

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is made and entered into _____, 2021, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County" and the City of Delray Beach, a municipal corporation of the State of Florida, hereinafter referred to as "City" or "Licensee".

WITNESSETH:

WHEREAS, County is the owner of certain real property in Palm Beach County, Florida, known as the South County Courthouse located at 200 W. Atlantic Ave., Delray Beach, Florida (the "Property"); and

WHEREAS, Licensee desires to use the County owned parking facilities at the South County Courthouse; and

WHEREAS, County is willing to grant Licensee a revocable license to use said Property for the purposes hereinafter defined and subject to the Special Conditions of Use as set forth in Exhibit "A" attached hereto and by reference made a part hereof.

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 grants the Licensee a revocable license to use the Premises as hereinafter defined upon the following terms and conditions:

ARTICLE I BASIC PROVISIONS

Section 1.01 Premises.

The Premises which are the subject of this Agreement consist of the County owned parking garage and the surface lot adjacent to the east and north side of the parking garage at the South County Courthouse.

Section 1.02 Length of Term and Commencement Date.

The term of this Agreement shall be from November 30, 2021, to April 10, 2022 as more specifically described below, unless sooner terminated pursuant to the provisions of this Agreement.

The specific dates, uses and operating hours licensed hereunder are as follows:

Tree Lighting	Tuesday, November 30, 2021	6:00PM -9:00PM
Holiday Parade	Saturday, December 11, 2021	3:00PM -9:00PM
New Year's Eve	Friday, December 31, 2021	3:00PM – 12:00AM
	Saturday, January 1, 2022	12:00AM – 3:00AM
Delray Beach Open	Friday, February 11, 2022	5:00PM – 10:00PM
	Saturday, February 12, 2022	8:00AM – 9:00PM
	Sunday, February 13, 2022	9:00AM – 7:00PM
	Monday – Friday	
	February 14 - 18, 2022	5:00PM – 10:00PM
	February 14 -18, 2022 (top floor only for City Hall staff parking)	8:00AM – 5:00PM
	Saturday, February 19, 2022	9:00AM – 10:00PM
	Sunday, February 20, 2022	9:00AM – 5:00PM
St Patrick's Parade	Saturday, March 12, 2022	11:00AM – 11:00PM
Delray Affair	Friday, April 8, 2022	5:00PM – 10:00PM
	Saturday, April 19, 2022	9:00AM – 7:00PM
	Sunday, April 10, 2022	9:00AM – 7:00PM

ARTICLE II LICENSE FEE

Section 2.01 License Fee.

Licensee shall be entitled to use the Premises without charge.

ARTICLE III CONDUCT OF BUSINESS AND USE OF PREMISES BY LICENSEE

Section 3.01 Use of Premises and Hours of Operation.

Licensee shall use the Premises solely and exclusively for parking for the Delray Beach special events listed in Section 1.02 subject to the Special Conditions of Use set forth in Exhibit "A", attached hereto and incorporated herein by reference. Licensee shall not use, permit or suffer the use of the Premises for any other business or purpose whatsoever. The use of the Premises by Licensee shall not interfere with County's use of, access to and parking on the County's contiguous Property. Licensee hereby agrees that all parking required by Licensee, its agents, employees, or invitees shall be accommodated and confined to the Premises. Licensee, at its sole cost and expense, shall provide all traffic control and enforcement necessary to ensure that Licensee's use of the Premises does not interfere with County's use of its contiguous property and that there will

be no entry or use of any County building on the Property by the Licensee's agents, employees or invitees.

Licensee may charge a fee of \$5.00 for the use of parking. Licensee shall provide the County with a report indicating the total amount of fees collected as well as expenses incurred in collecting the fees and in complying with the other requirements of this Agreement. Licensee acknowledges that the County will approve the Licensee to collect a fee for parking when the revenues from same are accrued only to the Licensee, the County, and/or the Delray Beach Public Library.

Licensee acknowledges that while not a party to this Agreement, the County will only approve the Licensee if the Licensee's use does not interfere with, or is acceptable to the Delray Beach Public Library.

