

1. Consideration of a one-year extension to the lease agreement with the Greater Palm Bay Senior Center.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Scott Morgan, Interim City Manager

THRU: City Manager's Office

DATE: April 17, 2025

RE: Consideration of a one-year extension to the lease agreement with the Greater Palm Bay Senior Center

SUMMARY:

The Greater Palm Bay Senior Center (GPBSC) is a nonprofit organization dedicated to enhancing the well-being of seniors in the community. The non-profit has operated the Senior Center on the corner of Emerson and Culver (constructed primarily with grant funding for this purpose) since 1989. The Senior Center currently has approximately 1200 members. Operating funds are obtained from yearly dues, bingo, facility rentals, fund-raisers and contributions.

By offering exercise programs, educational classes, recreational games, and social events, the GPBSC promotes physical activity and social connections among older adults. These activities not only contribute to overall health and fitness but also foster a sense of community and belonging, addressing issues like social isolation. Additionally, the center provides free events and activities that connect seniors to valuable programs and resources, ensuring they have access to essential services and support. The center continues to enrich the lives of seniors through diverse programming and engagement opportunities. Programming includes art, billiards, blood pressure checks, bocce ball, bone builder fitness, computer and cell phone assistance, cooking, crafts, dominoes, crocheting, social dinner club, line dancing, pickleball, ping pong, shuffleboard, Scrabble, group travel, Wii bowling, woodshop, yoga, and many more. Additionally, the Senior Center conducts outreach events to benefit the community. A synopsis of the outreach events provided by the GPBSC Vice President is attached.

The current Lease Agreement between the City of Palm Bay (City) and the Greater Palm Bay Senior Center (Senior Center) was executed on May 6, 2021, for a three (3) year term with the option to renew for an additional two (2) one-year terms, and will expire on May 5, 2025. The Interim City Manager, on behalf of the Senior Center, is recommending that the City Council approve the second one-year extension that would extend the lease to May 5th, 2026. As part of the final renewal, the City negotiated an increase to the per repair cost listed in the agreement from

\$600 to \$750 (based on CPI), expanded the scope of repairs to include HVAC, plumbing and electrical, and clarified that the City can host five events per year with 14 days notice without any cost to the City. The City Attorney's Office drafted the amendment. As this is the final extension, a new agreement has been prepared by the Attorney's Office and is also attached for review.

Under the terms of the lease, the Senior Center provides an annual payment to the City in the amount of \$10.00, with all utility charges the financial responsibility of the Senior Center.

REQUESTING DEPARTMENTS:

City Manager's Office

FISCAL IMPACT:

Revenue of \$10 per year.

STAFF RECOMMENDATION:

Motion to approve the City Manager to execute a Lease Agreement extension for the Senior Center.

ATTACHMENTS:

1. GPBSC Outreach (as furnished by the Senior Center)
2. Legislative memorandum dated May 6, 2021
3. Lease signed May 6, 2021
4. First Amendment to lease extending term to May 5, 2025
5. Proposed Senior Center Second Amendment extending term to May 5, 2026



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Greater Palm Bay Senior Activity Center, Inc.

A place for seniors to stay active and connect with others

1275 Culver Drive, NE ♦ Palm Bay, Florida 32907-1178

Phone: 321-724-1338 ♦ Fax: 321-729-9333 ♦ Website: www.gpbsac.org

Outreach Programs the Center had offered and currently offers:

1– During the worse part of the Covid pandemic we hounded the Brevard County Health Department about offering vaccines at our Center since many seniors did not have computers to make appointments. After many, many phone calls we were allocated 172 vaccines. A small group of us came in and started emailing our members about the offering. I even called the VCOP division and offered vaccines to any senior police officer or VCOP. I also received calls from people at City Hall who wanted vaccines for their parents. We accommodated all their requests. I also called Jeff Whitehead about the City co-sponsoring this event, in name only, so the City could get some recognition about how it is working with our local seniors. I wanted someone to come and video the event so the City could get some accolades. Nothing ever came of this.

2-The Senior Center also does an outreach program every quarter. We send money to Second Harvest, St Vincents de Paul at St. Josphe's Catholic Church and Our Lady of Grace. We also support our veterans with money, blankets made by our members, clothes, food, etc,

3– Our crochet group also donates boobies for women that have had breast cancer surgery. They contacted local cancer doctors and donated various sizes and colors for them to give free of charge to their patients. We also donate cradle caps for Nic-U babies and blankets and hats to the homeless.

4– We offer a room free of charge for a Defensive Driving Class. This class is open to the public of any age. The Center needs to provide a member to be at the Center all day for this event and we gladly do it. It is a great service to our community.

5– Last year and this year we have provided a room for AARP to provide free tax service to our community two days a week. This causes us a hardship as we have to move activities and change the activity meeting times. But, because we believe this is a valuable service to our community we do it. This year we also added a Saturday date to accommodate the very many people seeking to have their taxes done. We added Saturday because Palm Bay City Hall did not provided this service due to construction near City Hall. This meant we needed to have a member at our facility on a Saturday until 3 or 3:30pm. We gladly did this for the community.

6– Throughout the year we provide different seminars to our seniors: Fall Prevention, health care options, computer classes, cell phone classes, fraud and scam alert, etc.

This is but a few of the services we provide to our local community. The Senior Center has always and will always provide services to our community, especially our senior citizens.

Respectably submitted by

Sylvia Fels, Vice President

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Sylvia Fels, Vice President

Great Palm Bay Senior Activity Center



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Fred Poppe, Recreation Director

DATE: 5/6/2021

RE: Consideration of a three-year lease agreement with the Greater Palm Bay Senior Center, with the option to renew for two (2) additional one-year terms.

The City is currently in a 5-year lease with the Greater Palm Bay Senior Center ("Senior Center") that expires at the end of April 2021. The Senior Center has agreed to enter into a new Lease that allows the use of City facilities located at 1275 Culver Dr NE, Palm Bay FL 32907.

The renewal Lease has minor changes in order to clarify the responsibilities of the Senior Center and the City. This includes the electronic sign, HVAC system, entrance to the building and defining the Premises. This also includes redefining the period of the Lease from a length of five (5) years to an initial period of three (3) years after which the Lessee may request renewal of this Lease for two (2) separate additional one (1) year terms.

The renewal Lease has been reviewed by all departments involved in the facility's operations and mechanical systems, as well as the President of the Senior Center.

REQUESTING DEPARTMENT:

Recreation, Parks and Facilities

FISCAL IMPACT:

There is no fiscal impact.

RECOMMENDATION:

Motion to approve the City Manager to execute the Lease Agreement.

ATTACHMENTS:

Description

Lease Agreement



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Lease Agreement

LEASE

THIS LEASE made and entered into this 6th day of May, 2021, by and between the CITY OF PALM BAY, a Florida municipal corporation (hereafter referred to as the "City"), and the GREATER SOUTH BREVARD SENIOR CITIZEN CENTER, INC., a Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as the "Lessee")

WHEREAS, the Lessee desires to lease a City-owned facility, which is a part of the City's public park known as the Greater Palm Bay Senior Center and which serves as a senior center (hereinafter referred to as the "Senior Center"),

WHEREAS, the Lessee has an interest in providing programs and services to the senior population of the City is well situated to do so and has previously contracted with the City to provide such services,

WHEREAS, the City has an interest in allowing programs and services to be provided to the senior population of the City,

WHEREAS, the City has by Resolution determined that these programs and services will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, will constitute a service that could be provided by local government, and are compatible with the City purposes for which the Senior Center was constructed.

WITNESSETH

NOW THEREFORE, in consideration of the mutual promises and terms and conditions contained herein, the parties hereto hereby agree as follows.

