

PALM BEACH COUNTY
 BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: July 13, 2021

<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

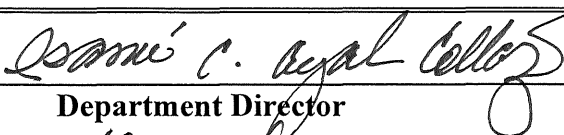
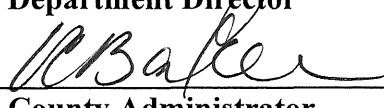
Motion and Title: Staff recommends motion to receive and file: a Standard License Agreement for Use of County-Owned Property dated May 28, 2021 with Kast Construction Company, LLC, for the installation of a dust screen at the Government Center Parking Garage.

Summary: In accordance with County PPM CW-O-051, all delegated contracts, agreements and grants must be submitted by the initiating Department as a receive and file agenda item. The attached standard Agreement has been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator or designee. The Standard License Agreement was approved in accordance with R2010-0333, as amended and approved by the Board on October 1, 2013. This executed document is now being submitted to the Board to receive and file. **(FDO Admin) Countywide (MWJ)**

Background & Justification: The delegation of authority which provided authority for the County Administrator or designee to execute standard license agreements was designed to expedite and streamline the process for commercial use of county owned property after submission of an application for use and after determination of whether a license fee should be charged for the use. There is no license fee if the applicant demonstrates that (i) the activity is for the purpose of promoting community interest and welfare and (ii) the applicant will not realize a profit based on the use.

Attachments:

Standard License Agreement for Use of County-Owned Property

Recommended By:	MR 	6/10/21
	Department Director	Date
Approved By:		6/21/21
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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

Budget Account No:
 Fund _____ Dept _____ Unit _____ Revenue Source _____
 Fund _____ Dept _____ Unit _____ Revenue Source _____

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

* There is no fiscal impact associated with this item.

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 6/14/21
 OFMB 6-14-21 LM 6/14

[Signature] 6/18/21
 Contract Development and Control 6-18-21 TW

B. Legal Sufficiency:
[Signature] 6/22/21
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

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

This License Agreement made and entered into 5-28-21, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County" and Kast Construction Company, LLC, a Florida Limited Liability Company, hereinafter referred to as "Licensee".

WITNESSETH:

WHEREAS, Licensee has applied for a License to Use County owned property via the Application for License to Use County-Owned Property (the "Application"), attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, County is the owner of the real property and/or improvements described on the Application; and

WHEREAS, County is willing to grant Licensee a revocable license to use the property for the purposes described on the Application and hereinafter defined.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth on the part of the Licensee to be observed and performed, the County hereby 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 the Application. The Application, which may include special conditions of use as set forth in the Application, is hereby made a part of this License Agreement. 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 the use listed on the Application; Licensee shall not use, permit or suffer the use of the Premises for any other purpose whatsoever. Licensee shall be entitled to use the Premises only on the days and times listed on the Application. Licensee shall make no improvements, alterations or additions to the Premises. The use of the Premises by Licensee shall not interfere with County's use or operation of the Premises.

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 upon execution by both parties (the "Commencement Date"). The term of this License Agreement shall continue until the earlier of, the time listed on the Application, one year from the Commencement Date, or termination in accordance to the terms of this License Agreement.

3. **License Fee Waiver**

No License Fee is assessed as the activity is to promote community interest and welfare and the Licensee will not realize a profit from the activity. Licensee may be required to pay charges for custodial, set-up or special requirements as indicated on the Application.

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.

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**

The County is committed to assuring equal opportunity in the award of contracts and complies

Kast Construction/License Agreement

with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Licensee warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

8. **Surrender of Premises**

Upon termination of each use of the Premises by the Licensee, Licensee, at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to the County in at least the same condition the Premises were in at the start of each period of use.

9. **Maintenance and Repair**

County shall conduct all maintenance or repairs to the Premises. In the event that Licensee damages the Premises, County shall complete the necessary repairs and Licensee shall reimburse County for all expenses incurred by County in doing so.

10. **Indemnification of County**

To the extent permitted by law, 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 case 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, and Business Automobile Liability insurance each policy with limits of 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,

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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.

Licensee shall also name the County as a Certificate Holder. The Certificate Holder shall read "Palm Beach County Board of County Commissioners, c/o FDO, 2633 Vista Parkway, West Palm Beach, Florida 33411-5603".

