

## REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between CITY OF DELRAY BEACH, a political subdivision of the State of Florida ("CITY"), and DELRAY BEACH DOWNTOWN DEVELOPMENT AUTHORITY, a Florida dependent special district, located at 85 SE 4th Ave, Delray Beach, FL 33483 ("LICENSEE").

WHEREAS, LICENSEE desires a revocable license for the exclusive use of Delray Beach Visitor Information Center ("Premises") in the Sara Gleason Building ("Building") located at 2 Ocean Boulevard to provide information about downtown business and programs to visitors and residents of the City; and

WHEREAS, CITY finds the providing of said services promotes social and economic equality; and

WHEREAS, CITY finds it to be in the public interest to grant LICENSEE a revocable license for the use stated herein under the terms and conditions set forth below; NOW, THEREFORE,

### W I T N E S S E T H:

IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter contained, it is hereby agreed by and between the parties hereto as follows:

#### 1. DESCRIPTION OF PREMISES:

CITY hereby grants to LICENSEE the right, license, and privilege of using the property owned by CITY and known as the Delray Beach Visitor Information Center, located in the easterly portion of the Sara Gleason Building at 2 Ocean Boulevard, Delray Beach, FL, which is more particularly described on Exhibit "A," attached hereto and made a part hereof ("Licensed Premises"), in accordance with the terms of this Revocable License Agreement.

#### 2. TERM AND RENEWALS:

This Revocable License Agreement becomes effective on the date it is approved by the City Commission of the City of Delray Beach and is fully executed by both parties and terminates on September 30, 2028, unless sooner terminated as per the terms of this Revocable License Agreement. CITY, may renew this Revocable License Agreement for two (2) additional five (5) year terms upon sixty (60) days' written notice from LICENSEE, before the end of the then current term, of its desire to renew this Revocable License Agreement. CITY, acting

through its City Manager, may terminate this Revocable License Agreement as indicated under Section 11, TERMINATION.

3. COMPENSATION:

LICENSEE agrees to pay to CITY, as total compensation for the privileges granted herein, the total sum of ONE DOLLAR (\$1.00) on the first day of the term, and on any renewal thereof, in advance, so long as this Revocable License Agreement is in full force and effect. LICENSEE shall pay all sales and use taxes levied or assessed under this Revocable License Agreement.

4. USE OF LICENSED PREMISES:

LICENSEE, its employees, agents, or contractors shall use and occupy the Licensed Premises only to provide services as described in Exhibit "B", "Scope of Services". The Licensed Premises shall not be used for any other purpose whatsoever without written consent of CITY. LICENSEE covenants that it will not, without written consent of CITY, permit the Licensed Premises to be used or occupied by any person, firm, entity, or corporation other than LICENSEE, its employees, agents, or contractors. LICENSEE further covenants that no nuisance or hazardous trade or occupation shall be permitted or carried on, in, or upon said Licensed Premises, that no act shall be permitted and nothing shall be kept in or about said Licensed Premises that will increase the risk of any hazard, fire, or catastrophe, and that no waste shall be permitted or committed upon or any damage done to said Licensed Premises. LICENSEE shall not permit the Licensed Premises to be used or occupied in any manner which will violate any laws or regulations of any governmental authority.

CITY shall have the right, upon reasonable prior written notice to LICENSEE, to use the Licensed Premises for meetings or events as space is available at no rental charge to the CITY.

5. ALTERATIONS AND IMPROVEMENTS TO LICENSED PREMISES:

LICENSEE may not make any alteration, adjustment, partition, addition, or improvement to the Licensed Premises, or any part thereof, without obtaining prior written consent of CITY. All requests by LICENSEE shall be in writing and shall contain all pertinent plans and specifications. All alterations, adjustments, partitions, additions, or improvements shall, at the CITY's sole discretion, remain the exclusive property of CITY or be removed by LICENSEE upon CITY's request. In the event that CITY shall request removal, LICENSEE shall perform, at its sole cost, removal in a manner that shall return the Licensed Premises to the condition in which it was received. Any costs necessary to restore or prepare the Licensed Premises for return shall be the sole responsibility of LICENSEE.

LICENSEE shall keep the Licensed Premises in a clean, safe, and sanitary condition.

6. ASSIGNMENT OR SUBLETTING:

LICENSEE shall have no authority to assign all or any portion of the Licensed Premises during any term of this Revocable License Agreement except to an affiliate of LICENSEE. Should LICENSEE attempt to assign this Revocable License Agreement other than to an affiliate of LICENSEE, then the Revocable License Agreement shall be terminated forthwith, automatically, by operation of this clause, without prior notice to LICENSEE.

