

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date:	November 2, 2021	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Facilities Development & Operations		


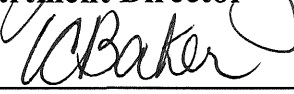
I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a Lease Agreement with the South Florida Regional Transportation Authority for the installation of Ticket Vending Machines for the sale of Palm Tran bus passes at five Tri-Rail Stations in Palm Beach County, commencing upon approval by the South Florida Regional Transportation Authority and expiring upon notice of termination by either party, with no annual rent.

**Summary:** Palm Tran is launching a new fare collection system that includes smart cards for the payment of bus fares. The Ticket Vending Machines (TVMs), which will be located at stations owned/managed by the South Florida Regional Transportation Authority (SFRTA) provides customers convenient locations for the purchase of both discounted and full price Palm Tran bus passes and tickets, allows customers to add funds and manage their accounts and, in the future, will facilitate regional interoperability. Under this Agreement, SFRTA will provide space within the existing SFRTA ticket vending areas at five (5) of the six (6) Tri-Rail Stations in Palm Beach County for Palm Tran to locate the new TVMs. The stations are the West Palm Beach Intermodal Center, Lake Worth, Boynton Beach, Delray Beach, and Boca Raton stations. The stations are located on properties that are either owned by SFRTA or the Florida Department of Transportation (FDOT). FDOT has no objection to the location of the TVMs on FDOT-owned property, which are maintained by SFRTA. TVMs will not be installed at the Mangonia Park Station at this time, which is located on privately-owned property. Palm Tran will provide and maintain the equipment and SFRTA will provide the space and electricity to operate the TVMs at no cost to Palm Tran. This Agreement continues in effect until terminated by either party. Palm Tran will manage this Agreement. **(Property & Real Estate Management) Countywide (HJF)**

**Background and Justification:** On March 17, 2020 the Board of County Commissioners approved a contract with Genfare (R2020-0329) for the acquisition of hardware and software to implement a new Fare Collection System. The implementation of an upgraded Fare Collection System is vital as Palm Tran has utilized the same system since 2007. The fare boxes used on the fleet currently accept bills and coins in addition to using outdated magnetic strip media. Riders are only able to purchase passes on the bus or at a limited number of physical locations. The current hardware and back office software systems are at the end of their useful life and will not be supported by the manufacturer in the near future. Improvements to the system included updating fare collection software, replacement of fare boxes, implementation of contactless smart cards, mobile apps for fare payment as well as expansion of locations to purchase fares. This agreement allows Palm Tran to deploy the TVMs for public use at multiple Tri-Rail Stations.

- Attachments:**
- 1. Location Map
  - 2. Agreement with SFRTA for Installation and Use of TVMs

Recommended By:		<u>10/28/2021</u>
	Department Director	Date
Approved By:		<u>10/20/21</u>
	County Administrator	Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2022	2023	2024	2025	2026
<b>Capital Expenditures</b>					
<b>Operating Costs</b>	(\$-0-)	(\$-0-)	(\$-0-)	(\$-0-)	(\$-0-)
<b>External Revenues</b>					
<b>Program Income (County)</b>					
<b>In-Kind Match (County)</b>					
<b>NET FISCAL IMPACT</b>	(\$-0-)	(\$-0-)	(\$-0-)	(\$-0-)	(\$-0-)
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>					

**Is Item Included in Current Budget:** Yes X No     

Does this item include the use of federal funds?    Yes \_\_\_\_ No X

Budget Account No: Fund 1340 Dept 540 Unit 5140 Object Various  
Program \_\_\_\_\_

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

\* Costs related to the installation of the TVMs are estimated to be \$0. Any costs that become necessary will be covered by the existing Palm Tran operating budget. Maintenance Costs for operating the TVMs are included in Palm Tran's operating budget.