A Certificate of Insurance evidencing such insurance coverage shall be provided to the County 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.

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 County 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 unless the responsibility for utilities is listed by the County as a special condition of use on the Application. In no event shall County be liable for an interruption or failure in the supply of any utilities to the Premises.

13. **Rules of Premises**

Licensee shall strictly adhere to the Rules that govern the Premises as set forth in the Application, at all times. Licensee also acknowledges that any violation of the Rules governing the use of the Premises may result in the suspension or termination of this License Agreement.

14. **Subcontracting**

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

15. **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.

16. **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 or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any Notice shall be the date of delivery of the Notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties 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
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:

Matt Sears, Project Manager
Kast Construction
701 Northpoint Parkway, Suite 400
West Palm Beach, FL 33407

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.

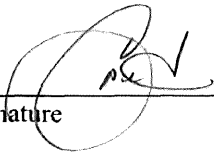
17. **Severability**
If any term or provision of this License Agreement shall be held invalid or unenforceable, the remainder of this License Agreement shall not be affected and every other term and provision of this License Agreement shall be deemed valid and enforceable to the extent permitted by law.
18. **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.
19. **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.
20. **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.
21. **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.
22. **Palm Beach County Office of the Inspector General**
Palm Beach County has established the Office of the Inspector General in 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.
23. **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.

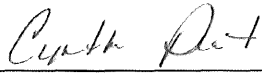
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Kast Construction/License Agreement

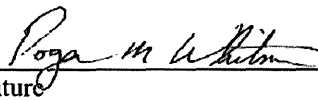
IN WITNESS WHEREOF, County and Licensee have executed this License Agreement, or have caused the same to be executed as of the day and year first above written.

WITNESS:

By: 
Signature


Printed Name

LICENSEE:


By: 
Signature

Roger Whitman
Printed Name
Kast Construction, CFO

PALM BEACH COUNTY, a Political
Subdivision of the State of Florida

By: 
Director, Facilities Development & Operations

APPROVED AS TO LEGAL
SUFFICIENCY

By: 
County Attorney

Digitally signed by Michael W. Jones
DN: DC=org, DC=pbgov, OU=Enterprise,
OU=CATT, OU=Users, CN=Michael W.
Jones, E=MJones@pbgov.org
Reason: I am the author of this document
Location: your signing location here
Date: 2021.05.27 08:57:18-0400
Fax: Reader Version: 10.1.4

Exhibit "A"

APPLICATION FOR LICENSE TO USE
COUNTY-OWNED PROPERTY

**APPLICATION FOR LICENSE TO USE
COUNTY-OWNED PROPERTY**

This application may be used to apply for a License to use County owned property. The application must be submitted at least twenty (20) days prior to the proposed date of the requested use. Please send the completed application to:

Facilities Development & Operations Department (FDO)
PBCFacilityUsePermit@pbcgov.org
2633 Vista Parkway
West Palm Beach, FL 33411-5603
ATTN: Director
Telephone: 561-233-0220 / Fax: 561-233-0206

Upon approval of the application by FDO, the property will be reserved and the user will be informed of any Special Conditions of Use, and fees for the Use as defined herein. Any fees are due prior to the Use.

1. USER/APPLICANT

Name of Applicant: Matt Sears, Project manager
Name of Organization/Licensee Kast Construction
Address: 701 Northpoint Parkway, Suite 400
City: West Palm Beach State: Fl Zip: 33407
Phone: (954) 479 - 4743 Email: msears@kastbuild.com
Name of the Authorized Representative : Matt Sears,
Type of Entity: Public Agency Non-Profit Other
(Specify) _____

2. REQUESTED PROPERTY

Name of Property:
(Please include room or area requested) Government Center Parking garage
Address: 215 N. Olive Ave
City: West Palm Beach State: Fl Zip: 30401

3. NATURE OF USE: (Please check one)

Training Educational Recreational Meeting
 Non-profit Event Other Install Dust Screen to prevent dust from getting on
Cars parked in garage

Does Use include the sale of Goods and/or Services? Yes No

Will User charge an Admission Fee and/or Participation Fee? Yes No

Amount to be charged for Admission Fee and/or Participation Fee: _____

Detailed description of the nature and purpose of use (attach additional sheets as necessary):

See attached special conditions

4. FOOD AND BEVERAGE

Use includes food and/or beverage? Yes No

Use includes the sale, use or consumption of alcohol? Yes No

Note: A custodial fee may be imposed if the Use involves food and/or beverages.