Section 3.02 Licensee's Work.

Licensee shall make no improvements, alterations or additions to the Premises without the prior written consent of County. Licensee agrees and acknowledges that any such work performed by Licensee whether pursuant to this Section or otherwise, is performed and accomplished solely for the benefit and convenience of Licensee, and not for the benefit of County, such work being nevertheless subject to each and every provision of this Agreement.

Section 3.03 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 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 operations, on the Premises or in any manner not permitted by law. All refuse is to be removed from the Premises daily at Licensee's sole cost and expense. Licensee will keep the access to the Premises, the parking areas, driveways and other contiguous areas to the Premises free and clear of obstruction.

Section 3.04 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.

Section 3.05 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, 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.

Section 3.06 Surrender of Premises.

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.

ARTICLE IV REPAIRS AND MAINTENANCE OF PREMISES

Section 4.01 Responsibility of County and Licensee.

County shall not be obligated or required to make or conduct any maintenance or repairs as a condition of this Agreement. Upon expiration or earlier termination of this Agreement, Licensee shall deliver the Premises to County in good repair and condition as specified herein. In the event any damage occurs to the Premises during Licensee's use pursuant to this Agreement, County shall complete the necessary repairs and Licensee shall reimburse County for all expenses incurred by County in doing so.

ARTICLE V INSURANCE AND INDEMNITY

Section 5.01 Liability Insurance.

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the Licensee represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If Licensee is not self-insured, Licensee shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the Statute.

Should Licensee purchase excess liability coverage, Licensee agrees to include County as an Additional Insured.

The Licensee agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes.

Should Licensee contract with a third-party (Contractor) to perform any service related to the License, Licensee shall require the Contractor to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include Licensee and County as Additional Insureds. Licensee shall also require that the Contractor include a Waiver of Subrogation against County.
- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the Licensee shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the Licensee of its liability and obligations under this Agreement.

Section 5.02 Vendor Insurance.

If Licensee employs a vendor in connection with the permitted use of the Premises, then such vendor shall provide and maintain at its sole cost and expense, in a form and content acceptable to the County: (i) Commercial General Liability Coverage at a limit of liability of not less than \$1,000,000 Each Occurrence; (ii) Workers Compensation insurance covering all employees in accordance with Chapter 440 Florida Statutes; and (iii) Garagekeeper's Liability Coverage with minimum limits of \$100,000 per occurrence against Comprehensive and Collision/Upset causes of loss. When a per vehicle sublimit applies, the minimum sublimit shall be \$50,000 per vehicle. An "on-hook" endorsement, or similar coverage, shall have a minimum limit of \$50,000 per vehicle providing physical damage legal liability for the same causes of loss above on any vehicle while in tow. Any per vehicle or per occurrence deductible shall be the vendor's responsibility. Coverage shall not contain any endorsement(s) excluding nor limiting Premises/Operations, Personal Injury, Product/Completed Operations, Contractual Liability, Severability of Interests or Cross Liability. Coverage shall be provided on a primary basis. Notwithstanding the foregoing, County may require additional coverage(s) of the type(s) and in the amount(s) specified by the County based upon the requested use.

Section 5.03 Certificates of Insurance.

Licensee shall provide County, at least fifteen (15) days prior to the date of the requested use, with a certificate(s) of insurance evidencing the required coverage(s) and naming the County as both

an additional insured and a certificate holder. The Additional Insured shall read “**Palm Beach County Board of County Commissioners, a political subdivision of the State of Florida, its Officers, Employees and Agents**”. The Certificate Holder shall read “**Palm Beach County Board of County Commissioners c/o FDO, 2633 Vista Parkway, West Palm Beach, Florida 33411-5603**”.

The evidence of all insurances required by this Agreement shall be delivered to:

Palm Beach County
Facilities Development & Operations Department
2633 Vista Parkway
West Palm Beach, FL 33401
Email: PBCFacilityUsePermit@pbcgov.org

Section 5.04 General Provisions.