- 1) **Leased Property.** The City hereby leases to the Lessee and Lessee hereby leases from the City the Senior Center as presently constituted commonly known as the Greater Palm Bay Senior Center located at 1275 Culver Drive NE Palm Bay Florida 32907 The Premises includes all improvements to the leased real property, whether constructed before or after the date of the Lease, and all fixtures, furniture, equipment and supplies if any placed on the leased property by the City.
- 2) **Representation by Lessee.** The Lessee represents that it is a Florida Not For Profit organization under the laws of Florida as described in Section 501(c)(3) of the Internal Revenue Code as amended, and is exempt from federal income tax pursuant to Section 501(a) of said Code.
- 3) **Term.** This Lease shall be effective from the date of the last signature for a period of five (5) years. It is hereby mutually agreed and understood that this includes an initial three (3) years, after which the Lessee may request renewal of this Lease for two (2) separate additional one (1) year terms by written request from Lessee to the City at least 60 days prior to the expiration date of this Lease.

- 4) **Rent.** The rent for the Senior Center shall be Ten Dollars (\$10.00) per year during the initial three (3) year term of this Lease The rent shall be due and paid on the first (1st) day of each May beginning on May, 1st, 2021. It is hereby mutually agreed and understood that the amount of rent may be negotiated for any renewal terms.
- 5) **Utilities.** The Lessee shall pay costs of all public utility charges which shall include telephone, electric, gas, water, sanitary sewer, and garbage, as applicable, which are provided to the Senior Center by the City, Brevard County, or any other public agency or public utility.
- 6) **General Liability Insurance.** Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the City, policy of insurance generally known as general liability policies insuring the Lessee against any and all claims, demands and causes of action whatsoever for injuries received and damages to property in connection with the use, occupation, management or control of the Senior Center and any improvements thereon The City shall be listed on the policies as an additional insured The general liability insurance policy shall be issued by reputable insurance companies and in a form acceptable to the City, protecting and agent against all the foregoing with combined single limits of not less than One Million dollars (\$1,000,000) for Bodily Injury and Property Damage and Fire Legal Liability in the amount of One Hundred Thousand dollars (\$100,000) All personal property housed or placed at the Senior Center shall be at the risk of the Lessee, whether owned by the City or the Lessee and the City shall not be liable for any loss or damage to the personal property of the Lessee or others located thereon for any cause whatsoever The Lessee agrees and understands that the City does not and shall not carry liability theft or fire insurance on said property to cover the Lessee's interest therein.
- 7) **Insurance Certificates.** Lessee shall provide the City with Certificate(s) of Insurance for all policies of insurance and renewals thereof in a form(s) acceptable to the City Said certificates shall name the City as an additional insured and that City shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by reputable companies who are acceptable to the City and licensed and authorized under the laws of the State of Florida.
- 8) **Indemnification.** The Lessee shall indemnify and hold harmless the City and its employees from all claims, damages losses and expenses arising out of or associated with the use, occupation, management or control of the Senior Center or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Senior Center by the Lessee unless such claims damages expenses or losses are caused solely by acts of the City its employees or other persons not a party to this Lease acting on the City's request.
- 9) **Obligations of the Lessee.**
 - a. The Lessee shall keep the interior of the building clean and orderly in accordance with

any applicable laws, regulations or ordinances The City reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions of the Senior Center. Lessee shall maintain said property in its present condition, ordinary wear and tear excepted.

- b. The Lessee shall be responsible for the costs and provision of maintenance, repair and repair by replacement of the plumbing system from water meter to tap, and the heating, ventilation, and air conditioning system (HVAC). However, the Lessee shall only be responsible for the costs of such maintenance and repair for each system up to a cap of \$600.00 for each system for each fiscal year ("fiscal year" is defined as October 1 through September 30 of the following year). Costs in excess of the referenced deductible per fiscal year for each system shall be borne by the Lessor. This flat rate shall be renegotiated every ten years, the first change (if any) becoming effective October 1, 2026. The Lessor shall be responsible for contacting the Lessee approximately sixty (60) days in advance of October 1 of every tenth year in order to be in negotiations.
- c. The term "system" is intended to include all HVAC units as one system, and all plumbing as one system, as outlined above. During the months of April and October of each year, the Lessee at its own cost shall have a maintenance check of the plumbing and HVAC systems conducted by the Lessor's facilities staff by submitting a properly initiated work order, or by an appropriately licensed contractor. Such costs of maintenance check may be utilized in reaching the deductible caps above for which the Lessee is responsible. Such contractors hired by the Lessee must be approved by the Lessor prior to work being performed.
- d. The City shall have access to the building at all times, via key fob, for emergencies or other concerns. The City shall make the Senior Center aware of any entry.
- e. All improvements and any changes made by Lessee to the interior of building shall be at the cost of the Lessee and subject to prior written approval by the City which shall not be unreasonably withheld.
- f. The Lessee, at its cost shall be responsible for all interior and exterior signage it desires, electronic marquee signs which the Lessee desires in order to advertise its programs, excluding parking signs. However, all signage must comply with Americans with Disabilities Act regulations and must be preapproved by the City. Such signs must be in compliance with any applicable jurisdiction code or ordinance.
- g. The Lessee shall have control and responsibility for City owned (presently or subsequently installed) equipment and other depreciable property at the Senior Center as described in Exhibit "A" Such property shall be considered a part and portion of the City's property covered in this Lease. None of the City owned property or equipment, if any is present, is to be sold, loaned, rented, used or moved outside of the Senior Center without the written approval of the Parks and Recreation Department Director or designee.
- h. The Lessee shall promptly notify the City of the necessity of any and all maintenance and repairs needed to the exterior and/ utility systems (e.g., plumbing and electrical systems) for the Senior Center.
- i. All inspections, maintenance, repair, monitoring and costs associated with the security

systems shall be the responsibility of the Lessee.

- j. The Lessee shall pay the expense of fire alarm monitoring.
- k. Lessee understands that the Senior Center must be operated in such a fashion to comply with all federal, state and local all codes in order to operate the Senior Center or otherwise carry out the programs and activities authorized by the Lessee in compliance with this lease.
- l. The Lessee agrees to cooperate with the City in all matters pertaining and relating to the operation of the Senior Center. This shall include providing space at no charge for public meetings, health and wellness services, and any other City sponsored programs services events and meetings under the condition that the scheduling of such events would not interfere with previously scheduled Lessee events.
- m. Lessee shall be responsible for routine maintenance of the bocce court.
- n. Lessee shall be responsible for repair and/or replacement of all interior smoke detectors.
- o. Lessee shall be responsible for repair and/or replacement of interior light ballasts.
- p. Lessee shall be responsible for keeping all drains and toilets free from debris and for the cost of snaking/cleaning all drains and toilets as the City does not provide such service.

10) Obligations of the City.

- a. The City shall maintain the building's exterior in good condition Maintenance and repair of the exterior structure includes rodent and termite control, exterior painting and sealing. The City shall be responsible for the cost and provision of ground maintenance around the exterior of the structure, which will include irrigation system maintenance for the lawn. The City shall mow, edge, and fertilize the lawns, weed and mulch landscapes trim hedges shrubs, and small trees, remove dead, damaged or unwanted trees, and water the lawns landscapes and gardens.
- b. The City shall be responsible for costs of the water retention area maintenance, including the wooden bridge for the Senior Center so that areas meet requirements of federal, state, and local regulations.
- c. The City shall be responsible for maintenance and repair of the sidewalks and parking lot including parking signs, parking lot light poles including light bulbs outside seating, and flagpole.
- d. All inspections, maintenance and repair of the fire alarm and fire sprinkler systems fire extinguishers and backflow prevention meter shall be the responsibility of the City.
- e. The City shall be responsible for any needed repair and/or replacement of the HVAC system with the Lessee paying up to a \$600.00 cap for each system per fiscal year.
- f. The City shall be responsible for the provision of maintenance repair and bear the costs of such for the electrical distribution system from the load side of the meter can to all outlets.
- g. The City shall be responsible for replacement of exterior light bulbs and all exterior ballasts.
- h. The City shall be responsible for any needed major repairs and/or replacements of the plumbing and electrical systems.