5. DATE AND TIME OF USE

Date(s) of Use: See Special Conditions Ex. A-1

Time(s) of Use: _____ : _____ AM/PM - _____ : _____ AM/PM

6. EQUIPMENT

Amount of Equipment Requested: _____ Tables _____ Chairs

All equipment contained or used within the Facility is subject to approval by the Department.

7. ADDITIONAL USERS

Organization(s)/individual(s) participating in use, if other than Applicant (attach additional pages to list more organization(s)/individual(s)):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: () - Email: _____

Contact Person: _____

Type of Entity: Public Agency Non-Profit Other (Specify) _____

8. VENDORS

List all vendors of the Event: Safety Guys subcontractor

9. ADVERTISING

Will the event be advertised to the Public? Yes No

If yes, by what means?: Radio TV Other _____

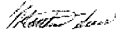
TO BE PROVIDED BY FDO (After evaluation of the Application):

1. FEES AND ADDITIONAL CHARGES

- License Fees \$ _____
- Custodial Fees \$ _____
- Service Costs \$ _____
- Other Costs \$ _____

2. Special Conditions of Use: See attached Exhibit A-1

By signing below, I certify that I have the authority to represent and obligate the Licensee and I agree on behalf of the Licensee to comply with the terms of this Application.



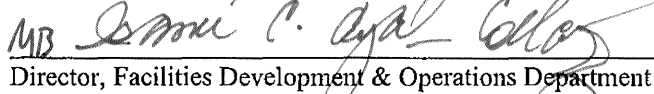
Date: 210525

Signature of Authorized Representative

Matt Sears PM

Printed Name and Title of Authorized Representative

APPROVED BY:


Director, Facilities Development & Operations Department

Date: 5/28/21

OTHER DEPARTMENTAL REVIEW (If necessary):

Signature of Director of Department

Date: _____

EXHIBIT "A-1"

Based upon the intended use as set forth in the Application for License to Use County-Owned Property, the following terms and special conditions are incorporated herein.

A. Purpose

1. The purpose of this Agreement is to install, maintain, and remove a temporary fabric netting ("Dust Screen") on the south face of the Government Center Parking Garage ("Premises"), as set forth on Exhibit "A-2", to prevent dust from Licensee's adjacent construction project from accumulating on building surfaces and vehicles parked on the Premises.

B. Installation

1. Licensee shall provide and install the following:
 - i. a Dust Screen that shall be affixed to the top of the Premises and run the entire width of the south face of the Premises as further detailed and described in Exhibit "A-2."
 - ii. all necessary anchors and cables to properly affix the Dust Screen to the south face of the Premises (Collectively, "Licensee's Equipment"). Licensee's Equipment locations are further detailed and described in Exhibit "A-2."
2. The Dust Screen should be of neutral color, or black, with no advertisements or commercial logos on the Dust Screen. Under no circumstances is the Dust Screen to be used as a billboard for any type of advertising.
3. Permitting. Prior to installation, Licensee shall, at Licensee's sole cost and expense, secure any and all required permits, have the County review, approve and sign all necessary permits, and comply with all regulations of all county, municipal, state, federal and other applicable governmental authorities pertaining to installing and maintaining a Dust Screen of the size and nature being affixed to the Premises.
4. Prior to installation, Licensee shall contact County to set a mutually agreeable time to install Licensee's Equipment. The County contact is Erika Clancy, Facilities Manager, at eclancy@pbcgov.org and (561) 355-4131.
5. Installation of the Dust Screen shall take place before or after regular business hours to ensure minimal disruption of those utilizing the Premises.
6. Prior to Installation, the parties may take pictures to document the state of the building structure before the Dust Screen is installed.

C. Use & Access

1. Licensee shall use the Premises only as expressly authorized herein, and shall not interfere with County's use or operation of the Premises at any time.
2. Licensee is entitled to use and access the Premises to install, maintain, repair and remove the Dust Screen, provided that Licensee notify County, in advance, when it will be accessing the Premises. The County contact is Erika Clancy, Facilities Manager, at eclancy@pbcgov.org and (561) 355-4131.
3. All of Licensee's equipment and personal property placed or located on the Premises shall be at the sole risk of Licensee.