### C. Departmental Fiscal Review:

### III. REVIEW COMMENTS

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

OFMB Fiscal and/or Contract Development Comments:

<u>Robert Raus</u> OFMB 10/10/21 10/13/21 10/13/21	<u>John J. Jacobson</u> Contract Development and Control 10-18-21
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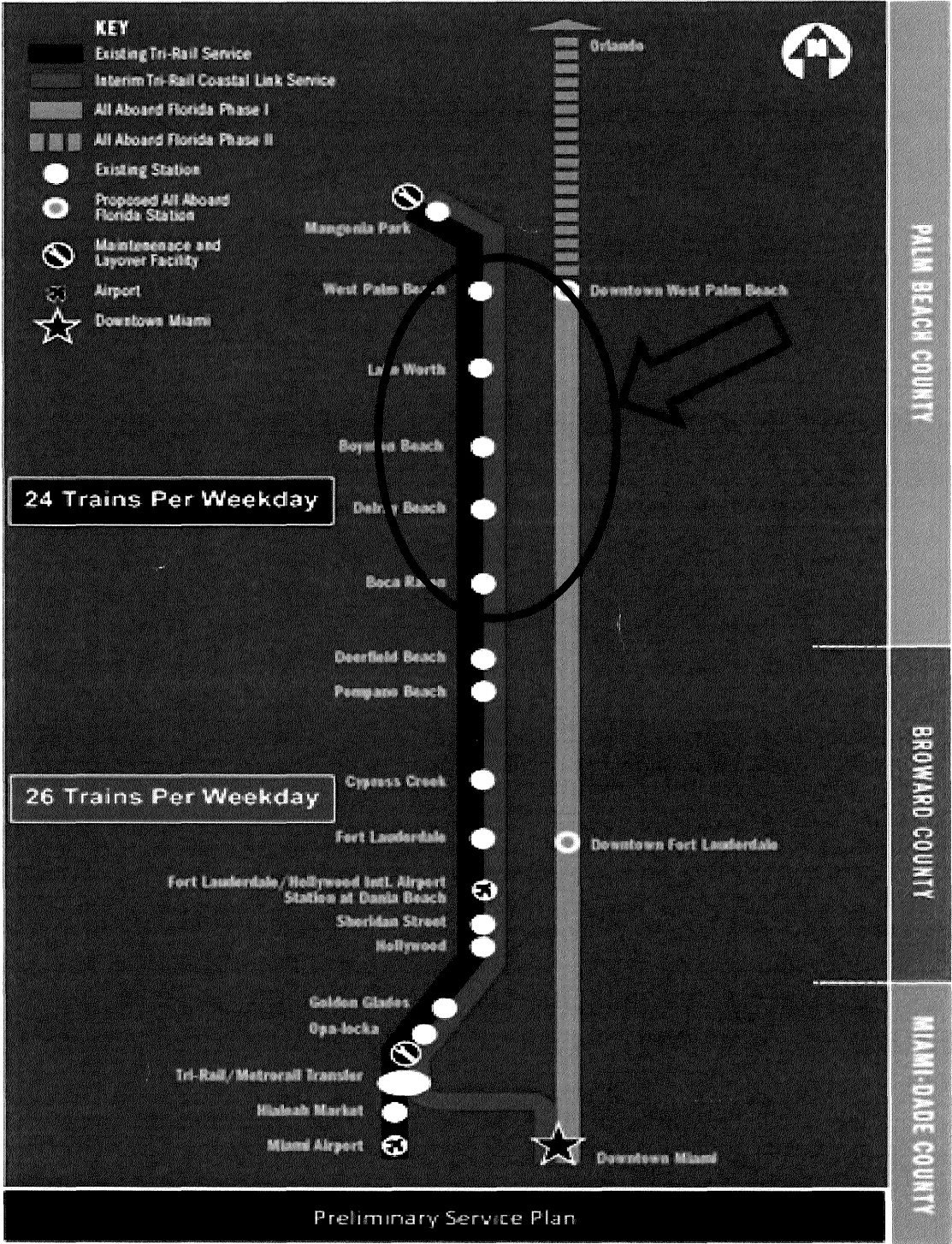
### B. Legal Sufficiency:

Assistant County Attorney

### C. Other Department Review:

Department Director

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



LOCATION MAP



Attachment #2  
Lease Agmt  
15 Pages / 2 copies

## LEASE AGREEMENT

**THIS LEASE AGREEMENT (“Lease”)** is made and entered into this \_\_\_\_\_, by and between South Florida Regional Transportation Authority, herein referred to as “SFRTA” and Palm Beach County, a political subdivision of the State of Florida, on behalf of Palm Tran, herein referred to as “County”.