- 11) **Violation of Provisions.** Any violation of these provisions will constitute a breach of the conditions of this Lease and may result in the cancellation of same. The City shall notify the Lessee of any violation of provisions of this Lease in writing. Such notice shall identify the provision which is being violated and how it is being violated. The Lessee shall then have sixty (60) days within which to fix the violation. It is the intention of this provision for the parties to work together cooperatively towards a positive resolution of all issues. However, if the violation is not fixed or addressed in a reasonable fashion to the City's reasonable provisions the City has the right to issue a notice of termination/cancellation effective immediately at the end of the sixty day period. In the event of cancellation or termination of this Lease, Lessee shall remove its personal property from the Senior Center. Any personal property not removed within ninety (90) days from the effective date of termination of the Lease shall be subject to becoming the property of the City. This paragraph shall not be deemed to be a waiver of any rights under law held by Lessee to possession, occupancy, and use of the Premises.
- 12) **Permitted Activities.** The Senior Center shall be operated to provide well rounded programs and services to the senior population of the City so that one activity does not dominate the availability of use of the Senior Center. The Lessee shall provide a calendar of events on a quarterly basis subject to approval by the City. The Lessee shall strive to develop a variety of diverse programs and services that meet the recreational physical financial, health, social, nutritional, and educational needs of all socioeconomic levels of the senior population of the City. The Board of Directors of the Lessee shall not have sole authority to deny such programs and services as stated above to the senior population of the City with regard to race, color, religious creed, national origin ancestry age gender marital status or disability.
- 13) **The on-going operation.** The on-going operation of the Senior Center will be the responsibility of the Board of Directors of the Lessee in coordination with the City. A representative from the City may serve as a non-voting member on the Board of Directors. When requested by the City, the Lessee shall provide a list to include names addresses and phone numbers of the Board of Directors of the Lessee and additionally shall provide notification of any changes to said officers that may occur in the course of the year.
- 14) **Revenues.** Revenues may be derived by the Lessee from memberships fund-raising events donations, special activities shared revenues obtained from admission to activities sponsored and operated by other senior or organizations, some participation from community-based organizations and for occasional use by other age groups. The City shall have the option to rent out the Senior Center during non-dedicated/usage time. The City shall supply notice fourteen (14) days in advance of said usage and direct costs shall apply.
- 15) **Reverter and Right of Re-Entry and Repossession.** In the event the Senior Center is not used or ceases to be used for the public purposes set forth herein, the Lease shall immediately terminate and the Senior Center shall revert to the City which shall thereafter have the right to re-enter and repossess the Senior Center.

- 16) **ADA Compliance.** The City and Lessee shall conform to current requirements of the Americans with Disabilities Act in the performance of this Lease and shall not cause or place on the Senior Center any condition causing the Senior Center to become non-compliant. The parties shall work together to cure any known violations of the ADA that may occur.
- 17) **Hours of Operation.** For normal operations, the Lessee assures that the Senior Center will be open an average of 35 daytime hours per week with the exception of those weeks which include a holiday or in the event of an emergency. During all hours of operation of the Senior Center by the Lessee or during all hours when the Senior Center is utilized for programs or services sanctioned by the Lessee, the Lessee shall be responsible for any and all damage to the Senior Center, ordinary wear and tear excepted. The Lessee shall provide either paid staff or designate members of its organization to supervise use of the Senior Center and to secure the Senior Center following use by the Lessee, or any other groups sanctioned by the Lessee.
- 18) **Emergency Services.** In the case of a general emergency as declared by the City, the City retains the right to immediately resume occupation, management, and maintenance of the Senior Center, to use the facility to meet any emergency needs for the period of that emergency and a reasonable period of time thereafter as deemed necessary by the City. The Lessee will be provided as much notice as is practical, dependent on how suddenly the need arises and predictability of how long the need will continue. The City and the Lessee shall not be responsible for the damage, loss of property or income created by the use of the Senior Center by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The City and Lessee shall work directly with such support agencies to recover the cost of restoration, lost equipment and supplies used. During the period in which the City or other governmental or non-governmental agency occupies or manages the Senior Center, Lessee occupancy and any duties or obligations hereunder will be suspended. Any maintenance, damage, restoration, or repair necessitated during any suspension of the Lessee's occupancy under this Lease will be the responsibility and the expense of the City. Repairs, rehabilitation restoration or maintenance, the need for which arises as a result of such emergency suspension of the Lessee's occupancy, shall all be diligently completed by the City at the expense of the City prior to the Lessee reoccupying the Senior Center. As used herein, an 'emergency' will be defined as a period of civil unrest or riot, a period during which the military needs the Senior Center for a period of time relating directly to defense of the nation and a likely attack of the nation a period during which weather such as a hurricane or tornado is likely to cause damage to the community and the Senior Center, is needed for public shelter, distribution of emergency supplies such as food or water, or other related event, or any other circumstance designated by the Emergency Operations Center "E.O.C" as an emergency.
- 19) **Lessee's Assignment, Sublease or License for Occupation by Other Persons** Lessee agrees not to assign or sublease the Senior Center any part thereof or any right or privilege connected therewith without first obtaining the City's written consent, which consent the City may withhold, but not unreasonably, in its sole discretion. Consent on one occasion by the City shall not be consent to a subsequent assignment, sublease, or occupation by other persons.

Lessee's unauthorized assignment, sublease or license to occupy shall be void and shall terminate the Lease at the City's option. Lessee's interest in this Lease is not assignable by operation of law, nor is any assignment of its interest herein without the City's written consent. Nothing herein is intended to prevent the Lessee from entering into short-term use/rental lease with third parties for up to and including three (3) days (no overnight activities), however, even under such circumstances the Lessee shall remain responsible for each and every of its obligations under this Lease. The Lessee shall be responsible for ensuring that all short term use or rental leases shall only be allowed for activities that are consistent with the remainder of the terms of this Lease.

- 20) **Alterations, Changes and Additions.** No structural changes, alterations or additions shall be made by the Lessee to the Senior Center without the prior written consent of the City. Any such alterations, changes and additions shall remain for the benefit of and become the property of the City.
- 21) **No Use that Increases Insurance Risk.** The Lessee shall not use the Senior Center in any manner even in its use for the purposes for which the Senior Center is leased, that will increase the risk covered by insurance on the building where the Senior Center is located so as to increase the rate of insurance on the Senior Center or to cause cancellation to any insurance policy covering the building. Lessee further agrees not to keep at the Senior Center or permit to be kept used or sold thereon anything prohibited by the policy of fire insurance covering the Senior Center. Lessee shall comply, at its own expense, with all requirements of insurers necessary to keep in force the fire and public liability insurance covering the Senior Center.
- 22) **Licenses, Permits, and Taxes.** Lessee agrees to secure and maintain all licenses and permits required to operate including any applicable sales or use tax, which shall be imposed or assessed by any and all governmental authorities, in connection with the business or operation conducted under this Lease and to meet all federal, state, county and municipal laws ordinances policies and rules. Any such licenses and permits shall be maintained and posted if required at appropriate places at the Senior Center within thirty (30) days of the execution of this lease by both parties applicable, a Bingo Class 'A' License shall be obtained on an annual basis and a copy shall be provided to the City.
- 23) **No Waiver of Covenants or Conditions.** The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained shall not be construed as a waiver of such covenant condition or option in any other instance. This Lease cannot be changed or terminated orally.
- 24) **Successors in Interest.** This Lease and the covenants and conditions hereof apply to and are binding on the successors, legal representatives, and assigns of the parties.
- 25) **Severability.** If any provision of this Lease is held by a court of competent Jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force

without being impaired or invalidated in any way.

- 26) **Venue.** Venue for any legal action brought by any party to this Lease to interpret, construe or enforce this Lease shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.
- 27) **Attorney's Fees.** In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs.
- 28) **Governing Law.** This Lease shall be deemed to have been executed and entered into within the State of Florida and this Lease, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.
- 29) **Compliance with Statutes.** It shall be the Lessee's and the City's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.
- 30) **Independent Contractor.** Lessee shall perform the services under this Lease as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Lease shall be interpreted or construed to constitute the Lessee or any of its agents or employees to be the agent, employee or representative of the City.
- 31) **Right to Audit Records.** The Lessee shall prepare an annual financial statement and shall submit same to the City. In the performance of this Lease, the Lessee shall keep books, records, and accounts of all activities related to this Lease in compliance with general accounting procedures. Books, records and accounts related to the performance of this Lease shall be open to inspection during regular business hours by an authorized representative of the City and shall be retained by the agency for a period of three (3) years after the termination of this Lease. All records or documents created by Lessee or provided to Lessee by the City in connection with the activities or services provided by City under the terms of this Lease, are public records and the Lessee agrees to comply with any request for such public records or documents made in accordance with Chapter 119, Florida Statutes.
- 32) **Construction of Lease.** The parties hereby acknowledge that they have fully reviewed this Lease and its attachments and have had the opportunity to consult with legal counsel of their choice, and that this Lease shall not be construed against any party as if they were the drafter of this Lease.
- 33) **Surrender of Premises.** Lessee shall surrender the Senior Center to the City at the end of the Lease term in generally the same condition as when Lessee took possession, allowing for changes and modifications agreed to by the parties over time, reasonable wear and tear, damages by acts of God including fire and storm. The Lessee shall remove all business signs or symbols placed on the Senior Center by the Lessee before surrendering the Senior Center and

restore the portion of the Senior Center on which they were placed in the same condition as before placement.