7. PERSONAL PROPERTY AND DAMAGE:

LICENSEE agrees that all personal property placed upon the Licensed Premises shall remain the property of LICENSEE, and shall be placed upon the Licensed Premises at the risk of LICENSEE. LICENSEE shall give to CITY, or its agent, prompt written notice, in compliance with the provisions of Section 16, Notices, below, of any occurrence, incident, or accident occurring on the Licensed Premises. In the event that any damage should occur to the Licensed Premises, LICENSEE shall promptly notify CITY.

8. INSPECTIONS:

CITY or its agents, or any authorized employee of said agent, may enter upon said Licensed Premises at all reasonable times and hours to examine same to determine if LICENSEE is properly maintaining the Licensed Premises according to the terms of this Revocable License Agreement.

9. INDEMNIFICATION:

The LICENSEE shall indemnify and hold harmless the CITY and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the CITY or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the agreement by the LICENSEE or its employees, agents, servants, partners, principals, or subcontractors. The LICENSEE shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The LICENSEE expressly understands and agrees that any insurance protection required by this contract agreement or otherwise provided

by the LICENSEE shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the CITY or its officers, employees, agents, and instrumentalities as herein provided.

If LICENSEE uses a subcontractor, LICENSEE shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 9.

10. INSURANCE:

10.1 LICENSEE shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Revocable License Agreement (unless otherwise provided), the insurance coverage set forth in this Article, in accordance with the terms and conditions required by this Article.

10.2 Such policy or policies shall be without any deductible amount unless otherwise noted in this Revocable License Agreement and shall be issued by approved companies authorized to do business in the State of Florida, with an AM Best financial rating of A- or better. LICENSEE shall pay all deductible amounts, if any. LICENSEE shall specifically protect the City of Delray Beach by naming the City of Delray Beach as an additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage. The official title of the certificate holder is City of Delray Beach. This official title shall be used in all insurance documentation.

10.3 Commercial Liability Insurance. A Commercial Liability Insurance Policy shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of One Million Dollars (\$1,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Liability Policy as filed by the Insurance Services Office without restrictive endorsements excluding or limiting coverage for:

Premises and/or operations.

Explosion, Collapse and Underground Hazards

Independent contractors.

Products and/or Completed Operations for contracts.

Broad Form Contractual Coverage applicable to this specific Revocable License Agreement, including any hold harmless and/or indemnification agreement.

Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

- 10.4 Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in the minimum amount required by Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable federal laws.
- 10.5 LICENSEE shall furnish to CITY proof of insurance such as Certificate of Insurance and endorsements, Declarations pages or policies evidencing the insurance coverage specified by this Article within fifteen (15) calendar days of notification of award of the Revocable License Agreement. SECOND PARTY's failure to provide to CITY the Certificates of Insurance or endorsements evidencing the insurance coverage within fifteen (15) calendar days shall provide the basis for the termination of the Revocable License Agreement.
- 10.6 Coverage is not to cease and is to remain in force until all performance required of LICENSEE is completed. All policies must be endorsed to provide CITY with notice of expiration, cancellation and/or restriction. If any of the insurance coverage will expire prior to the completion of the work, copies of renewal policies shall be furnished upon expiration.
- 10.7 CITY reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Revocable License Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements. If LICENSEE uses a subcontractor, LICENSEE shall ensure that subcontractor names CITY as an additional insured.

11. TERMINATION:

This Revocable License Agreement is merely a right to use, and grants no estate in the Licensed Premises. This Revocable License Agreement may be canceled by CITY, acting through its City Manager, with or without cause, at any time during the term hereof, upon written notice to the LICENSEE of its desire to terminate this Revocable License Agreement. It is expressly understood by the parties that LICENSEE is receiving from CITY a revocable license, which may be terminated at any time by CITY for any or no cause whatsoever.

12. MAINTENANCE, REPAIR, AND DAMAGE OF LICENSED PREMISES:

12.1. LICENSEE's Obligations: With respect to the interior of the Licensed Premises, LICENSEE shall be solely responsible for and shall promptly pay as its expense all charges for electricity, telephone, cable, television, communication equipment, janitorial service, cleaning, refuse removal, pest control, painting, window cleaning, and all other utility consumption charges not otherwise provided for in this Section 12. LICENSEE shall also be solely responsible for maintaining the interior non-structural portions the Licensed Premises, at its sole cost and expense, including without limitation, its walls, floors, and ceiling, the electrical and plumbing systems, lighting, security, fire safety, and the exterior doors and exterior windows of the Licensed Premises. The LICENSEE shall pay all costs and expenses for the installation of any improvements made to the interior of the Licensed Premises, any additional utilities, other improvements, or upgrades to the improvements provided by the LICENSEE, as well as costs and expenses associated with the extension of any and all lines necessary to provide such additional utilities, improvements, upgrades, and services to the interior of the buildings, and all connection fees, assessments and charges related thereto. LICENSEE shall also be responsible for paying all charges associated with a maintenance agreement for the air conditioning system, in order to insure the maintenance of the air conditioning system, and shall provide proof of such maintenance agreement to the CITY.