D. Maintenance & Repairs

1. Licensee shall be solely responsible for all maintenance and repairs involving the Dust Screen, and shall maintain the same in a condition acceptable to the County at all times during the term of this License Agreement.
2. In the event that Licensee damages the Premises while installing, maintaining or removing the Dust Screen, Licensee shall pay for and complete the necessary repairs to County standards.
3. Licensee shall notify County, in advance, when it will be using/accessing the Premises to conduct any and all maintenance and repairs to the Dust Screen. The County contact is Erika Clancy, Facilities Manager, at eclancy@pbcgov.org and (561) 355-4131.

E. Removal

1. Upon termination or expiration of this Agreement, Licensee, at its sole cost and expense, shall remove the Dust Screen and Licensee's Equipment from the Premises, fill in the holes made on the Premises for the anchors with painted stucco to match adjacent wall color as close as possible, and shall surrender the Premises to the County in at least the same condition as the Premises were in as of the Commencement Date.
2. Prior to removal, Licensee shall contact County to set a mutually agreeable time to remove the Dust Screen and Licensee's Equipment. The County contact is Erika Clancy, Facilities Manager, at (561) 355-4131.
3. If Licensee fails to remove the Dust Screen and all of Licensee's Equipment within twenty (20) days of the expiration or termination of this License Agreement, then County may perform, or cause to be performed, all necessary removal and/or repairs at Licensee's sole cost and expense.
4. After removal, the parties may take pictures of the building structure to document the state of the building structure after the Dust Screen has been removed.

F. Dust & Damage Complaints

1. On the first floor of the Premises, Licensee, at the direction of the County, shall place a sign providing a contact name and number for users to call.
2. The County shall review and approve the sign, at its sole and complete discretion, and instruct Licensee where to place the sign on the Premises.

G. Removal Due To Weather Event & Hurricane Action Plan

1. The parties recognize that the presence of the Dust Screen during hurricane season poses a concern for public safety and continuous operations.
2. Licensee shall provide County with a detailed action plan for proper protection of the Dust Screen during a hurricane (Hurricane Action Plan), which shall include the protective measures to be taken (disassembly, tie down supports, etc.), and when protective measures will begin to be implemented before an impending storm. Reasonable comments, recommendations and requests by the County with respect to the safety and security of the Dust Screen during a storm shall be accommodated and incorporated into Licensee's Hurricane Action Plan.
3. Regardless of the Licensee's Hurricane Action Plan, the parties recognize that weather reports can change on very short notice and that the County has the right, in its sole discretion, to determine whether the Dust Screen needs to be immediately removed due to a pending weather event. If County determines the Dust Screen must be removed due to a pending weather event, licensee has forty-eight (48)

hours from the time of written or oral notice of County's decision to remove and safely secure the Dust Screen. If Licensee fails to remove the Dust Screen within forty-eight (48) hours, then County may perform, or cause to be performed, the removal of the Dust Screen at Licensee's sole cost and expense.

H. Costs

1. Installation, Maintenance & Removal: Licensee shall be responsible for all costs associated with installing, maintaining, repairing and removing the Dust Screen, including, but not limited to, the cost of the Dust Screen, labor costs, and signage costs.

I. Casualty

1. County is not responsible or liable in any way for the Dust Screen being destroyed or damaged by fire, flood, earthquake, windstorm, theft, sabotage, vandalism, accident or any other casualty of a similar nature. In the event of such a casualty, Licensee is solely responsible for the removal or repair of the Dust Screen or any attendant equipment as well as any damage to the Premises resulting from such casualty. In the event of casualty to the Premises, County has no obligation to repair or compensate Licensee for damage to, or loss of, its Dust Screen and Licensee's Equipment.

J. Insurance

1. If Licensee utilizes a contractor or subcontractor to install, maintain, repair, service or otherwise do any work at the Premises or on the Dust Screen, Licensee's contractor or subcontractor shall:
 - i. Maintain in full force and effect Comprehensive General Liability Insurance and Business Automobile Liability Insurance each in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence combined single limit bodily injury and property damage liability, and Workers Compensation covering all employees in accordance with Chapter 440 of the Florida Statutes. The General Liability policy shall include coverage for the Premises, Operation, Contractual Liability, Independent Contractor's Contractual Liability, and Broad Form Property Damage Liability coverage;
 - ii. Except for Workers' Compensation, all insurance policies shall name County as an Additional Insured; and
 - iii. A Certificate of Insurance evidencing all such insurance coverages shall be provided to County prior to the commencement of work by any of Licensee's contractors or subcontractors.