- 34) **Partial Destruction of Premises.** Partial destruction of the Senior Center shall not render this Lease void or terminate it except as herein provided. If the Senior Center is partially destroyed during the term of this Lease, City may endeavor to make repairs providing the City has the fiscal means to do so, and when such repairs can be made in conformity with local, state, and federal laws and regulations, within ninety (90) days of the partial destruction. If the repairs cannot be so made in ninety (90) days and the City does not elect to make them within a reasonable time, either party hereto has the option to terminate this Lease. If the Senior Center is more than one-third destroyed, the City or Lessee may at its option terminate this Lease giving ninety (90) day notice to Lessee.
- 35) **City's Entry for Inspection and Maintenance.** The City reserves the right to enter the Senior Center at reasonable times to inspect to perform required maintenance and repair or to make additions or alterations to any part of the building in which the Senior Center under Lease is located, and Lessee agrees to permit the City to do so. The City may, in connection with such alterations, additions or repairs erect scaffolding fences and similar structures, post relevant notices and place moveable equipment without incurring liability to Lessee for disturbance of quiet enjoyment of the Senior Center or loss of occupation thereof unless done so in an unreasonable, willful or negligent manner.
- 36) **Modifications.** No modification of this Lease shall be binding on the City or the Lessee unless reduced to writing and signed by a duly authorized representative of City and the Lessee.
- 37) **Notice.** Notice under this Lease shall be given by mailing written notice, postage prepaid to the City at City of Palm Bay, Director of Parks & Recreation, 120 Malabar Road, S.E., City Hall Annex, Palm Bay, Florida 32907. Notice shall be given to Lessee by mailing written notice postage prepaid to the President of the Greater South Brevard Senior Citizen Center, Inc., 1275 Culver Road NE, Palm Bay, Florida 32907. Notice shall be effective upon receipt or five (5) days from mailing, whichever even occurs first.
- 38) Omitted.
- 39) Omitted.
- 40) **Termination for Convenience.** Either party may terminate this Lease for their own convenience upon providing one hundred eighty (180) days written notice to the other party. In the event of a termination for convenience, the parties agree that the only termination damages payable by either party will be prorated rent up to the date of termination.
- 41) **Illegal, Unlawful, or Improper Use.** The Lessee shall make no unlawful, improper immoral or offensive use of the Senior Center nor will the Lessee allow the use of the Senior Center to be

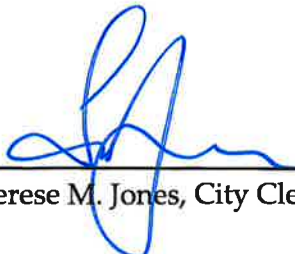
used for any purpose other than that hereinabove set forth. Failure of Lessee to comply with this provision shall be considered a material default under this Lease.

- 42) **Copyright.** No reports, data, programs or other materials produced in whole or in part, for the benefit and use of the City under this Lease shall be subject to copyright by the Lessee in the United States or any other country.
- 43) **Music Performance.** The Lessee shall not use, play or perform copyrighted music without appropriate licensing or other permission. The Lessee shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music. The use or performance of copyrighted music without appropriate licensing or other permission shall constitute a breach of this Lease. The Lessee agrees to indemnify and hold harmless the City from damages for unauthorized use or performance of copyrighted music.
- 44) **Entire Lease.** This Lease, together with any exhibits, constitutes the entire Lease between the City and Lessee and supersedes all prior written or oral understandings. This Lease and any exhibits may only be amended supplemented or canceled by a written instrument duly executed by both parties hereto. As of the Effective Date of this Lease, all authority, permission, and rights, expressed or implied, heretofore granted or inferred to be granted by the City to Lessee to operate a Senior Center shall be terminated and Lessee shall cease operating any Senior Center other than as permitted by this Lease.

{Remainder of Page intentionally left blank.}


IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written,

ATTEST:



Terese M. Jones, City Clerk

CITY OF PALM BAY, FLORIDA, a Florida
Municipal Corporation

By: 

Suzanne Sherman, City Manager
As approved by the Council on May 6th
_____, 2021


Reviewed for legal form and
Content



Patricia Smith, City Attorney

GREATER PALM BAY SENIOR CENTER

WITNESS 

By: 

David Trippany, President

Exhibit "A"

None/Not applicable



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Fred Poppe, Recreation Director

DATE: 5/6/2021

RE: Consideration of a three-year lease agreement with the Greater Palm Bay Senior Center, with the option to renew for two (2) additional one-year terms.

The City is currently in a 5-year lease with the Greater Palm Bay Senior Center ("Senior Center") that expires at the end of April 2021. The Senior Center has agreed to enter into a new Lease that allows the use of City facilities located at 1275 Culver Dr NE, Palm Bay FL 32907.

The renewal Lease has minor changes in order to clarify the responsibilities of the Senior Center and the City. This includes the electronic sign, HVAC system, entrance to the building and defining the Premises. This also includes redefining the period of the Lease from a length of five (5) years to an initial period of three (3) years after which the Lessee may request renewal of this Lease for two (2) separate additional one (1) year terms.

The renewal Lease has been reviewed by all departments involved in the facility's operations and mechanical systems, as well as the President of the Senior Center.

REQUESTING DEPARTMENT:

Recreation, Parks and Facilities

FISCAL IMPACT:

There is no fiscal impact.

RECOMMENDATION:

Motion to approve the City Manager to execute the Lease Agreement.

ATTACHMENTS:

Description

Lease Agreement

LEASE

THIS LEASE made and entered into this 6th day of May, 2021, by and between the CITY OF PALM BAY, a Florida municipal corporation (hereafter referred to as the "City"), and the GREATER SOUTH BREVARD SENIOR CITIZEN CENTER, INC., a Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as the "Lessee")

WHEREAS, the Lessee desires to lease a City-owned facility, which is a part of the City's public park known as the Greater Palm Bay Senior Center and which serves as a senior center (hereinafter referred to as the "Senior Center"),

WHEREAS, the Lessee has an interest in providing programs and services to the senior population of the City is well situated to do so and has previously contracted with the City to provide such services,

WHEREAS, the City has an interest in allowing programs and services to be provided to the senior population of the City,

WHEREAS, the City has by Resolution determined that these programs and services will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, will constitute a service that could be provided by local government, and are compatible with the City purposes for which the Senior Center was constructed.

WITNESSETH

NOW THEREFORE, in consideration of the mutual promises and terms and conditions contained herein, the parties hereto hereby agree as follows.

- 1) **Leased Property.** The City hereby leases to the Lessee and Lessee hereby leases from the City the Senior Center as presently constituted commonly known as the Greater Palm Bay Senior Center located at 1275 Culver Drive NE Palm Bay Florida 32907 The Premises includes all improvements to the leased real property, whether constructed before or after the date of the Lease, and all fixtures, furniture, equipment and supplies if any placed on the leased property by the City.
- 2) **Representation by Lessee.** The Lessee represents that it is a Florida Not For Profit organization under the laws of Florida as described in Section 501(c)(3) of the Internal Revenue Code as amended, and is exempt from federal income tax pursuant to Section 501(a) of said Code.
- 3) **Term.** This Lease shall be effective from the date of the last signature for a period of five (5) years. It is hereby mutually agreed and understood that this includes an initial three (3) years, after which the Lessee may request renewal of this Lease for two (2) separate additional one (1) year terms by written request from Lessee to the City at least 60 days prior to the expiration date of this Lease.