### RECITALS

**WHEREAS**, County issued a Request for Proposal (RFP) for a new fare collection system for its bus services and the County subsequently entered into a contract with Genfare (Vendor) to install a fully integrated fare collection system that supports and facilitates Palm Tran’s business operation; and

**WHEREAS**, as part of the new fare collection system, County, through its Vendor, will be installing ticket vending machines, as depicted on Exhibit “A”, attached hereto and incorporated herein (TVMs), throughout the county; and

**WHEREAS**, County is seeking to install some of the TVMs on property owned and/or maintained by SFRTA; and

**WHEREAS**, the Florida Department of Transportation (FDOT) has no objection to the location of the TVMs on FDOT-owned property which are maintained by the SFRTA and supports SFRTA and PBC entering into this Lease; and

**WHEREAS**, SFRTA and County seek to set forth the understandings and responsibilities concerning the installation, maintenance and use of the TVMs on property owned and/or maintained by SFRTA.

**NOW THEREFORE**, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows.

- 1. Recitals.** The foregoing recitals are true and correct, and incorporated herein by reference.
- 2. Purpose.** The purpose of this Lease is to set forth the terms, conditions and responsibilities for installing, maintaining and operation of the TVMs at the locations listed in Exhibit “A-1”, attached hereto and incorporated herein (Premises).

3. **Premises.** The locations listed in Exhibit “A-1” may be updated by the addition of secondary locations as requested by the County Representative and the approval in writing by the SFRTA Representative.

Upon approval by SFRTA of the addition, Exhibit “A-1” of this Lease will be revised by SFRTA. The revised document will be sent to all parties as set forth on section 15.A and it will be automatically incorporated into the Lease on the effective date of said notice.

4. **Representatives.** SFRTA's representative/liaison during the performance of this Lease shall be Jessica Vargas, Transportation Planning Manager, telephone no. 954-788-1783.

County's representative/liaison during the performance of this Lease shall be Donald Livernois, Revenue Administrator, telephone no. 561-812-5310.

Any party may from time to time change the representative/liaison, upon three (3) days prior written notice to the other party.

5. **Commencement Date and Duration.** This Lease shall commence and become effective and binding on the date the parties have fully executed this Lease. Unless terminated, this Lease shall expire on the date when County removes all TVMs from the Premises.

6. **Costs.** County shall be responsible for all installation, maintenance and operating costs associated with the use of the Premises, including, but not limited to, any and all construction (including improvements necessary to expand existing electrical/data needs to accommodate TVM installation), repair, maintenance, replacement, relocation and removal costs.

7. **SFRTA Responsibilities.** SFRTA shall not be responsible for any building modifications or connections to building infrastructure required for the installation, repair, replacement, relocation and/or removal of the TVMs, including electrical/data connections and wall and floor penetrations. SFRTA shall provide these locations and the supply of electric utility service for the vending equipment, at no cost to County. In no event shall SFRTA be responsible for an interruption or failure in the supply of electric utility service to the vending equipment.

8. **Installation of the TVMs.**

- 8.1 County must submit to SFRTA a site plan/drawing/pictures of each location for the installation of each TVM, along with any electrical plans/data/cable connections

that will be needed. Only one (1) TVM will be allowed within each TVM enclosure at the locations identified in Exhibit “A-1”. SFRTA will review, provide comments and/or approve the location of each TVM prior to installation, within ninety (90) days of receipt, failing which SFRTA shall be deemed to have consented to such plans and specifications. The location of County’s TVMs within the TVM enclosure are also subject to review by SFRTA for ADA compliance.

8.2 County shall not add any vending equipment to a location identified in Exhibit “A-1” or locate any vending equipment at a new location managed by SFRTA without the written approval of SFRTA representative/liaison.

8.3 All proposed building modifications and connections to building infrastructure, including electrical/data connections, cable connections, and wall penetrations, are subject to SFRTA representative/liaison approval, under the same terms set for in section 8.1.

## **9. Operation of the TVMs.**

9.1 County shall obtain all licenses and permits necessary to install and operate the vending equipment at County’s own expense. SFRTA will assist County in obtaining property owner consent when necessary for those locations not owned by SFRTA.