Except for Workers Compensation, all insurance policies shall name the County as Additional Insured. Such insurance shall be in an insurance company licensed to do business in the State of Florida and subject to the approval of the County's Risk Management Department. A Certificate of Insurance evidencing such insurance coverage shall be provided to the County at least fifteen (15) days prior to the Commencement Date, such Certificate indicating at least thirty (30) 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 Lease. 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 Agreement, County shall have the right of injunction, or County may immediately terminate this 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

Section 5.05 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.

Section 5.06 Waiver by Licensee and Licensee's Insurers of Subrogation.

In the event of loss or damage to the Premises and/or any of Licensee's improvements, 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.

ARTICLE VI UTILITIES

Section 6.01 Responsibility for 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.

ARTICLE VII REVOCATION OF LICENSE

Section 7.01 Revocation of License.

Notwithstanding anything to the contrary contained herein, the rights granted to Licensee hereunder amount only to a license to use the Premises, which license is expressly revocable by County for any reason whatsoever upon notice to Licensee. Upon Licensee's receipt of notice from County of the revocation of the license granted hereby, this Agreement shall terminate and County shall be relieved of all further obligations hereunder accruing subsequent to the date of such termination.

ARTICLE VIII MISCELLANEOUS

Section 8.01 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 concerning the Premises. All representations, either oral or written, shall be deemed to be merged into this Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Agreement shall be binding upon County or Licensee unless reduced to writing and signed by them.

Section 8.02 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:

If to the County at:

Parking Coordinator
PBC Judicial Center Garage/Facilities Development and Operations
505 Banyan Blvd.
West Palm Beach, FL 33401

If to the Licensee at:

City of Delray Beach
City Manager
City Hall
100 N.W. 1st Avenue
Delray Beach, FL 33444

If to the Library at:

Executive Director
Delray Beach Public Library
100 W Atlantic Ave
Delray Beach., FL 33444

Section 8.03 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.

Section 8.04 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 AGREEMENT.

Section 8.05 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.

Section 8.06 Time of Essence.

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

Section 8.07 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.

Section 8.08 No Third Party Beneficiary.

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

Section 8.09 Survival.

Notwithstanding anything in the Agreement that is or may be construed to the contrary, any provision of this Agreement 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 Agreement shall survive the expiration or earlier termination of this Agreement.

Section 8.10 E-Verify – Employment Eligibility

Licensee warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of the Licensee's contractors and subcontractors performing any duties and obligations under this License are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

County shall terminate this License if it has a good faith belief that Licensee has knowingly violated Section 448.09(1), Florida Statutes as may be amended.

Remainder of this page left intentionally blank

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

LICENSEE:

WITNESS:

CITY OF DELRAY BEACH, a municipal corporation of the State of Florida

By: _____

APPROVED AS TO
LEGAL SUFFICIENCY

By: _____
City Attorney

WITNESS:

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

By: _____
Isamì Ayala-Collazo, Director
Facilities Development & Operations

APPROVED AS TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: _____
Mark Broderick, Business and Community
Agreements Manager

Exhibit “A”

