shall automatically be renewed for one (1) additional five (5) year term under the same terms and conditions of this Lease, except as otherwise provided herein, unless the non-renewing party provides the other party with written notice of its intent not to renew this Lease at least twelve (12) months prior to the expiration of the Initial Term or unless sooner terminated pursuant to the provisions of this Lease. Each Lease year shall coincide with Landlord's and County's fiscal years, to wit: October 1st through September 30th of the following year.

ARTICLE II RENT

Section 2.01 Annual Rent.

County shall pay Landlord for the use and occupancy of the Premises an annual gross rental of sixty-five thousand (\$65,000) dollars ("Annual Rent") payable on October 1st of each fiscal year. The Lease is intended to be a "gross" lease and County's obligations with respect to payment of rent, taxes and assessments hereunder shall be limited to those specifically set forth herein. Commencing on the fifth (5th) anniversary of the Commencement Date of the Lease (the "Adjustment Date"), the Annual Rent shall be adjusted to seventy-thousand (\$70,000) dollars.

Section 2.02 Payment.

The first payment of rent shall be due and payable within thirty (30) days of the Commencement Date of this Lease. All subsequent rent due hereunder shall be payable on or before each anniversary of the Commencement Date during the Term of this Lease. County is a tax-exempt entity. No sales or use tax shall be included or charged with Annual Rent. Payment of rent will be made upon the receipt of an invoice from Landlord, mailed to the Palm Beach County Finance Department at P.O. Box 4036, West Palm Beach, Florida 33402. Each invoice must be received at least fifteen (15) days but not more than forty-five (45) days in advance of the date payment is due. Payment will be mailed to Landlord at the address set forth in Section 16.05 of this Lease. If this Lease terminates prior to the expiration date or is deemed to have expired as a result of such termination, then the Annual Rent and Electric Payment (as defined in Article VIII) shall be prorated to the date of such termination or expiration, as applicable.

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

Section 3.01 Use of Premises.

The Premises shall be used for the establishment and operation of a fire-rescue station, which includes living quarters, apparatus bays, administrative offices and related support space for fire-rescue personnel. County shall not use, permit, or suffer the use of the Premises for any other purpose whatsoever other than those identified herein, or directly or indirectly related to the provision of fire-rescue services, within or outside the Town of Lantana, without the prior written consent of Landlord which consent shall not be unreasonably withheld. County's obligations under this Lease are contingent upon such use of the Premises being in compliance with all applicable zoning laws, rules, and regulations affecting the Premises.

Section 3.02 Conduct.

County shall not commit waste upon the Premises, nor maintain, commit, or permit the maintenance or commission of a nuisance thereon, or use the Premises for any unlawful purpose. County acknowledges that its employees and the Premises shall, throughout the Term of this Lease, be in full compliance with all federal, state, county, and local statutes, laws, rules, and regulations relating to the use and occupancy of the Premises, provided that, County shall not be required to make alterations, additions, or improvements to the Building in order to conform therewith, unless the necessity for such compliance alterations, additions, or improvements are precipitated by the County's Alterations (as defined in Section 4.03) to the Premises.

Section 3.03 Hazardous Substances.

County shall comply with all applicable Federal, State and local laws, regulations and ordinances protecting the environment and natural resources and regulating hazardous substances.

Section 3.04 Surrender of Premises.

Upon termination or expiration of this Lease, County, at its sole cost and expense, shall remove County's personal property and any fire-rescue related equipment and/or fire-rescue related appliances from the Premises, and shall surrender the Premises to the Landlord. Upon surrender of the Premises, title to any Alterations (as defined in Section 4.03) shall vest in Landlord.