9.2 County shall monitor and maintain the fare card inventory in all TVMs once every seven (7) days; and keep the TVMs in good working order. SFRTA may request the replacement of any TVM that is not kept in good working order.

9.3 County is responsible for all issues associated with the vending equipment, including issues which result in a complaint from a user.

9.4 County shall provide instructions on the vending equipment advising users how to operate the vending equipment safely and properly; and provide a contact number on the vending equipment for users to call for complaints, refunds or provide notice of TVM malfunctions.

9.5 County shall collect all revenue from the TVMs and check each TVM’s inventory of fare cards on a regular basis, which is defined as at least once every seven (7) calendar days. County is responsible for the development, coordination and implementation of all security procedures regarding revenue collection from the TVMs. County shall set an advance schedule and notify SFRTA representative/liaison regarding the times revenue collection is scheduled for each

TVM. County acknowledges that while SFRTA Security Officers may be in close proximity to the TVMs and able to provide general support when needed, providing security assistance for TVMs is not part of their assigned functions.

9.6 Signage. County shall not place any sign or advertising matter on SFRTA managed property or County's vending equipment without first obtaining the written approval of SFRTA representative/liaison. County further agrees that such signs or advertising matter or other things, as may be approved, shall be maintained in good condition and repair at all times at the expense of the County. Any sign or advertising matter must clearly identify the fare cards sold as Palm Tran Bus tickets, and avoid any language that will create confusion with Tri-Rail tickets/customers.

9.7 Rules of Premises. County shall adhere to the building rules that govern each location where a TVM is situated.

9.8 Access to the Premises. County acknowledges and agrees that the TVMs shall only be available for use when the SFRTA has the location open for business. TVM enclosures and gates are the property of SFRTA and controlled by SFRTA's staff or contractor. Access to County TVMs must comply with SFRTA's requirements related to enclosures or gates

9.9 Relocation of the TVMs. SFRTA representative/liaison at its option, reserves the right to request that County's TVMs be relocated into another area of similar size within ninety (90) days, at County's sole cost and expense, if SFRTA has a need for the space. In the event that County does not agree to the relocation as provided herein, this Lease shall terminate as to that location only.

## **10. Repair and Maintenance of the TVM.**

10.1 County shall maintain all vending equipment in good working order at all times except due to circumstances beyond County's control, such as during periods of electrical power or data connection outages.

10.2 County shall clean the TVM's twice a month or within two (2) days upon receipt of notice of defacement.

10.3 County shall provide all necessary repair and maintenance to the TVMs. County shall provide routine maintenance on the TVMs to ensure they remain in good working order. The TVM is self-monitoring and provides automatic alerts to County when in need of repair. Upon notice from the TVM, County shall provide



all the repairs necessary to restore the TVM to full operation. Should the need arise to contact County regarding repair or maintenance of the TVM, SFRTA shall contact Donald Livernois, Revenue Administrator at 561-812-5310. County shall repair or replace any machine that is damaged or unsightly within five (5) business days of verbal notice from SFRTA.

- 10.4 For any repair or maintenance activity, other than those performed by County employees, if County needs to utilize its Vendor or a contractor/subcontractor, County shall notify and obtain approval from SFRTA representative/liaison for such repair or maintenance activity. SFRTA may choose to escort County's Vendor or contractor/subcontractor during the repair of or the maintenance on the TVM.
- 10.5 County shall immediately notify SFRTA representative/liaison if it becomes aware of any possible health, safety and/or security hazards that may exist within the vending equipment so corrective actions can be determined and implemented by County.
- 10.6 SFRTA shall not be obligated or required to make or conduct any maintenance or repairs to any vending equipment.

#### **11. Removal of the TVM.**

- 11.1 County shall not remove vending equipment subject to this Lease without the approval of SFRTA, which shall not be unreasonable withheld, conditioned or delegated.
- 11.2 SFRTA shall review and approve County's request to remove or relocate vending equipment and coordinate the removal process of the vending equipment from the Premises with County and its Vendor or contractor/subcontractor. Such request shall be provided to SFRTA representative/liaison following the terms set forth in Section 8.1.
- 11.3 Upon removal, County shall return the Premises in at least the same condition as the Premises were in upon execution of this Lease, reasonable wear and tear excepted. County will be responsible for all cost of removal.
- 11.4 The County reserves the right to remove TVMs from one or multiple locations, identified in Exhibit "A-1" in its sole discretion without terminating this Lease as to the remainder of the locations.