- 4) **Rent.** The rent for the Senior Center shall be Ten Dollars (\$10.00) per year during the initial three (3) year term of this Lease The rent shall be due and paid on the first (1st) day of each May beginning on May, 1st, 2021. It is hereby mutually agreed and understood that the amount of rent may be negotiated for any renewal terms.
- 5) **Utilities.** The Lessee shall pay costs of all public utility charges which shall include telephone, electric, gas, water, sanitary sewer, and garbage, as applicable, which are provided to the Senior Center by the City, Brevard County, or any other public agency or public utility.
- 6) **General Liability Insurance.** Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the City, policy of insurance generally known as general liability policies insuring the Lessee against any and all claims, demands and causes of action whatsoever for injuries received and damages to property in connection with the use, occupation, management or control of the Senior Center and any improvements thereon The City shall be listed on the policies as an additional insured The general liability insurance policy shall be issued by reputable insurance companies and in a form acceptable to the City, protecting and agent against all the foregoing with combined single limits of not less than One Million dollars (\$1,000,000) for Bodily Injury and Property Damage and Fire Legal Liability in the amount of One Hundred Thousand dollars (\$100,000) All personal property housed or placed at the Senior Center shall be at the risk of the Lessee, whether owned by the City or the Lessee and the City shall not be liable for any loss or damage to the personal property of the Lessee or others located thereon for any cause whatsoever The Lessee agrees and understands that the City does not and shall not carry liability theft or fire insurance on said property to cover the Lessee's interest therein.
- 7) **Insurance Certificates.** Lessee shall provide the City with Certificate(s) of Insurance for all policies of insurance and renewals thereof in a form(s) acceptable to the City Said certificates shall name the City as an additional insured and that City shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by reputable companies who are acceptable to the City and licensed and authorized under the laws of the State of Florida.
- 8) **Indemnification.** The Lessee shall indemnify and hold harmless the City and its employees from all claims, damages losses and expenses arising out of or associated with the use, occupation, management or control of the Senior Center or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Senior Center by the Lessee unless such claims damages expenses or losses are caused solely by acts of the City its employees or other persons not a party to this Lease acting on the City's request.
- 9) **Obligations of the Lessee.**
 - a. The Lessee shall keep the interior of the building clean and orderly in accordance with

any applicable laws, regulations or ordinances The City reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions of the Senior Center. Lessee shall maintain said property in its present condition, ordinary wear and tear excepted.

- b. The Lessee shall be responsible for the costs and provision of maintenance, repair and repair by replacement of the plumbing system from water meter to tap, and the heating, ventilation, and air conditioning system (HVAC). However, the Lessee shall only be responsible for the costs of such maintenance and repair for each system up to a cap of \$600.00 for each system for each fiscal year ("fiscal year" is defined as October 1 through September 30 of the following year). Costs in excess of the referenced deductible per fiscal year for each system shall be borne by the Lessor. This flat rate shall be renegotiated every ten years, the first change (if any) becoming effective October 1, 2026. The Lessor shall be responsible for contacting the Lessee approximately sixty (60) days in advance of October 1 of every tenth year in order to be in negotiations.
- c. The term "system" is intended to include all HVAC units as one system, and all plumbing as one system, as outlined above. During the months of April and October of each year, the Lessee at its own cost shall have a maintenance check of the plumbing and HVAC systems conducted by the Lessor's facilities staff by submitting a properly initiated work order, or by an appropriately licensed contractor. Such costs of maintenance check may be utilized in reaching the deductible caps above for which the Lessee is responsible. Such contractors hired by the Lessee must be approved by the Lessor prior to work being performed.
- d. The City shall have access to the building at all times, via key fob, for emergencies or other concerns. The City shall make the Senior Center aware of any entry.
- e. All improvements and any changes made by Lessee to the interior of building shall be at the cost of the Lessee and subject to prior written approval by the City which shall not be unreasonably withheld.
- f. The Lessee, at its cost shall be responsible for all interior and exterior signage it desires, electronic marquee signs which the Lessee desires in order to advertise its programs, excluding parking signs. However, all signage must comply with Americans with Disabilities Act regulations and must be preapproved by the City. Such signs must be in compliance with any applicable jurisdiction code or ordinance.
- g. The Lessee shall have control and responsibility for City owned (presently or subsequently installed) equipment and other depreciable property at the Senior Center as described in Exhibit "A" Such property shall be considered a part and portion of the City's property covered in this Lease. None of the City owned property or equipment, if any is present, is to be sold, loaned, rented, used or moved outside of the Senior Center without the written approval of the Parks and Recreation Department Director or designee.
- h. The Lessee shall promptly notify the City of the necessity of any and all maintenance and repairs needed to the exterior and/ utility systems (e.g., plumbing and electrical systems) for the Senior Center.
- i. All inspections, maintenance, repair, monitoring and costs associated with the security

systems shall be the responsibility of the Lessee.

- j. The Lessee shall pay the expense of fire alarm monitoring.
- k. Lessee understands that the Senior Center must be operated in such a fashion to comply with all federal, state and local all codes in order to operate the Senior Center or otherwise carry out the programs and activities authorized by the Lessee in compliance with this lease.
- l. The Lessee agrees to cooperate with the City in all matters pertaining and relating to the operation of the Senior Center. This shall include providing space at no charge for public meetings, health and wellness services, and any other City sponsored programs services events and meetings under the condition that the scheduling of such events would not interfere with previously scheduled Lessee events.
- m. Lessee shall be responsible for routine maintenance of the bocce court.
- n. Lessee shall be responsible for repair and/or replacement of all interior smoke detectors.
- o. Lessee shall be responsible for repair and/or replacement of interior light ballasts.
- p. Lessee shall be responsible for keeping all drains and toilets free from debris and for the cost of snaking/cleaning all drains and toilets as the City does not provide such service.

10) Obligations of the City.

- a. The City shall maintain the building's exterior in good condition Maintenance and repair of the exterior structure includes rodent and termite control, exterior painting and sealing. The City shall be responsible for the cost and provision of ground maintenance around the exterior of the structure, which will include irrigation system maintenance for the lawn. The City shall mow, edge, and fertilize the lawns, weed and mulch landscapes trim hedges shrubs, and small trees, remove dead, damaged or unwanted trees, and water the lawns landscapes and gardens.
- b. The City shall be responsible for costs of the water retention area maintenance, including the wooden bridge for the Senior Center so that areas meet requirements of federal, state, and local regulations.
- c. The City shall be responsible for maintenance and repair of the sidewalks and parking lot including parking signs, parking lot light poles including light bulbs outside seating, and flagpole.
- d. All inspections, maintenance and repair of the fire alarm and fire sprinkler systems fire extinguishers and backflow prevention meter shall be the responsibility of the City.
- e. The City shall be responsible for any needed repair and/or replacement of the HVAC system with the Lessee paying up to a \$600.00 cap for each system per fiscal year.
- f. The City shall be responsible for the provision of maintenance repair and bear the costs of such for the electrical distribution system from the load side of the meter can to all outlets.
- g. The City shall be responsible for replacement of exterior light bulbs and all exterior ballasts.
- h. The City shall be responsible for any needed major repairs and/or replacements of the plumbing and electrical systems.