ARTICLE IV ALTERATION OF LEASED PREMISES

Section 4.01 Generally

The Landlord and the County acknowledge that the Building did not have the same features as other County-owned fire-rescue stations. Alterations (as defined in Section 4.03) were initiated by the County, at the County's sole cost and expense, in an amount not to exceed one million (\$1,000,000) dollars to update the Building such that it should be of standard County-owned fire-rescue stations constructed since the year 2009. As of the Commencement Date, the County has expended the amount of Five Hundred Thirty-Three Thousand Nine Hundred Seventy (\$533,970) dollars; leaving a remaining amount of Four Hundred Sixty-Six Thousand Thirty (\$466,030) dollars for Alterations. In the event this Lease is terminated or expires prior to September 30, 2030 as a result of (i) Landlord providing written notice of non-renewal to County, pursuant to the terms of Section 1.03; (ii) Landlord's exercise of its right to terminate this Lease, pursuant to the terms of Article VII; (iii) Landlord's default, pursuant to the terms of Section 10.02; or (iv) the terms of Section 15.01, Landlord shall reimburse County for the actual cost and expense of the Alterations (as defined in Section 4.03), and the actual cost and expense of any Air Quality Remediation (as defined in Section 5.02 (d)) and Environmental Remediation (as defined in Section 5.03), if applicable, in accordance with the terms of Section 15.02 of this Lease (Collectively, the actual cost and expense for Alterations, Air Quality Remediation and Environmental Remediation shall be hereinafter referred to as "Reimbursable Expenditures").

Section 4.02 Landlord's Work.

Landlord shall not be obligated or required to perform any improvements whatsoever to the Property.

Section 4.03 County's Work.

County shall be entitled to make alterations, improvements, or additions to the Premises (hereinafter, collectively "Alterations") at its sole cost and expense. County agrees and acknowledges that all Alterations installed on the Premises by County, whether pursuant to this Section or otherwise, shall be performed and accomplished solely for the benefit and convenience of County, and not for the benefit of Landlord, such Alterations being nevertheless subject to each and every provision of this Lease. Any Alterations to the Premises, the value of which exceeds Twenty-Five Thousand Dollars (\$25,000) or that shall be included within Landlord's Reimbursement Payment as hereinafter defined in Section 15.02, shall require the prior written approval of Landlord in each instance, which approval shall not be unreasonably withheld. County shall submit plans and specifications for all such Alterations to Landlord for Landlord's written approval prior to County submitting an application for a building permit, including the estimated cost of the Alterations. Any requests for approval of plans and specifications for Alterations shall be accompanied by the building permit application seeking the Landlord's consent. The Landlord's approval of the plans and specifications as well as building permit application consent is to be provided by the Landlord in its proprietary capacity. The County acknowledges that such approval and consent does not alter the Landlord's review of the building permit application when acting in its regulatory capacity.

Landlord shall provide a written response within thirty (30) days after receipt of request thereto by County, failing which, Landlord shall be deemed to have consented to such plans and specifications, the building permit application and the inclusion of such Alterations within Landlord's Reimbursement Payment. All work done by County in connection with any Alterations, repairs, and maintenance on the Premises shall be properly permitted and done in a good and workmanlike manner. Landlord's consent to any Alterations pursuant to the terms herein, shall be deemed to be Landlord's consent that the actual cost and expense of such Alterations shall be included within the County's

Reimbursable Expenditures as provided in Section 15.02.

Notwithstanding anything herein to the contrary, in the event that County is unable to obtain all development and permit approvals necessary to perform County's Alterations, as well as the Landlord's consent and approval, if required by this Section 4.03, County may terminate this Lease and both parties shall be relieved from all obligations which accrue subsequent to the date of termination, except as otherwise provided for in this Lease.

Section 4.04 Construction Liens.

Landlord and County shall comply with the Construction Lien Law, Florida Statutes Chapter 713, Part I, to the extent applicable to Landlord and County, in the construction of any improvements to the Premises. In the event a construction lien is filed against the Premises in connection with any work performed by or on behalf of the Landlord or County, the party performing such work shall promptly cause such lien to be removed from the Premises.

ARTICLE V REPAIRS AND MAINTENANCE OF PREMISES

Section 5.01 Responsibility of Landlord

Landlord shall not be required to maintain the Premises or any portion thereof during the Term of this Lease. Notwithstanding the foregoing, County shall have no obligation to repair any damage arising from any negligent or intentional act or omission of Landlord, its employees, agents, invitees or any third parties, which damage shall be promptly repaired by Landlord.

Section 5.02 Responsibility of County.

(a) County shall maintain the Premises and all portions thereof (interior and exterior) in good repair and tenable condition during the Term of this Lease, normal wear and tear excepted, at its sole cost and expense.

(b) County shall have no obligation to make modifications to the Premises required by law, except as set forth in Section 3.02.

(c) County shall have no obligation for restoration of the Premises, or any portion thereof, in the event of a casualty.