## **12. Security.**

- 12.1 County agrees and acknowledges that it has inspected the locations of the TVMs and accepted the locations “As-is”, “Where is” including the current security conditions. County acknowledges that there may not be security cameras in the general area of the TVM or, if there are, such security cameras are not there to solely ensure the security of the TVM nor any persons using same.
- 12.2 County acknowledges and accepts full responsibility for the inventory placed in the TVM.
- 12.3 County shall immediately notify SFRTA representative/liaison of any losses incurred or security incidents. SFRTA is not responsible for any losses, theft or damage to County’s TVM.

## **13. Termination.**

- 13.1 If County fails to perform the obligations required of it under this Lease, it shall be in default of this Lease and SFRTA may terminate this Lease.
- 13.2 County may terminate this Lease in whole or part at its convenience upon ten (10) days’ prior written notice to SFRTA.
- 13.3 SFRTA, in its discretion, may terminate this Lease in whole or part upon 180 days written notice to County.
- 13.4 Upon termination of this Lease, County shall follow the procedure set forth in section 11 to remove the TVMs.
- 13.5 FDOT, in its discretion, may terminate this Lease in part, limited to FDOT-owned property only, upon 180 days written notice to County and SFRTA.

## **14. Insurance**

- 14.1 County is a political subdivision of the State of Florida subject to the limitations of Florida Statutes, Chapter 768.28 as amended. Nothing herein shall serve as a waiver of sovereign immunity. County shall maintain a fiscally sound liability program with regard to its obligations under this Lease, and shall provide proof of its liability program to SFRTA within three (3) days of a written request. Should County contract with a third-party to make alterations, additions, repairs, or other

improvements, County shall require its third-party to provide commercial general liability insurance with a minimum limit of One Million Dollard (\$1,000,000) and include SFRTA and County as Additional Insureds.

14.2 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, neither SFRTA or FDOT shall be liable for any damage to such personal property, except to the extent caused by the SFRTA or FDOT, its agents', or its employees' willful or negligent acts or omissions.

#### **15. Miscellaneous Provisions.**

**A. Notices.** Any notice given pursuant to the terms of this Lease shall be in writing and be delivered by Certified Mail, Return Receipt Requested. The effective date of such notice shall be the date of receipt, as evidenced by the Return Receipt. All notices shall be addressed to following:

As to the County:

Palm Beach County  
Palm Tran  
Attn: Executive Director  
100 North Congress Avenue  
Delray Beach, FL 33445-3436  
Telephone 561-841-4200

With a copy to:

Palm Beach County Attorney's Office  
Attn: Palm Tran Attorney  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 33401  
Telephone 561-355-2225  
Fax 561-355-4398

Property and Real Estate Management  
Attn.: Director  
2633 Vista Parkway  
West Palm Beach, FL 33411

As to SFRTA:

South Florida Regional Transportation Authority  
Attn: Executive Director  
801 NW 33<sup>rd</sup> Street,  
Pompano Beach, FL 33064

With a copy to:

SFRTA General Counsel  
801 NW 33<sup>rd</sup> Street,  
Pompano Beach, FL 33064

SFRTA Planning & Capital Development  
Attn: Director  
801 NW 33<sup>rd</sup> Street,  
Pompano Beach, FL 33064

A copy of all Notices shall be provided to the representative/liaison for the other party. 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 parties.

- B. Governmental Regulations.** County shall, at County's sole cost and expense, comply with all ordinances, laws, statutes and regulations promulgated thereunder of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to County's TVM services.
- C. Entire Agreement.** This Lease and any exhibits hereto constitute all agreements, conditions and understandings between County and SFRTA concerning use of 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 County or SFRTA unless reduced to writing and signed by them.
- D. Severability.** If any term of the Lease or the application thereof to any person or circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Lease, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of the Lease shall be valid and enforceable to the fullest extent permitted by law.

**E. Governing Law and Venue.** This Lease shall be governed by the laws of the state of Florida. Any legal action necessary to enforce the Lease shall be held in a state court of competent jurisdiction located in Palm Beach County, Florida.