- 11) **Violation of Provisions.** Any violation of these provisions will constitute a breach of the conditions of this Lease and may result in the cancellation of same. The City shall notify the Lessee of any violation of provisions of this Lease in writing. Such notice shall identify the provision which is being violated and how it is being violated. The Lessee shall then have sixty (60) days within which to fix the violation. It is the intention of this provision for the parties to work together cooperatively towards a positive resolution of all issues. However, if the violation is not fixed or addressed in a reasonable fashion to the City's reasonable provisions the City has the right to issue a notice of termination/cancellation effective immediately at the end of the sixty day period. In the event of cancellation or termination of this Lease, Lessee shall remove its personal property from the Senior Center. Any personal property not removed within ninety (90) days from the effective date of termination of the Lease shall be subject to becoming the property of the City. This paragraph shall not be deemed to be a waiver of any rights under law held by Lessee to possession, occupancy, and use of the Premises.
- 12) **Permitted Activities.** The Senior Center shall be operated to provide well rounded programs and services to the senior population of the City so that one activity does not dominate the availability of use of the Senior Center. The Lessee shall provide a calendar of events on a quarterly basis subject to approval by the City. The Lessee shall strive to develop a variety of diverse programs and services that meet the recreational physical financial, health, social, nutritional, and educational needs of all socioeconomic levels of the senior population of the City. The Board of Directors of the Lessee shall not have sole authority to deny such programs and services as stated above to the senior population of the City with regard to race, color, religious creed, national origin ancestry age gender marital status or disability.
- 13) **The on-going operation.** The on-going operation of the Senior Center will be the responsibility of the Board of Directors of the Lessee in coordination with the City. A representative from the City may serve as a non-voting member on the Board of Directors. When requested by the City, the Lessee shall provide a list to include names addresses and phone numbers of the Board of Directors of the Lessee and additionally shall provide notification of any changes to said officers that may occur in the course of the year.
- 14) **Revenues.** Revenues may be derived by the Lessee from memberships fund-raising events donations, special activities shared revenues obtained from admission to activities sponsored and operated by other senior or organizations, some participation from community-based organizations and for occasional use by other age groups. The City shall have the option to rent out the Senior Center during non-dedicated/usage time. The City shall supply notice fourteen (14) days in advance of said usage and direct costs shall apply.
- 15) **Reverter and Right of Re-Entry and Repossession.** In the event the Senior Center is not used or ceases to be used for the public purposes set forth herein, the Lease shall immediately terminate and the Senior Center shall revert to the City which shall thereafter have the right to re-enter and repossess the Senior Center.

- 16) **ADA Compliance.** The City and Lessee shall conform to current requirements of the Americans with Disabilities Act in the performance of this Lease and shall not cause or place on the Senior Center any condition causing the Senior Center to become non-compliant. The parties shall work together to cure any known violations of the ADA that may occur.
- 17) **Hours of Operation.** For normal operations, the Lessee assures that the Senior Center will be open an average of 35 daytime hours per week with the exception of those weeks which include a holiday or in the event of an emergency. During all hours of operation of the Senior Center by the Lessee or during all hours when the Senior Center is utilized for programs or services sanctioned by the Lessee, the Lessee shall be responsible for any and all damage to the Senior Center, ordinary wear and tear excepted. The Lessee shall provide either paid staff or designate members of its organization to supervise use of the Senior Center and to secure the Senior Center following use by the Lessee, or any other groups sanctioned by the Lessee.
- 18) **Emergency Services.** In the case of a general emergency as declared by the City, the City retains the right to immediately resume occupation, management, and maintenance of the Senior Center, to use the facility to meet any emergency needs for the period of that emergency and a reasonable period of time thereafter as deemed necessary by the City. The Lessee will be provided as much notice as is practical, dependent on how suddenly the need arises and predictability of how long the need will continue. The City and the Lessee shall not be responsible for the damage, loss of property or income created by the use of the Senior Center by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The City and Lessee shall work directly with such support agencies to recover the cost of restoration, lost equipment and supplies used. During the period in which the City or other governmental or non-governmental agency occupies or manages the Senior Center, Lessee occupancy and any duties or obligations hereunder will be suspended. Any maintenance, damage, restoration, or repair necessitated during any suspension of the Lessee's occupancy under this Lease will be the responsibility and the expense of the City. Repairs, rehabilitation restoration or maintenance, the need for which arises as a result of such emergency suspension of the Lessee's occupancy, shall all be diligently completed by the City at the expense of the City prior to the Lessee reoccupying the Senior Center. As used herein, an 'emergency' will be defined as a period of civil unrest or riot, a period during which the military needs the Senior Center for a period of time relating directly to defense of the nation and a likely attack of the nation a period during which weather such as a hurricane or tornado is likely to cause damage to the community and the Senior Center, is needed for public shelter, distribution of emergency supplies such as food or water, or other related event, or any other circumstance designated by the Emergency Operations Center "E.O.C" as an emergency.
- 19) **Lessee's Assignment, Sublease or License for Occupation by Other Persons** Lessee agrees not to assign or sublease the Senior Center any part thereof or any right or privilege connected therewith without first obtaining the City's written consent, which consent the City may withhold, but not unreasonably, in its sole discretion. Consent on one occasion by the City shall not be consent to a subsequent assignment, sublease, or occupation by other persons.

Lessee's unauthorized assignment, sublease or license to occupy shall be void and shall terminate the Lease at the City's option. Lessee's interest in this Lease is not assignable by operation of law, nor is any assignment of its interest herein without the City's written consent. Nothing herein is intended to prevent the Lessee from entering into short-term use/rental lease with third parties for up to and including three (3) days (no overnight activities), however, even under such circumstances the Lessee shall remain responsible for each and every of its obligations under this Lease. The Lessee shall be responsible for ensuring that all short term use or rental leases shall only be allowed for activities that are consistent with the remainder of the terms of this Lease.

- 20) **Alterations, Changes and Additions.** No structural changes, alterations or additions shall be made by the Lessee to the Senior Center without the prior written consent of the City. Any such alterations, changes and additions shall remain for the benefit of and become the property of the City.
- 21) **No Use that Increases Insurance Risk.** The Lessee shall not use the Senior Center in any manner even in its use for the purposes for which the Senior Center is leased, that will increase the risk covered by insurance on the building where the Senior Center is located so as to increase the rate of insurance on the Senior Center or to cause cancellation to any insurance policy covering the building. Lessee further agrees not to keep at the Senior Center or permit to be kept used or sold thereon anything prohibited by the policy of fire insurance covering the Senior Center. Lessee shall comply, at its own expense, with all requirements of insurers necessary to keep in force the fire and public liability insurance covering the Senior Center.
- 22) **Licenses, Permits, and Taxes.** Lessee agrees to secure and maintain all licenses and permits required to operate including any applicable sales or use tax, which shall be imposed or assessed by any and all governmental authorities, in connection with the business or operation conducted under this Lease and to meet all federal, state, county and municipal laws ordinances policies and rules. Any such licenses and permits shall be maintained and posted if required at appropriate places at the Senior Center within thirty (30) days of the execution of this lease by both parties applicable, a Bingo Class 'A' License shall be obtained on an annual basis and a copy shall be provided to the City.
- 23) **No Waiver of Covenants or Conditions.** The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained shall not be construed as a waiver of such covenant condition or option in any other instance. This Lease cannot be changed or terminated orally.
- 24) **Successors in Interest.** This Lease and the covenants and conditions hereof apply to and are binding on the successors, legal representatives, and assigns of the parties.
- 25) **Severability.** If any provision of this Lease is held by a court of competent Jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force

without being impaired or invalidated in any way.

- 26) **Venue.** Venue for any legal action brought by any party to this Lease to interpret, construe or enforce this Lease shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.
- 27) **Attorney's Fees.** In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs.
- 28) **Governing Law.** This Lease shall be deemed to have been executed and entered into within the State of Florida and this Lease, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.
- 29) **Compliance with Statutes.** It shall be the Lessee's and the City's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.
- 30) **Independent Contractor.** Lessee shall perform the services under this Lease as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Lease shall be interpreted or construed to constitute the Lessee or any of its agents or employees to be the agent, employee or representative of the City.
- 31) **Right to Audit Records.** The Lessee shall prepare an annual financial statement and shall submit same to the City. In the performance of this Lease, the Lessee shall keep books, records, and accounts of all activities related to this Lease in compliance with general accounting procedures. Books, records and accounts related to the performance of this Lease shall be open to inspection during regular business hours by an authorized representative of the City and shall be retained by the agency for a period of three (3) years after the termination of this Lease. All records or documents created by Lessee or provided to Lessee by the City in connection with the activities or services provided by City under the terms of this Lease, are public records and the Lessee agrees to comply with any request for such public records or documents made in accordance with Chapter 119, Florida Statutes.
- 32) **Construction of Lease.** The parties hereby acknowledge that they have fully reviewed this Lease and its attachments and have had the opportunity to consult with legal counsel of their choice, and that this Lease shall not be construed against any party as if they were the drafter of this Lease.
- 33) **Surrender of Premises.** Lessee shall surrender the Senior Center to the City at the end of the Lease term in generally the same condition as when Lessee took possession, allowing for changes and modifications agreed to by the parties over time, reasonable wear and tear, damages by acts of God including fire and storm. The Lessee shall remove all business signs or symbols placed on the Senior Center by the Lessee before surrendering the Senior Center and

restore the portion of the Senior Center on which they were placed in the same condition as before placement.