(d) County shall be responsible for all costs and expenses to ensure that the Premises adheres to the most current version of the American Society of Heating, Refrigeration and Air-conditioning Engineers' ("ASHRAE") Standards on ventilation for acceptable indoor air quality throughout the Term of this Lease. Should building sickness symptoms materialize, County shall perform at its sole cost and expense necessary air quality and environmental testing of the heating, ventilation and air-conditioning ("HVAC") system servicing the Premises by a certified and licensed environmental company, subject to the availability of such certified and licensed technicians. County shall provide Landlord with a copy of all such testing reports. If any such testing report reveals that the HVAC system fails to comply with the ASHRAE Standards and/or does not provide a healthy indoor air environment as required by applicable laws and regulations, County shall promptly remedy such non-compliance with due diligence at its sole cost and expense ("Air Quality Remediation") and County's rental due hereunder relating to the portion of the Building rendered untenable as a result of the foregoing shall be abated from the date that the Building is rendered untenable until the completion of the Air Quality Remediation. County's cost and expense to remedy such non-compliance shall be added to the County's Reimbursable Expenditures as provided in Section 15.02.

Section 5.03 Hazardous Substance.

Landlord and County hereby acknowledge that County has continuously occupied the Premises since 1997 and that to the best of both parties' knowledge there is not located in, on, upon, over, or under the Premises: (i) asbestos in any form; (ii) urea formaldehyde foam insulation; (iii) polychlorinated biphenyls; (iv) mold; or (v) any other chemical, material, or substance which is prohibited, limited, or regulated by federal, state, county, regional, or local authority. However, if said substance(s) exist or is discovered during the term of this Lease, County shall promptly remove said substance(s) at County's sole cost and expense ("Environmental Remediation") and County's rental due hereunder relating to the portion of the Building rendered untenable as a result of the foregoing shall be abated from the date that the Building is rendered untenable until the completion of the Environmental Remediation. Additionally, County's cost and expense for such Environmental Remediation shall be added to County's Reimbursable Expenditures as provided in Section 15.02. County shall be fully responsible for any pollutants, odors, vapors, chemicals, and the like emitted by County's own furniture, fixtures, office machines, and equipment.

**ARTICLE VI
LIABILITY AND INSURANCE**

Section 6.01 Liability

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

Section 6.02 Real and Personal Property.

County: All of County's personal property placed or moved in the Premises shall be at the risk of the County or the owner thereof. Except as otherwise provided herein, Landlord shall not be liable for any damage to such personal property, except to the extent caused by the Landlord, its agents', or its employees' willful or negligent acts or omissions.

Landlord: Landlord shall maintain all-risk property insurance for adequate limits of coverage on the Premises and any improvements including any Alterations, based on the full replacement cost calculation for the perils of fire, wind, and flood. Landlord shall be fully responsible for any deductible, uncovered loss, or self-insured retention under the all-risk property insurance.

County and Landlord shall deliver to the other a Certificate of Insurance or Self-Insurance upon execution of the contract and/or within ten (10) days of a written request for such evidence throughout the term of the lease.

Submit Certificates of Insurance of Self-Insurance to:
Palm Beach County
c/o Fire Rescue
405 Pike Road
West Palm Beach, FL 33411-3815

Town of Lantana
Attention: Town Manager
500 Greynolds Circle
Lantana, FL 33462
Fax: (561) 540-5011

ARTICLE VII
DAMAGE OR DESTRUCTION OF PREMISES AND/OR
COUNTY'S ALTERATIONS

In the event the Premises shall be destroyed or so damaged or injured by fire or other casualty during the Term of this Lease, or any extension thereof, whereby the same shall be rendered untenable, in whole or in part, County will have no responsibility for the restoration of the Premises and both the Landlord and the County shall have the unilateral right to terminate this Lease, whereupon the parties shall be relieved of all further obligations hereunder occurring subsequent to the date of such casualty, except as otherwise provided for in this Lease. Landlord and County each acknowledge and agree that should a casualty result in the termination of this Lease, that the parties will jointly develop an approach to providing fire-rescue facilities to County on a temporary or permanent basis. In the event neither the County nor the Landlord exercises its right to terminate this Lease due to any such casualty, Landlord and County shall negotiate in good faith to jointly develop a plan to restore the Building; provided however, that if the parties are unable to reach agreement then both parties shall have the unilateral right to terminate this Lease, whereupon the parties shall be relieved of all further obligations occurring subsequent to the date of such termination, except as otherwise provided for in this Lease. The parties agree that in the event the Premises is rendered untenable, in whole or in part, County's rent due hereunder relating to the portion of the Building rendered untenable shall be abated from the date of such casualty until completion of such restoration.