**F. Headings.** The paragraph headings or captions appearing in this Lease are for convenience only, are not part of this Lease, and are not to be considered in interpreting this Lease.

**G. Enforcement of Remedies.** The waiver by either party hereto of any default of any term, condition, or covenant herein contained shall not be a waiver of such term, condition, or covenant herein contained. The consent or approval by either party to or of any act requiring a party's consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

**H. Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**I. Effective Date.** This Lease is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and SFRTA, and shall become effective only when signed by both Parties.

**J. Indemnification.** The County and SFRTA recognize their respective liability for certain tortuous acts of their agents, officers, employees and invitees to the extent and limits provided in Section 768.28, Florida Statute. To the extent permitted by law, the County and SFRTA shall indemnify, defend and hold each other harmless against any action, claims and damages arising out of either the County's or SFRTA's negligence in connection with this Lease. The forgoing indemnification shall not constitute a waiver of the sovereign immunity beyond the limits set forth in Section 768.28, Florida Statute, nor shall the same be construed to constitute an agreement by the County or SFRTA to indemnify each other for the sole negligence, or willful or intentional acts of the other. The forgoing indemnification shall survive the termination of this Lease.

As it relates to FDOT, the County acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28 and acknowledges that such statute permits actions at law against the County to recover damages in tort for money damages up to the amounts set forth in such statute for injury or loss of property, personal injury, or death caused by the negligence or wrongful act or omission of an employee of County while acting within the scope of the employee's office or employment under circumstances in which County, if a private person, would be liable under the general laws of this State.

**K. Palm Beach County Office of the Inspector General Audit Requirements.** 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.

**L. Default.** The parties expressly covenant and agree that in the event either party is in default of its obligations under this Lease the party not in default shall provide to the defaulting party thirty (30) days written notice that it intends to terminate this Lease upon a specified date not less than ninety (90) days after the date said notice is received by the other party, 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 the default party undertakes such cure within such period and the other party is so notified, this Lease will continue.

**M. No Third Party Beneficiary.** No provision of this Lease is intended to, nor shall it 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 citizen or employees of the County and/or SFRTA, with the exception of FDOT, which shall be deemed to be a third party beneficiary of the provisions hereof that specifically identify FDOT.

**N. Non-Discrimination.** The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, SFRTA warrants and represents that throughout the term of the Lease, 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 this Lease.

**O. Assignment.** 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 SFRTA's prior written

consent, which shall not be unreasonably withheld. In the event of an approved assignment, County shall be released from any further obligation hereunder. Any sale, mortgage, pledge, or encumbrance of the Premises by SFRTA shall be subject to the terms of this Lease.

**P. Annual Budgetary Funding/Cancellation.** This Lease and all obligations of County hereunder requiring the expenditure of funds are subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written.

ATTEST:

SOUTH FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY

Date: \_\_\_\_\_

\_\_\_\_\_  
Steven L. Abrams, Executive Director

By: \_\_\_\_\_  
Hal R. Valeche, Chair

Approved as to Form and Legal Sufficiency:

By: \_\_\_\_\_  
Teresa J. Moore, General Council

FDOT Acknowledgement

DocuSigned by:  
*Christopher Burgess*  
By: 826B604F0A6C493...  
Christopher Burgess, Rail Administration Manager  
Florida Department of Transportation