- 34) **Partial Destruction of Premises.** Partial destruction of the Senior Center shall not render this Lease void or terminate it except as herein provided. If the Senior Center is partially destroyed during the term of this Lease, City may endeavor to make repairs providing the City has the fiscal means to do so, and when such repairs can be made in conformity with local, state, and federal laws and regulations, within ninety (90) days of the partial destruction. If the repairs cannot be so made in ninety (90) days and the City does not elect to make them within a reasonable time, either party hereto has the option to terminate this Lease. If the Senior Center is more than one-third destroyed, the City or Lessee may at its option terminate this Lease giving ninety (90) day notice to Lessee.
- 35) **City's Entry for Inspection and Maintenance.** The City reserves the right to enter the Senior Center at reasonable times to inspect to perform required maintenance and repair or to make additions or alterations to any part of the building in which the Senior Center under Lease is located, and Lessee agrees to permit the City to do so. The City may, in connection with such alterations, additions or repairs erect scaffolding fences and similar structures, post relevant notices and place moveable equipment without incurring liability to Lessee for disturbance of quiet enjoyment of the Senior Center or loss of occupation thereof unless done so in an unreasonable, willful or negligent manner.
- 36) **Modifications.** No modification of this Lease shall be binding on the City or the Lessee unless reduced to writing and signed by a duly authorized representative of City and the Lessee.
- 37) **Notice.** Notice under this Lease shall be given by mailing written notice, postage prepaid to the City at City of Palm Bay, Director of Parks & Recreation, 120 Malabar Road, S.E., City Hall Annex, Palm Bay, Florida 32907. Notice shall be given to Lessee by mailing written notice postage prepaid to the President of the Greater South Brevard Senior Citizen Center, Inc., 1275 Culver Road NE, Palm Bay, Florida 32907. Notice shall be effective upon receipt or five (5) days from mailing, whichever even occurs first.
- 38) Omitted.
- 39) Omitted.
- 40) **Termination for Convenience.** Either party may terminate this Lease for their own convenience upon providing one hundred eighty (180) days written notice to the other party. In the event of a termination for convenience, the parties agree that the only termination damages payable by either party will be prorated rent up to the date of termination.
- 41) **Illegal, Unlawful, or Improper Use.** The Lessee shall make no unlawful, improper immoral or offensive use of the Senior Center nor will the Lessee allow the use of the Senior Center to be

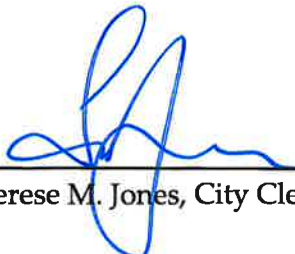
used for any purpose other than that hereinabove set forth. Failure of Lessee to comply with this provision shall be considered a material default under this Lease.

- 42) **Copyright.** No reports, data, programs or other materials produced in whole or in part, for the benefit and use of the City under this Lease shall be subject to copyright by the Lessee in the United States or any other country.
- 43) **Music Performance.** The Lessee shall not use, play or perform copyrighted music without appropriate licensing or other permission. The Lessee shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music. The use or performance of copyrighted music without appropriate licensing or other permission shall constitute a breach of this Lease. The Lessee agrees to indemnify and hold harmless the City from damages for unauthorized use or performance of copyrighted music.
- 44) **Entire Lease.** This Lease, together with any exhibits, constitutes the entire Lease between the City and Lessee and supersedes all prior written or oral understandings. This Lease and any exhibits may only be amended supplemented or canceled by a written instrument duly executed by both parties hereto. As of the Effective Date of this Lease, all authority, permission, and rights, expressed or implied, heretofore granted or inferred to be granted by the City to Lessee to operate a Senior Center shall be terminated and Lessee shall cease operating any Senior Center other than as permitted by this Lease.

{Remainder of Page intentionally left blank.}


IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written,

ATTEST:



Terese M. Jones, City Clerk

CITY OF PALM BAY, FLORIDA, a Florida
Municipal Corporation

By: 

Suzanne Sherman, City Manager
As approved by the Council on May 6th
_____, 2021


Reviewed for legal form and
Content



Patricia Smith, City Attorney

GREATER PALM BAY SENIOR CENTER

WITNESS 

By: 

David Trippany, President

Exhibit "A"

None/Not applicable



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Fred Poppe, Recreation Director

DATE: 5/6/2021

RE: Consideration of a three-year lease agreement with the Greater Palm Bay Senior Center, with the option to renew for two (2) additional one-year terms.

The City is currently in a 5-year lease with the Greater Palm Bay Senior Center ("Senior Center") that expires at the end of April 2021. The Senior Center has agreed to enter into a new Lease that allows the use of City facilities located at 1275 Culver Dr NE, Palm Bay FL 32907.

The renewal Lease has minor changes in order to clarify the responsibilities of the Senior Center and the City. This includes the electronic sign, HVAC system, entrance to the building and defining the Premises. This also includes redefining the period of the Lease from a length of five (5) years to an initial period of three (3) years after which the Lessee may request renewal of this Lease for two (2) separate additional one (1) year terms.

The renewal Lease has been reviewed by all departments involved in the facility's operations and mechanical systems, as well as the President of the Senior Center.

REQUESTING DEPARTMENT:

Recreation, Parks and Facilities

FISCAL IMPACT:

There is no fiscal impact.

RECOMMENDATION:

Motion to approve the City Manager to execute the Lease Agreement.

ATTACHMENTS:

Description

Lease Agreement

**CITY OF PALM BAY
AMENDMENT TO CONTRACT
Senior Center**

This amendment to the above referenced Contract is made and entered into this 18 day of February, 2025, by and between the City of Palm Bay, a municipal corporation organized and existing under the State of Florida, hereinafter referred to as the "City," and the GREATER SOUTH BREVARD SENIOR CITIZEN CENTER, INC., hereinafter referred to as the "Lessee").

WHEREAS, the City and Lessee entered into a Lease Agreement on May 6th, 2021, where the Lessee would lease a City-owned facility to provide programs and services to the senior population of the City, and

WHEREAS, the Lease was to last for a period of three (3) years with the option to renew for an additional two (2) years, with an additional option for one (1) year terms afterwards with sixty days written notice,

WHEREAS, no written agreement was made to the extend the lease, however, both parties mutually wish to continue the services of the Lessee,

NOW THEREFORE, in consideration of the previously signed Lease, the City and Lessee, mutually agree and consent to further continue this Lease through May 5th, 2025,

In all other respects and, except as specifically modified and amended, the Lease dated May 6, 2021 shall continue in full force and effect as written. The parties hereto execute this Amendment to become effective as of the date and year first above written.

CITY OF PALM BAY

LESSEE

120 Malabar Road SE

By:



By:

Sylvia Fels, Vice President

Name/Title

interim City Manager

Scott Morgan 2-19-2025

Signature/Date

Sylvia Fels

February 18, 2025

Signature/Date

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LESSEE

120 Malabar Road SE

By:



By:

Sylvia Fels, Vice President

Name/Title

interim City Manager

Scott Morgan 2-19-2025

Signature/Date

Sylvia Fels

February 18, 2025

Signature/Date

**SECOND AMENDMENT TO LEASE
GREATER PALM BAY SENIOR CENTER**

This amendment to the above referenced Contract is made and entered into this ____ day of _____, 2025, by and between the City of Palm Bay, a municipal corporation organized and existing under the State of Florida, hereinafter referred to as the “City,” and the GREATER SOUTH BREVARD SENIOR CITIZEN CENTER, INC., hereinafter referred to as the “Lessee”).