12.2 CITY's Obligations: CITY shall be responsible for the maintenance, repair, and replacement of the portions of the Licensed Premises which the LICENSEE is not obligated to maintain and repair, including without limitation, all perimeter parts of the Licensed Premises, the structural, non-structural, functional and systemic aspects of the Licensed Premises, including the roof, foundation, load-bearing walls, maintenance and repair of the HVAC equipment not covered under the maintenance agreement for the air conditioning system obtained by LICENSEE in accordance with section 12.2, general exterior maintenance, treatment and structural repair related to and/or caused by wood destroying organisms, walkways, sidewalks, landscaping, irrigation, water lines, sanitary sewer lines, stormwater lines, exterior lighting, signage, water features and associated plumbing fixtures, public restrooms, security cameras, parking areas, downspouts, gutters, sprinkler system, regular mowing of any grass, trimming, weed removal and general landscape maintenance. However, LICENSEE agrees that CITY shall not be responsible for any claims for damage to person or property that results from any improvements constructed or installed by the LICENSEE in the Licensed Premises, or for the maintenance, repair, or replacement of same. CITY shall be solely responsible for and shall promptly pay as its expense all charges water, sewer, and gas. CITY shall be solely responsible for repair and maintenance of the exterior water feature and any

damage to the exterior or interior of the Premises that are caused either directly or indirectly by said water feature. LICENSEE shall promptly give CITY written notice, in compliance with the provisions of Section 16 below, of any defects, repairs or maintenance for which the CITY is responsible under the provisions of this section. Upon receipt of such notice, CITY shall complete required repairs using reasonable care under the circumstances and within a commercially reasonable time frame considering the nature of the repair or replacement, and any access issues or unforeseen events that are not caused by the CITY.

12.3 DAMAGE TO PREMISES: LICENSEE shall be fully responsible for damage of any kind or nature to the Licensed Premises and CITY property located thereon caused by the use of the Licensed Premises by LICENSEE or invitees of LICENSEE, as determined by the City Manager in his or her sole discretion. LICENSEE shall be fully responsible for any and all repairs or replacement deemed necessary by CITY to return the Licensed Premises and CITY property to the condition existing at the commencement of this Revocable License Agreement, normal wear and tear excluded. LICENSEE shall give to CITY, or its agent, prompt written notice, in compliance with the provisions of Section 16 below, NOTICES, of any occurrence, incident, or accident occurring on the Licensed Premises. In the event any damage should occur to the Licensed Premises, LICENSEE shall promptly notify CITY, although the CITY has no obligation to repair.

12.4 CITY has no knowledge of any issue or condition of the Licensed Premises that would make such Licensed Premises unsafe to LICENSEE's personnel, such as environmental hazards, hazardous substances/materials, and structural and mechanical deficiencies.

13. AMENDMENTS:

No modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed by the parties hereto, with the same formality and of equal dignity herewith.

14. SURRENDER UPON TERMINATION:

LICENSEE shall peaceably surrender and deliver the Licensed Premises to CITY, or its agents, immediately upon expiration of the revocable license term or upon termination of this Revocable License Agreement.

LICENSEE further agrees that it will leave the Licensed Premises in the condition existing at the commencement of this Revocable License Agreement, all alterations, adjustments, partitions, additions, or improvements excepted, and normal wear and tear excepted, subject to the repair and maintenance obligations provided in this Revocable License Agreement.

15. MATERIALITY AND WAIVER OF BREACH:

CITY and LICENSEE agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Revocable License Agreement, and that each is, therefore, a material term hereof.

CITY's failure to enforce any provision of this Revocable License Agreement shall not be deemed a waiver of such provision or modification of this Revocable License Agreement. A waiver of any breach of a provision of this Revocable License Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Revocable License Agreement.

16. NOTICES:

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

Notice to CITY shall be addressed to:

City of Delray Beach,  
100 NW 1<sup>st</sup> Avenue  
Delray Beach, FL 33444  
Attn: City Manager

With copy to:

City Attorney Office  
City of Delray Beach  
200 NW 1<sup>st</sup> Avenue  
Delray Beach, FL 33444  
Attn: City Attorney



Notice to the LICENSEE shall be addressed to:

Attn: Executive Director  
Delray Beach Downtown Development Authority  
85 SE 4th Ave, Delray Beach, FL 33483

17. INDEPENDENT CONTRACTOR:

LICENSEE is an independent contractor under this Revocable License Agreement. Services provided by LICENSEE pursuant to this Revocable License Agreement shall be subject to the supervision of LICENSEE. In providing such services, neither LICENSEE nor its agents shall act as officers, employees, or agents of CITY. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Revocable License Agreement.