K. Disclaimer and Release of Liability

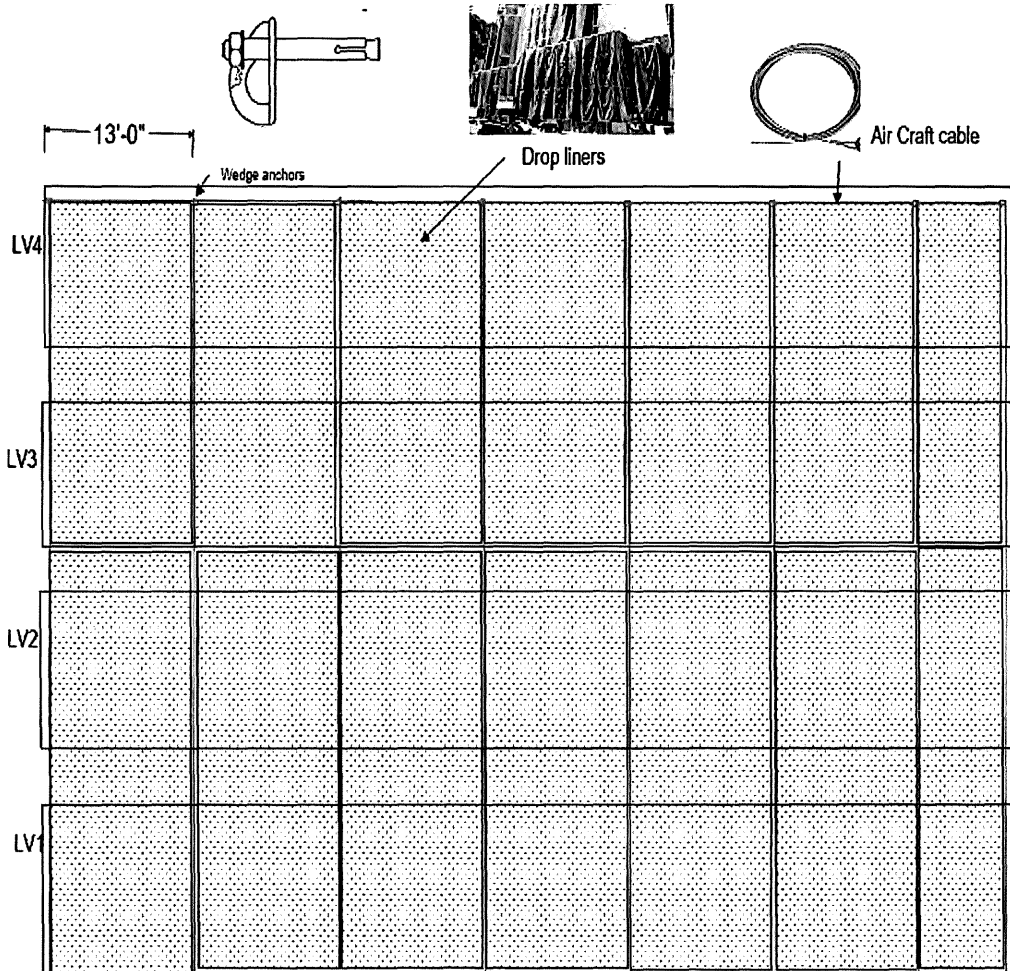
IN CONSIDERATION OF THE COUNTY'S AGREEMENT TO ALLOW LICENSEE TO UTILIZE THE PREMISES TO ATTACH THE DUST SCREEN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, COUNTY HEREBY DISCLAIMS, AND LICENSEE HEREBY WAIVES, RELEASES AND DISCHARGES COUNTY, FROM ANY AND ALL CLAIMS, LIABILITIES, COSTS, CAUSES OF ACTION, LOSSES, DAMAGES, OR PERSONAL INJURIES OR DEATH, WHETHER ARISING IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), OF ANY

NATURE WHATSOEVER, SUSTAINED BY LICENSEE, ITS SUBCONTRACTORS ITS EMPLOYEES, AGENTS, AND INVITEES, DURING THE TERM OF THIS AGREEMENT.

THE PARTIES HERETO EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT OR OTHERWISE (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE).

The provisions of this Section shall survive expiration or termination of this Agreement.

Exhibit "A-2"
Dust Screen Affixed on Premises



Description:

1/2 inch wedge anchors will be drilled into the concrete slab, to install the mountain anchors. Air craft cable will be ran through each mountain anchor. The Liners will be attached to the aircraft cables using construction grade zip ties.