ARTICLE VIII
UTILITIES AND SERVICES

Landlord shall provide water, sewer, gas, telephone, cable TV and electric utility service to the Premises boundary, at Landlord's sole cost and expense. County shall be solely responsible for and promptly pay directly to the utility company or the provider of such service all charges or assessments for water, sewer, gas, telephone, cable TV, trash collection and removal and any other utility used or consumed by County. Landlord shall not be liable for an interruption or failure in the supply of such service to the Premises resulting from a failure of the utility company to provide service to the Premises. Since the County is connected to existing electric service on the Premises, which is not separately metered in order to measure the County's usage, the County shall pay to the Landlord its prorata share of the electric utility fees ("Electric Payment"), which County shall remit to Landlord in accordance with the procedures set forth in Article 2 hereof. Additionally, Landlord and County recognize the potential for volatility in utility cost; therefore, Landlord and County shall annually reconcile County's Electric Payment based upon the average electric utility cost of five (5) County Fire Stations of similar size and capability calculated for the immediately preceding twelve (12) month period ("Current Electric Cost"). Such reconciliation shall be calculated and agreed upon by the parties a minimum of ninety (90) days prior to the next payment due date. The parties agree that the difference between the County's electric Payment and the Current Electric Cost, which shall be referred to as the "Reconciliation Amount", shall be applied as follows: (i) if the Reconciliation Amount results in a credit due the County, then the Reconciliation Amount shall be deducted by the County from its next Electric Payment and (ii) if the Reconciliation Amount results in a credit due the

Landlord, then the County shall add the Reconciliation Amount to its next Electric Payment. Notwithstanding the foregoing, if in the future the electric service is separately metered for the Building, which will be at the sole cost and expense of the Landlord, then County shall: (i) pay directly to the utility company or the provider of such services, all charges and assessments for such service and (ii) no longer be obligated to the Landlord for the Electric Payment. If the electric service is separately metered to the Building, then the Electric Payment shall be prorated to the date that the electric service was separately metered.

ARTICLE IX ASSIGNMENT AND SUBLETTING

County may not assign, mortgage, pledge, or encumber this Lease in whole or in part, nor sublet all or any portion of the Premises, without Landlord's prior written consent. In the event of an approved assignment, County shall be released from any further obligation hereunder. Any sale, mortgage, pledge, or encumbrance of the Property and/or Premises by Landlord shall be subject to the terms of this Lease.

ARTICLE X DEFAULT

Section 10.01 Default by County.

The occurrence of any one or more of the following shall constitute an Event of Default by County under this Lease: (i) failure by County to pay the Annual Rent within fifteen (15) days after receipt of notice from Landlord; (ii) failure by County to perform or observe any of the agreements, covenants, or conditions contained in this Lease on County's part to be performed or observed for more than thirty (30) days after notice from Landlord of such failure; (iii) County's vacating or abandoning the Premises; or (iv) County's leasehold estate being taken by execution, attachment, or process of law. If any Event of Default occurs, then, at any time thereafter while the Event of Default continues, Landlord shall have the right to give County notice that Landlord intends to terminate this Lease upon a specified date not less than thirty (30) days after the date notice is received by County, and this Lease shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Lease. If, however, the default is cured within such period or within a reasonable period thereafter if the same cannot be cured within such period and County undertakes such cure within such period and the Landlord is so notified, this Lease will continue.

Section 10.02 Default by Landlord.

Landlord shall be in default of this Lease if Landlord shall fail to observe or perform any term, covenant, or condition of this Lease on the Landlord's part to be observed or performed, and the Landlord fails to remedy the same within thirty (30) days after notice from County. In the event the default is of such a nature that it cannot be reasonably cured within the foregoing thirty (30) day period, Landlord shall be entitled to a reasonable period of time under the circumstances in which to cure said default, provided that Landlord diligently proceeds with the curing of the default. In the event that the default is not cured by Landlord within the foregoing time period, County, at County's option, may either cure said default and Landlord shall reimburse County for all expenses incurred by County in doing so, or County may give to the Landlord a thirty (30) days' notice specifying that the County intends to terminate this Lease. Upon receipt of said notice and expiration of the thirty (30) day period, this Lease and all obligations of County hereunder shall terminate and County shall thereupon be relieved of all further obligations hereunder.