Special Conditions of Use

1. Licensee shall coordinate with Fred Hertzner (561-276-1218 or 954-461-1866) (“County Staff”) in order to obtain the key for access to the Parking Garage for the date of licensed use prior to 4:00 p.m. on the date of the use if such date is a County business day. If the date of licensed use is for a Saturday, Sunday or other County holiday, then Licensee shall coordinate with County Staff prior to 4:00 p.m. on the business day immediately prior to the date of licensed use. Licensee shall coordinate with County Staff in order to return the key on the next business day immediately following the date of licensed use. The Licensee will be responsible for making sure the Premises are vacant and for fully securing the Parking Garage after each use.
2. The Licensee will assume all safety and security duties and responsibilities during the authorized hours of use as set forth in Section 1.02 herein. The Licensee will assume and be solely responsible for the safety and security of the Premises and all vehicles, Licensee vendors, employees, volunteers and all public users during the hours of licensed use, and so long as any vehicle parking in the Premises during the licensed use remains in or on the Premises until same is removed.
3. During the entire time of the requested use, Licensee shall place a sign at the entrance of the Premises that states: (i) the exact time that the garage and surface lot will open and close on each date of the licensed use and (ii) that in the event a vehicle is left in the Parking Garage after the posted time of closure that the vehicle may be retrieved from the Parking Garage on the next County business day, and (iii) telephone contact of Licensee vendor or Licensee staff in case additional information or assistance is required. Furthermore, the sign shall remain visible after the time of closure until the keys to the Parking Garage are returned to County Staff.
4. The Licensee will man the entrance to the Premises during all hours of licensed use. If the Licensee has to leave the Premises, the Premises WILL BE SECURED and a sign posted until his/her return.
5. Licensee shall secure 35 parking spots on the exterior surface lot for exclusive use of Library employees and patrons when events take place during the Library hours of operations. Licensee will be responsible for monitoring the use of those parking spots. See attachment 1 to exhibit A.
6. Licensee shall be responsible for providing emergency access to the Premises during each period of licensed use as set forth in Section 1.02 of the Agreement. Licensee shall coordinate with the City of Delray Beach Police Department regarding the foregoing.
7. The Delray Beach Police Department is responsible for responding to emergencies at the Premises during the hours of licensed use pursuant to this Agreement.
8. Any vehicle left in the Parking Garage after closing must be removed prior to 7:00 AM on the next business day. The Licensee may choose to have the vehicle towed or to have the Delray Beach Police Department try to locate the owner. Nevertheless, it is the Licensee’s responsibility to ensure removal of any vehicle left in the Parking Garage no later than 7:00 AM on the next business day.

9. Licensee shall follow and adhere to all CDC guidelines and recommendations to slow the spread of the novel coronavirus, including taking appropriate social distancing measures and wearing a face covering or face mask.
10. The Premises are to be cleaned prior to the Licensee securing the Garage and returning the keys to the County. The clean-up shall include emptying trash receptacles and picking up litter and trash in or on the Premises and on the outer perimeter of the Premises.
11. The Licensee must provide routine spill maintenance and/or barricade off areas of the Premises that become unsafe, slippery or wet during the licensed use until such time that Licensee has appropriately addressed and cleaned the area.
12. Any damage to the Premises, and/or incident, accident, or injury requiring a police or emergency response occurring during the Licensee's use, must be immediately reported to Facilities Management at the contact number set forth in paragraph 14 below, prior to the Licensee leaving the Premises for the evening. Licensee is responsible for taking immediate action to barricade off damaged areas from use, and post warning signs, or take such other steps as reasonably required in the situation to prevent further damage and/or injury to persons.
13. Problems with the elevators, lights, or other facility related mechanical items occurring during the licensed use shall be reported to Facilities Management at the contact number set forth in paragraph 14 below.
14. **County Contact Information**
 - A. **Regular Business Hours.** Contact information during regular business hours is to Facilities Management Fred Hertzler 561-276-1218 or 561-461-1866 and Parking Coordinator William Dart at 561-355-1755.
 - B. **After Hours/Holidays/Weekends for Facility Issues:** Contact information for after-hours, weekends and holidays is to County's Emergency Operations Center at 561-712-6428. ***Examples of Facilities Issues are power outages, elevator non-operational, gates not operating, etc.***
 - C. **After Hours/Holidays/Weekends for Non-Facility Issues:** Contact information for after-hours, weekends and holidays is to PBSO Courthouse Command Center at 561-355-6630.
15. In accordance with Section 3.01 of this Agreement, Licensee shall utilize and complete the Parking Fee and Expense Report Form, attached hereto as Exhibit "A-1" and incorporated herein. Licensee shall submit this parking Fee and Expense Report to County within five (5) business days after an event as designated in Section 1.02 ends.