18. CONTINGENCY FEE:

LICENSEE warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for LICENSEE, to solicit or secure this Revocable License Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for LICENSEE, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Revocable License Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Revocable License Agreement without liability at its discretion, or to deduct from the Revocable License Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

19. THIRD PARTY BENEFICIARIES:

Neither LICENSEE nor CITY intends to directly or substantially benefit a third party by this Revocable License Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Revocable License Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Revocable License Agreement.

20. COMPLIANCE WITH LAWS:

LICENSEE shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Revocable License Agreement.

21. SEVERANCE:

In the event this Revocable License Agreement or a portion of this Revocable License Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or LICENSEE elects to terminate this Revocable License Agreement. The election to terminate this Revocable License Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

22. JOINT PREPARATION:

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Revocable License Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

23. PRIORITY OF PROVISIONS:

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Revocable License Agreement by reference, and a term, statement, requirement, or provision of this Revocable License Agreement, the term, statement, requirement, or provision contained in this Revocable License Agreement shall prevail and be given effect.

24. JURISDICTION, VENUE, WAIVER OF JURY TRIAL:

This Revocable License Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Revocable License Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Fifteenth Judicial Circuit in Palm Beach County, Florida, and venue for litigation arising out of this Revocable License Agreement shall be

exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS REVOCABLE LICENSE AGREEMENT, LICENSEE AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS REVOCABLE LICENSE AGREEMENT.**

25. PRIOR AGREEMENTS:

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this License that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

26. INCORPORATION BY REFERENCE:

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached are exhibits incorporated into and made a part of this Agreement.

27. REPRESENTATION OF AUTHORITY:

Each individual executing this Revocable License Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Revocable License Agreement, duly authorized by all necessary and appropriate action to execute this Revocable License Agreement on behalf of such party and does so with full legal authority.

28. MULTIPLE ORIGINALS:

This Revocable License Agreement may be executed in three (3) copies, each of which shall be deemed to be an original.

29. PUBLIC RECORDS.

IF THE LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S

OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

a. LICENSEE shall comply with public records laws, specifically to:

i. Keep and maintain public records required by the City to perform the service.

ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the LICENSEE does not transfer the records to the City.

iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the LICENSEE or keep and maintain public records required by the City to perform the service. If the LICENSEE transfers all public records to the City upon completion of the Agreement, the LICENSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LICENSEE keeps and maintains public records upon completion of the Agreement, the LICENSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

v. If the LICENSEE does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

30. INSPECTOR GENERAL:

LICENSEE is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matter relating to the negotiation and performance of this contract and may demand an obtain records and testimony from LICENSEE and its sub licensees and lower tier sub licensees. LICENSEE understands and agrees that in addition to all other remedies and consequences provided by law, the failure of LICENSEE or its sub licensee or lower tier sub licensees to fully cooperate with the Inspector General when requested may be deemed by the CITY to be a material breach of this Agreement justifying its termination.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed on the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Cary Glickstein, Mayor

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

WITNESSES:

DELRAY BEACH DOWNTOWN  
DEVELOPMENT AUTHORITY

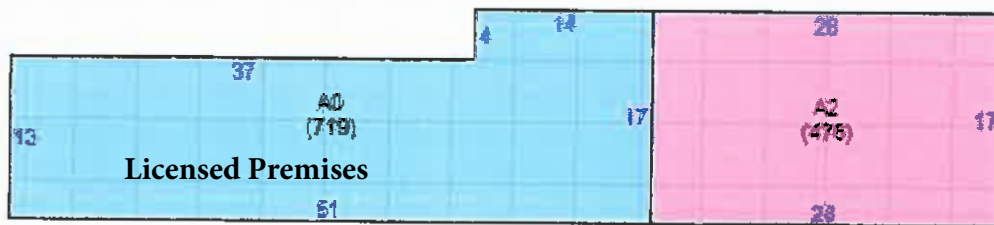
\_\_\_\_\_  
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(Name printed or typed)

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title. \_\_\_\_\_

**Owner Name:** DELRAY BEACH CITY OF  
**Parcel Control Number:** 12-43-46-16-22-017-0010  
**Location Address:** 2 S OCEAN BLVD

## Sketch for 12-43-46-16-22-017-0010



**EXHIBIT "A"**