**ARTICLE XI
ACCESS BY LANDLORD**

Landlord and Landlord's agents and employees shall have the right to enter upon the Premises at all reasonable times to examine the same, and to make any repairs which may be required or permitted hereunder. Landlord shall provide County with twenty-four (24) hours advance notice prior to exercising such right except in an emergency in which event no notice shall be required and Landlord shall exercise such right in a manner which minimizes the impact upon County's use of the Premises, subject to Section 16.02.

**ARTICLE XII
ANNUAL BUDGETARY FUNDING**

This Lease and all obligations of County hereunder are subject to and contingent upon annual budgetary funding by the Board of County Commissioners of Palm Beach County.

ARTICLE XIII QUIET ENJOYMENT

Upon the observance and performance of all the covenants, terms, and conditions on County's part to be observed and performed, County shall peaceably and quietly hold and enjoy the Premises for the Term hereby demised and any extensions thereof without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through, or under the Landlord, subject, nevertheless, to the terms and conditions of this Lease.

**ARTICLE XIV
CONDEMNATION**

If all or part of the Premises shall be taken, condemned or conveyed pursuant to agreement in lieu of condemnation for public or quasi-public use, the entire compensation or award therefore, including any severance damages, shall be apportioned between Landlord and County in proportion to the value of their respective interests and the rent shall be recalculated effective upon the date of vesting of title in the condemning authority to reflect the reduction in the Premises. County shall also be entitled to receive compensation for the value of any Alterations or other improvements made by County to the Premises and moving expenses. In addition, County may elect to terminate this Lease in which event this Lease shall terminate effective as of the date title is vested in the condemning authority, whereupon the parties shall be relieved of all further obligations occurring subsequent to the date of termination other than those relating to apportionment of the compensation for such condemnation and except as otherwise provided in this Lease. County will be allowed not less than sixty (60) days' notice to remove its property from the Premises.

**ARTICLE XV
ADDITIONAL TERMINATION RIGHTS**

Section 15.01 Additional Termination Rights

In the event the County no longer provides full fire-rescue and emergency medical services within the Town of Lantana either through the MSTU, a service agreement or otherwise, this Lease shall automatically terminate effective upon the date on which such County services terminate ("Service Termination Date") and both parties shall be relieved from all obligations which accrue subsequent to the Service Termination Date, except as otherwise set forth in this Lease.

Section 15.02 Landlord's Reimbursement Obligations

In the event this Lease expires or terminates prior to September 30, 2030, for any reason as set forth in Section 4.01, within six (6) months from the date that this Lease terminates or expires, the County shall submit to the Landlord a request for the Landlord's payment of the County's Reimbursable Expenditures, together with a copy of: (i) the contract pursuant to which Reimbursable Expenditures were procured; (ii) the invoice for the Reimbursable Expenditures; and (iii) evidence of County's payment for such Reimbursable Expenditures. Landlord shall reimburse the County for Reimbursable Expenditures within twelve (12) months from the Landlord's receipt of County's request for such reimbursement ("Reimbursement Payment") as provided herein. The Reimbursement Payment shall be calculated as follows: the sum of the actual cost for all Reimbursable Expenditures divided by one hundred twenty (120) and multiplied by the difference of one hundred twenty (120) minus the number of months that the Lease has been in effect. Upon the County's receipt of the Reimbursement Payment, if any is due, Landlord shall be relieved of all further obligations relating to the Reimbursement Payment. Notwithstanding the foregoing, if service termination occurs as set forth in Section 15.01 due to the County's unilateral actions, through no fault of the Landlord, the County shall not be entitled to any Reimbursement Payment as set forth herein.

ARTICLE XVI MISCELLANEOUS

Section 16.01 Waiver, Accord and Satisfaction.

The waiver by Landlord or County of any default of any term, condition, or covenant herein contained shall not be a waiver of such term, condition, or covenant, or any subsequent default of the same or any other term, condition, or covenant herein contained. The consent or approval by either Landlord or County to or of any act by the other party requiring the other party's consent or approval shall not be deemed to waive or render unnecessary such party's consent to or approval of any subsequent similar act by the other party.