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WHEREAS, the Lease was to last for a period of three (3) years with the option to renew for an additional two (2) years, with an additional option for one (1) year terms afterwards with sixty days written notice,

WHEREAS, the City and Lessee agreed to extend the Lease until May 5, 2025, and

WHEREAS, City and Lessee have agreed to amend the Agreement as set forth herein;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows

1. **Recitals.** The Recitals set forth hereinabove are incorporated herein as if restated in their entireties. All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Agreement.
2. **Term.** The lease is extended through May 5, 2026.
3. **Obligations of the Lessee.** Paragraph 9 is stricken and shall be replaced as follows:
 - a. The Lessee shall keep the interior of the building clean and orderly in accordance with any applicable laws, regulations or ordinances The City reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions of the Senior Center. Lessee shall maintain said property in its present condition, ordinary wear and tear excepted.
 - b. The Lessee shall be responsible for the costs and provision of maintenance, repair and repair by replacement of the plumbing system from water meter to tap, the electrical system and the heating, ventilation, and air conditioning system (HVAC). However, the Lessee shall only be responsible for the costs of such maintenance and repair for each system up to a cap of \$750.00 for each system for each fiscal year ("fiscal year" is defined as October 1 through September 30 of the following year). Costs in excess of the referenced deductible per fiscal year for each system shall be borne by the Lessor. This flat rate shall be renegotiated every ten years, the first change (if any) becoming effective October 1,

2026. The Lessor shall be responsible for contacting the Lessee approximately sixty (60) days in advance of October 1 of every tenth year in order to be in negotiations.

c. The term "system" is intended to include all HVAC units as one system, and all plumbing as one system, as outlined above. During the months of April and October of each year, the Lessee at its own cost shall have a maintenance check of the plumbing and HVAC systems conducted by the Lessor's facilities staff by submitting a properly initiated work order, or by an appropriately licensed contractor. Such costs of maintenance check may be utilized in reaching the deductible caps above for which the Lessee is responsible. Such contractors hired by the Lessee must be approved by the Lessor prior to work being performed.

d. The City shall have access to the building at all times, via key fob, for emergencies or other concerns. The City shall make the Senior Center aware of any entry.

e. All improvements and any changes made by Lessee to the interior of building shall be at the cost of the Lessee and subject to prior written approval by the City which shall not be unreasonably withheld.

f. The Lessee, at its cost shall be responsible for all interior and exterior signage it desires, electronic marquee signs which the Lessee desires in order to advertise its programs, excluding parking signs. However, all signage must comply with Americans with Disabilities Act regulations and must be preapproved by the City. Such signs must with any applicable jurisdiction code or ordinance.

g. The Lessee shall have control and responsibility for City-owned (presently or subsequently installed) equipment and other depreciable property at the Senior Center. Such property shall be considered a part and portion of the City's property covered in this Lease. None of the City owned property or equipment, if any is present, is to be sold, loaned, rented, used or moved outside of the Senior Center without the written approval of the Parks and Facilities Department Director or designee.

h. The Lessee shall promptly notify the City of the necessity of any and all maintenance and repairs needed to the exterior and utility systems, including but not limited to the plumbing, electrical systems and HVAC for the Senior Center.

i. All inspections, maintenance, repair, monitoring and costs associated with the security systems shall be the responsibility of the Lessee.

j. The Lessee shall pay the expense of fire alarm monitoring.

k. Lessee understands that the Senior Center must be operated in such a fashion to comply with all federal, state and local all codes in order to operate the Senior Center or otherwise carry out the programs and activities authorized by the Lessee in compliance with this lease.

l. The Lessee agrees to cooperate with the City in all matters pertaining and relating to the operation of the Senior Center. This shall include providing space at no charge for up to five (5) public meetings, health and wellness services, recreational events, and any other City-sponsored programs, services, events and meetings under the condition that the scheduling of such events would not interfere with previously scheduled Lessee events.

m. Lessee shall be responsible for routine maintenance of the bocce court.

n. Lessee shall be responsible for repair and/or replacement of all interior smoke

detectors.

o. Lessee shall be responsible for repair and/or replacement of interior light fixtures including light ballasts and light bulbs.

p. Lessee shall be responsible for keeping all drains and toilets free from debris and for the cost of snaking/cleaning all drains and toilets as the City does not provide such service.

q. Lessee shall be responsible for the maintaining the interior premises in good order, condition and repair, including maintaining paint and floors, major repairs excepted.

4. **Obligations of the City.** Paragraph 10(e) is amended to increase the Lessee's responsibility for repairs of the HVAC system:

e. The City shall be responsible for any needed repair and/or replacement of the HVAC system with the Lessee paying up to a \$750.00 cap for each system per fiscal year.

4. **Revenues.** Paragraph 14 is stricken and replaced with the following:

14) Revenues. Revenues may be derived by the Lessee from memberships, fund-raising events donations, special activities shared revenues obtained from admission to activities sponsored and operated by other senior or organizations, some participation from community-based organizations and for occasional use by other age groups. The City shall have usage of the Senior Center at no charge as provided in paragraph 9(l) if the City **provides** the Lessee with notice fourteen (14) days in advance of the desired usage. The City has the option to rent the Senior Center during non-dedicated/usage time for any events in excess of the agreed upon five (5) events referenced in paragraph 9(l) of the Lease. The City shall supply notice fourteen (14) days in advance of said usage and direct costs shall apply, as mutually agreed to by both parties in advance.

5. **Alterations, Changes and Additions.** Paragraph 20 is stricken and replaced as follows:

a. Lessee shall not make any alterations, additions, or improvements in or to the Senior Center ("Alterations") without the prior written consent of City. Subject to the prior written consent of City, Lessee, at Lessee's expense, may make Alterations which are nonstructural and do not affect utility services or plumbing and electrical lines in or to the interior of Senior Center by using contractors or subcontractors approved by City. Lessee shall, before making Alterations, at its expense, obtain all permits, approvals, and certificates required by any governmental or quasi-governmental bodies and, upon receipt shall deliver copies to City. Lessee agrees to carry and will cause Lessee's contractors and subcontractors to carry such worker's compensation, general liability, personal, and property damage insurance as City requires. Evidence of such insurance shall be delivered by Lessee to City prior to commencement of Alterations.

b. All Alterations, installed in the Senior Center at any time, shall, upon installation, become City's property and shall be surrendered with the Senior Center. Lessee shall transfer to the City all warranties received from any manufacturers, dealers and/or installers

of such equipment, roofing or improvement, and Lessee agrees to use all reasonable effort to assist the City in enforcing such warranty.

c. Upon the expiration of the term, or upon the earlier termination of this Lease, Lessee shall peaceably and quietly surrender and deliver the Senior Center to City in good and substantial condition, reasonable wear and tear excepted. Any property of Lessee, if not removed at the expiration of termination of this Lease, shall, at City's option, be deemed abandoned and become the property of Lessor without any payment or offset therefor. Lessor may remove any such property from the Senior Center and store the same at the risk and expense of Lessee or may otherwise dispose of the same in any manner whatsoever. Lessee shall repair and restore all damage to the Senior Center caused by removal by Lessee or agent of the Lessee of any of Lessee's property

d. Nothing in this section shall be construed to give City title to or to prevent Lessee's removal of, trade fixtures, moveable office furniture, and equipment, provided that Lessee complies with all applicable laws, ordinances, and regulations and provided that Lessee is not in default at that time and the fixtures can be removed without structural damage to the Senior Center.

6. Radon. The following paragraph is added as paragraph 45 to the Lease:

45. Radon Disclosure: As required by §404.056, Florida Statutes, the following disclosure is hereby made by the City:

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

7. In all other respects and, except as specifically modified and amended, the Lease dated May 6, 2021 shall continue in full force and effect as written. The parties hereto execute this Amendment to become effective as of the date and year first above written.

CITY OF PALM BAY

LESSEE

120 Malabar Road SE

By: _____
City Manager

By: _____
Name/Title

Signature/Date

Signature/Date

**SECOND AMENDMENT TO LEASE
GREATER PALM BAY SENIOR CENTER**

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City Manager

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Signature/Date

Signature/Date