Attachment 1
Surface Lot & Garage layout

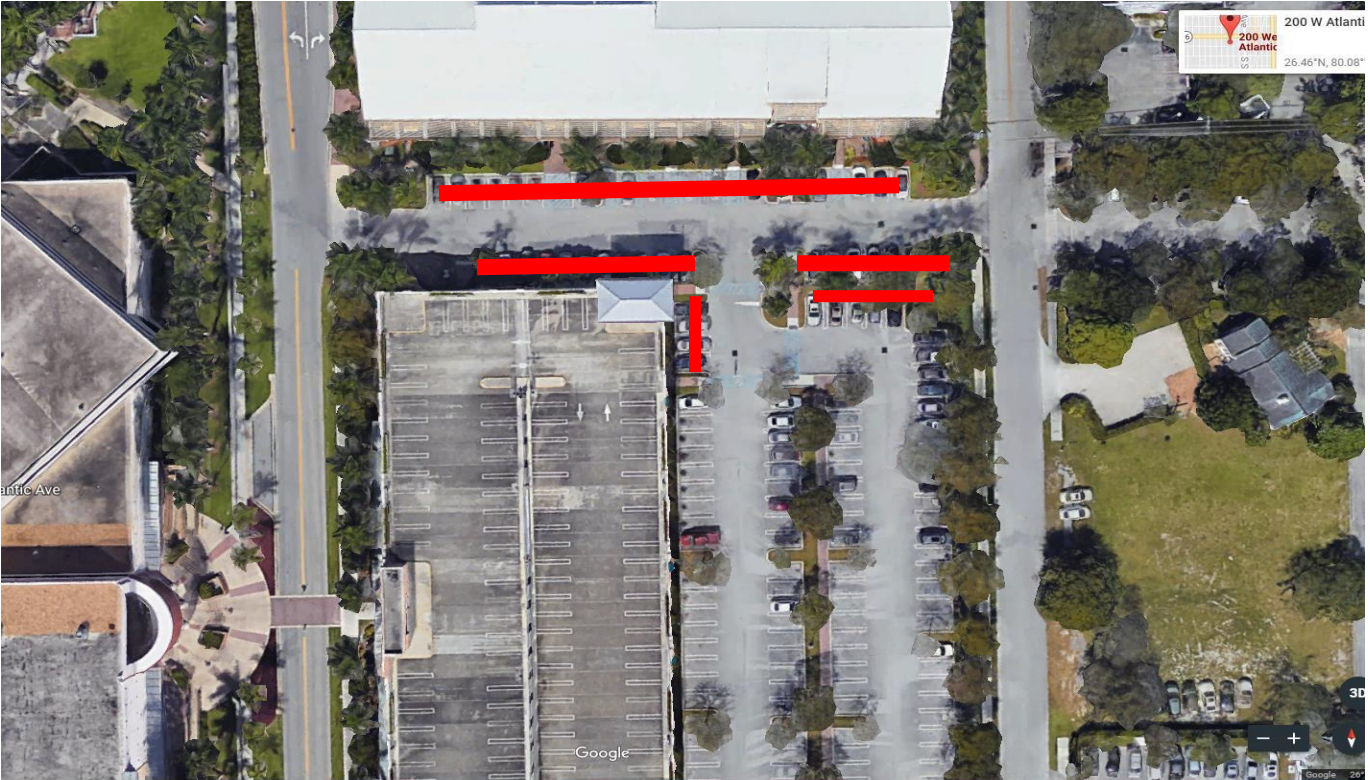




Exhibit A-1

**SOUTH COUNTY COURTHOUSE SPECIAL EVENT PARKING LICENSE AGREEMENT
PARKING FEE AND EXPENSE REPORT**

LICENSE DATES: November 30, 2021 - April 10, 2022

LICENSEE: CITY OF DELRAY BEACH

EVENT:

DATE	Total # of vehicles (\$5/vehicle)	Amount Collected
TOTAL		

Expenses associated with license agreement & parking fee collection	Cost
TOTAL	

REVENUE TOTAL:	
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Licensee Representative

Name & Title

Email/ Phone number