Section 16.02 Criminal History Records Check

Landlord shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance and Palm Beach County Code, Section 2-171 - 2-377, if Landlord's employees, agents, or contractors are required under this Lease to enter or work at the site of a "critical facility" as identified in Resolution R-2013-1470 and R-2015-0572, as amended. Landlord acknowledges and agrees that all employees, agents, and contractors who are to perform work in a critical facility will be subject to a fingerprint check based criminal history check. Only persons without any disqualifying offense will be granted unescorted access to a critical facility. Persons with disqualifying offenses may be denied access.

Section 16.03 Public Entity Crimes.

As provided in Sections 287.132-133, Florida Statutes, a person or affiliate who has been placed on the State of Florida convicted vendor list following a conviction for a public entity crime may not submit a bid for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. By entering into this Lease or performing any work in furtherance hereof, Landlord certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date hereof. This notice is required by Section 287.133(3)(a), Florida Statutes.

Section 16.04 Entire Agreement.

This Lease and any Exhibits attached hereto constitute all agreements, conditions, and understandings between Landlord and County concerning the Premises. All representations, either oral or written, shall be deemed to be merged into this Lease. Except as herein otherwise provided, no subsequent alteration, waiver, change, or addition to this Lease shall be binding upon Landlord or County unless reduced to writing and signed by them.

Section 16.05 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, 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 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:

If to the Landlord at:

Attn: Town Manager
500 Greynolds Circle
Lantana, Florida 33462
Fax: 561-540-5011
dmanzo@lantana.org

With a copy to:

Town Attorney
Lohman Law Group, P.A.
500 S. Australian Avenue, Suite 531
West Palm Beach, Florida 33401
Fax: 561-295-4900
max@lohmanlawgroup.com

If to the County at:

Palm Beach County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
Telephone: 561-355-2225
Fax: 561-355-4398

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

Section 16.06 Brokers' Commission.

Each of the parties represents and warrants to the other that they have not dealt with any real estate salesperson, agent, finder, or broker in connection with this Lease.

Section 16.07 Severability.

If any term of this Lease, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application or such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 16.08 Captions.

The captions in this Lease are included for convenience only and shall not be taken into consideration in any construction or interpretations of this Lease or any of its provisions.

Section 16.09 Recording.

County shall be entitled to record this Lease or a Memorandum of Lease in the public records of Palm Beach County for the purpose of providing public notice of County's interest in the Premises.

Section 16.10 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 LEASE.

Section 16.11 Governing Law and Venue

This Lease shall be governed by and interpreted according to the laws of the State of Florida. Any legal action necessary to enforce the Lease will be brought in a State 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.

Section 16.12 Time of Essence

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

Section 16.13 Benefit and Binding Effect

This Lease shall be binding upon and inure to the benefit of the heirs, successors, legal representatives, and assigns of the parties hereto.

Section 16.14 Radon

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

Section 16.15 Non-Exclusivity of Remedies

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 or 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.

Section 16.16 Non-Discrimination

The parties agree, pursuant to Palm Beach County Resolution R2017-1770, as may be amended, that no person shall, on the grounds of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information, be excluded from the benefits of, or be subjected to any form of discrimination under any activity conducted pursuant to this Lease. Failure to meet this requirement shall be considered default of this Lease.

Section 16.17 Palm Beach County Office of the Inspector General Audit Requirements

Palm Beach County has established the Office of the Inspector General pursuant to Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General is authorized with 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 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

Section 16.18 Construction

No party shall be considered the author of this Lease since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Lease 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 is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

Section 16.19 Survival

Notwithstanding anything herein that is or may be construed to the contrary, any provision of this Lease that is of a continuing nature, or which by its language or nature imposes an obligation or right that extends beyond the Term of this Lease, including but not limited to Landlord's Reimbursement Payment obligations set forth in Section 15.02, shall survive the expiration or earlier termination or expiration of this Lease.

Section 16.20 Incorporation by Reference

The recitals set forth in this Lease and the Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Lease by reference.

Section 16.21 No Third Party Beneficiary

No provision of this Lease 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 Lease, including but not limited to any citizens of Palm Beach County or employees of County or Landlord.