**ATTEST:**

**JOSEPH ABRUZZO**  
**CLERK OF THE CIRCUIT COURT &**  
**COMPTROLLER**


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


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

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

**APPROVED AS TO LEGAL**  
**SUFFICIENCY:**

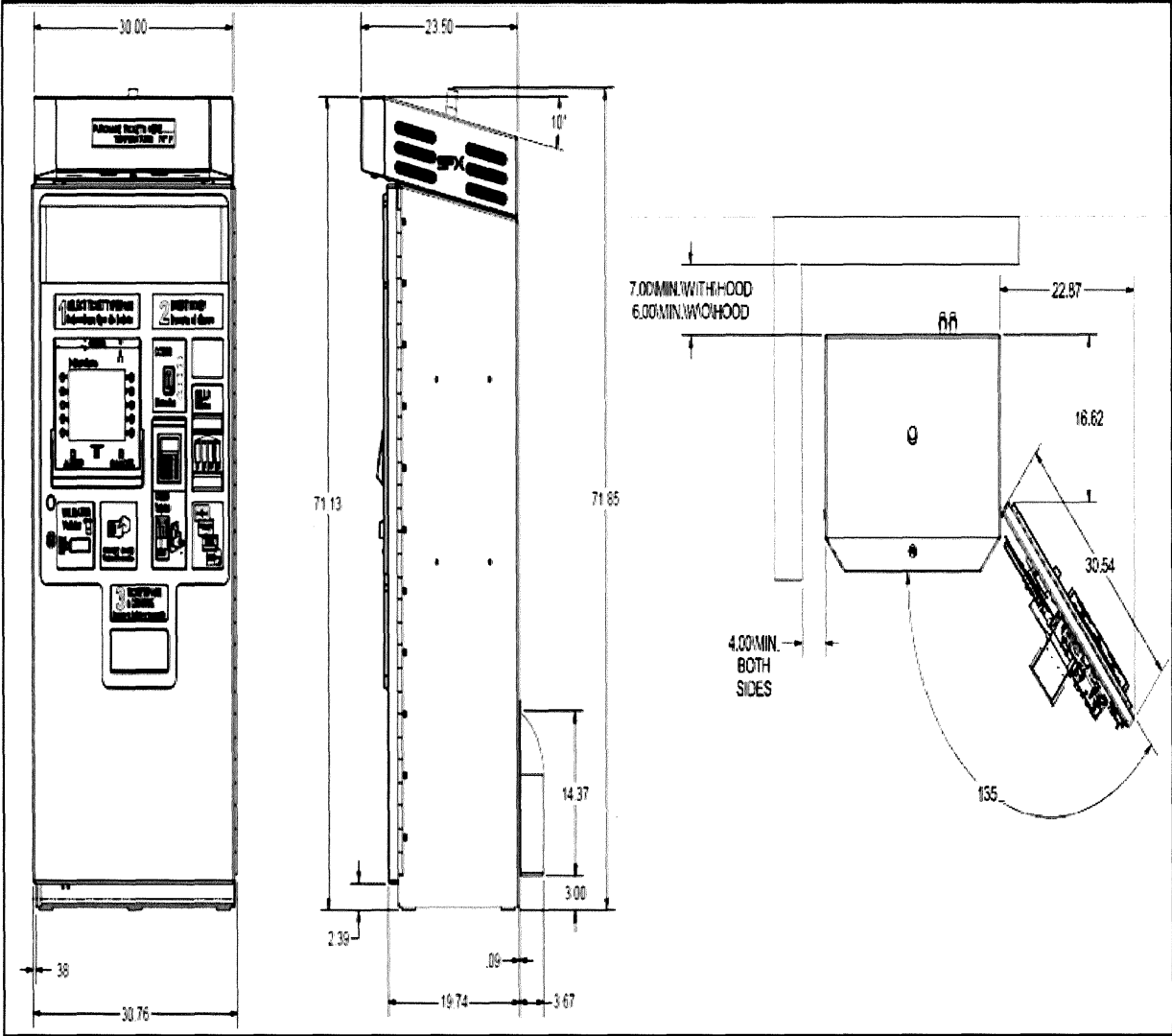
**APPROVED AS TO TERMS AND**  
**CONDITIONS:**

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

By:  \_\_\_\_\_  
Isami Ayala-Collazo, Director  
Facilities Development & Operations

G:\PREMPM\Out Lease\PALM Tran Ticket  
Vending\Drafts\Palm Tran - SFRTA TVMS HF approved  
9.20.docx

**Exhibit A**  
**TVM Depiction**



**Exhibit “A-1”**  
**TVM Locations**

**West Palm Beach Intermodal**  
203 South Tamarind Avenue,  
West Palm Beach

**Lake Worth Station**  
1703 Lake Worth Road  
Lake Worth

**Boynton Beach Station**  
2800 High Ridge Road  
Boynton Beach

**Delray Beach Station**  
345 Congress Avenue  
Delray Beach

**Boca Raton Station**  
680 Yamato Rd  
Boca Raton