Section 16.22 Effective Date of Lease

This Lease is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

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



ATTEST:

By: Kathleen Dominguez
Kathleen Dominguez, Town Clerk

[Signature]
Witness Signature
Stephen Kaplan
Print Witness Name

[Signature]
Witness Signature
Kathy A Murphy
Print Witness Name

LANDLORD:

TOWN OF LANTANA, a municipal corporation of the State of Florida

By: [Signature]
David J. Stewart, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
R. Max Lohman, Esq., Town Attorney

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
Dave Kerner, 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

SCHEDULE OF EXHIBITS

DISCLOSURE WARNING. THE INFORMATION IN THIS DOCUMENT MAY BE CONFIDENTIAL AND/OR EXEMPT UNDER FLORIDA LAW. THE RECEIVING PARTY SHALL HOLD AND MAINTAIN THE CONFIDENTIAL INFORMATION IN STRICTEST CONFIDENCE FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE COUNTY. RECEIVING PARTY SHALL CAREFULLY RESTRICT ACCESS TO CONFIDENTIAL INFORMATION. RECEIVING PARTY SHALL NOT, WITHOUT PRIOR WRITTEN APPROVAL OF COUNTY, USE, PUBLISH, COPY, OR OTHERWISE DISCLOSE TO OTHERS THE CONFIDENTIAL INFORMATION. THE RECEIVING PARTY SHALL MAINTAIN THE EXEMPT STATUS OF THE INFORMATION. THE RECEIVING PARTY SHALL REDIRECT ALL PUBLIC RECORDS REQUESTS, INVOLVING THIS DOCUMENT, TO THE COUNTY.

EXHIBIT “A” - DEPICTION OF BUILDING/FLOOR PLAN

EXHIBIT “B” - PROPERTY COMMON AREAS

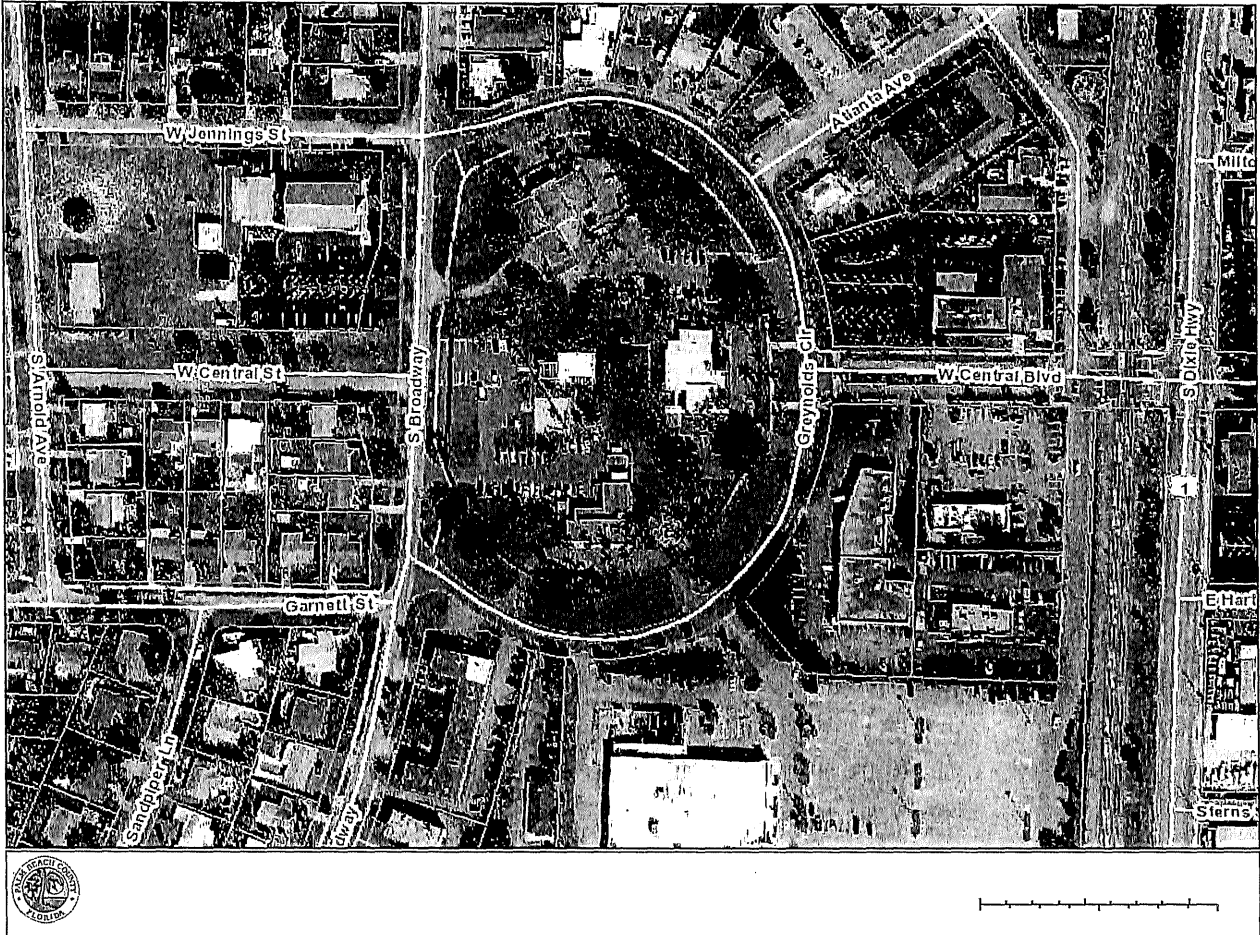
EXHIBIT “A”

DEPICTION OF BUILDING/FLOOR PLAN

DISCLOSURE WARNING. THE INFORMATION IN THIS DOCUMENT MAY BE CONFIDENTIAL AND/OR EXEMPT UNDER FLORIDA LAW. THE RECEIVING PARTY SHALL HOLD AND MAINTAIN THE CONFIDENTIAL INFORMATION IN STRICTEST CONFIDENCE FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE COUNTY. RECEIVING PARTY SHALL CAREFULLY RESTRICT ACCESS TO CONFIDENTIAL INFORMATION. RECEIVING PARTY SHALL NOT, WITHOUT PRIOR WRITTEN APPROVAL OF COUNTY, USE, PUBLISH, COPY, OR OTHERWISE DISCLOSE TO OTHERS THE CONFIDENTIAL INFORMATION. THE RECEIVING PARTY SHALL MAINTAIN THE EXEMPT STATUS OF THE INFORMATION. THE RECEIVING PARTY SHALL REDIRECT ALL PUBLIC RECORDS REQUESTS, INVOLVING THIS DOCUMENT, TO THE COUNTY.

EXHIBIT "B"

PROPERTY COMMON AREAS



BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 7/29/2020 REQUESTED BY: Richard Bogatin

PHONE: 561.233.0214

FAX: 561.233.0210

PROJECT TITLE: Fire Rescue 37 Lantana, Amend & Restated

PROJECT NO.: 2020.5.006

| Fiscal Years | 2020 | 2021 | 2022 | 2023 | 2024 |
|--|----------|---------------|---------------|---------------|---------------|
| Capital Expenditures | | | | | |
| Operating Costs | <u>0</u> | <u>74,785</u> | <u>75,079</u> | <u>75,381</u> | <u>75,692</u> |
| External Revenues | | | | | |
| Program Income (County) | | | | | |
| In-Kind Match (County) | | | | | |
| NET FISCAL IMPACT | <u>0</u> | <u>74,785</u> | <u>75,079</u> | <u>75,381</u> | <u>75,692</u> |
| # ADDITIONAL FTE POSITIONS (Cumulative) | | | | | |

*** By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.*

BUDGET ACCOUNT NUMBER

FUND: 1300

DEPT: 440

UNIT: 4233

OBJ: 4410

SUB OBJ:

IS ITEM INCLUDED IN CURRENT BUDGET: YES ☒ NO ☐

Operating cost includes the annual rent payment of \$65,000 and estimated electric cost for FY2021 of \$9,785 with a 3% escalator for FY2022-2024.

IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)

- ☐ Ad Valorem (source/type: _____)
- ☐ Non-Ad Valorem (source/type: _____)
- ☐ Grant (source/type: _____)
- ☐ Park Improvement Fund (source/type: _____)
- ☐ General Fund ☐ Operating Budget ☐ Federal/Davis Bacon
- ☐ _____ ☐ _____ ☐ _____

Department: Fire Rescue

BAS APPROVED BY:  DATE: 7/29/2020

ENCUMBRANCE NUMBER: