

ITEM #46

(Exhibit 1 - Final License Agreement)

ADDITIONAL MATERIAL

Regular Meeting

SEPTEMBER 22, 2020

SUBMITTED AT THE REQUEST OF

COUNTY ADMINISTRATION



BERTHA HENRY, County Administrator

115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7362 • FAX 954-357-7360

MEMORANDUM

Date: September 16, 2020

To: Broward County Board of County Commissioners

Thru: Bertha Henry, County Administrator

From: Lary Mahoney, Director of Real Estate Development

RE: **Agenda Item #46 for the September 22, 2020 Meeting**

Regarding Agenda Item No. 46: Attached is the final License Agreement (Exhibit 1), as prepared by the County's Attorney Office, to be executed between Broward County and 650 Gulfstream Charter LLC ("Gulfstream") and 3290 Sunrise Investments, Inc. ("Sunrise"), which clarifies the County will be using only a portion of Sunrise's and Gulfstream's property for the use of 150 parking spaces as more particularly described in the now attached Exhibit "A".

**PARKING LICENSE AGREEMENT AMONG
650 GULFSTREAM CHARTER, LLC, 3290 SUNRISE INVESTMENTS, INC.,
AND BROWARD COUNTY**

This Parking License Agreement (“License”) among 650 GULFSTREAM CHARTER, LLC, a Florida Limited Liability Company, (“Gulfstream”) and 3290 SUNRISE INVESTMENTS, INC., a Florida Corporation, (individually, “Sunrise”, and collectively with Gulfstream, “Licensor”) and Broward County, a political subdivision of the State of Florida (“County”), is entered into and effective as of the date this License is fully executed by the Parties (“Effective Date”). Licensor and County are hereinafter referred to collectively as the “Parties,” and individually referred to as a “Party.”

RECITALS

- A. Sunrise is the owner of real property located on West Sunrise Boulevard, Lauderhill, Florida, Sunrise, Florida 33311 and identified as folio number 504206470010 (“Sunrise Property”).
- B. Gulfstream is the owner of real property located adjacent to the Sunrise Property on the southwest corner of West Sunrise Boulevard and Northwest 31st Avenue in Lauderhill, Florida 33311 and identified as folio number 504206500010 (“Gulfstream Property”).
- C. County is the owner of real property 900 NW 31st Ave, Fort Lauderdale, FL 33311, known as the Edgar Mills Center (“Mills Center”) and which is adjacent to the Gulfstream Property and Sunrise Property.
- D. County will be conducting certain improvements on the parking facility at the Mills Center and desires a license to use portions of the Sunrise Property and Gulfstream Property for the parking of passenger motor vehicles of employees of County and visitors to the Mills Center until the improvements are completed.
- E. Licensor is willing to grant to County a license to use 150 spaces on a portions of the Sunrise Property and Gulfstream Property as more particularly described in the attached Exhibit A (“Premises”) for the parking of said passenger motor vehicles, subject to the terms and conditions in this License.

In consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Description; Term; Renewal; and Fee.

- 1.1 License. Licensor grants to County an exclusive, non-assignable, limited license to use the Premises for passenger motor vehicle parking solely by employees of County and users of the Mills Center (“County Users”).

- 1.2 Term/Renewal Term. The term of this License shall commence on the Effective Date and terminate Ninety (90) days after the Effective Date (“Initial Term”), unless further extended, in writing, by the parties as provided herein. This License may be renewed by County for up to three (3) successive period(s) of thirty (30) days each (each 30-day extension shall be referred to as an “Extension Term”), which option shall be deemed to have been automatically exercised unless and until County provides written notice of its intent not to extend at least ten (10) days prior to the commencement of an Extension Term. Each Extension Term shall be on the same terms and conditions as provided in this License for the Initial Term. The Initial Term, and each Extension Term exercised by County, are collectively referred to in this License as the “Term.”
- 1.3 Monthly License Fee. During the Term, County shall pay Licensor a license fee (“Monthly License Fee”) of Three Thousand Dollars (\$3,000) per 30-Day period, commencing on the Effective Date, and each subsequent Monthly License Fee will become due and owing to Licensor every 30 days thereafter. Such payment shall be made without demand or invoice from Licensor at the address provided in Section 9.
- 1.4 County Improvements. In order to facilitate County Users’ access to the Premises, Landlord has agreed to construct a four (4’) foot-wide chain link fence gate, at an exact location mutually agreeable to the Parties, on the northeast corner of the premises (“County Improvements”) prior to the Effective Date. On the Effective Date, County shall pay to Licensor a one-time additional license fee amount of five hundred (\$500) dollars for the County Improvements.

2. Use of Premises.

- 2.1 License Hours. During the Term, County Users shall be permitted to use the Premises Monday through Thursday between the hours of 6:30 a.m. and 9:30 p.m. and on Friday from 6:30 a.m. to 7:30 p.m. (“License Hours”). County Users shall not be permitted to use the Premises on weekends or any other times outside of the License Hours.
- 2.2 No Nuisance or Waste. County covenants that no nuisance or hazardous trade or occupation shall be permitted or carried on in or upon said Premises, no act or thing shall be permitted and no thing shall be kept in or about said Premises which will increase the risk of hazard of fire, no waste shall be permitted or committed upon or any damage done to said Premises, and County shall not use or occupy or permit the Premises to be used or occupied in any manner that will violate any laws or regulations of any governmental authority

3. Maintenance; Security; Insurance.

- 3.1 Maintenance. Licensor shall keep the Premises in good structural repair, so far as concerns County's use of the Premises, and in compliance with all applicable laws, ordinances, orders, or regulations of any federal, state, County or municipal authority now or hereafter in effect. Except as stated in this Section 3, County shall not have any maintenance responsibilities.
- 3.2 Security. County shall be responsible for providing, at its own expense, security personnel to maintain a safe environment in the Premises during the License Hours.
- 3.3 Insurance. County is a self-insured governmental entity subject to the limitations of Section 768.28, Florida Statutes, as may be amended from time to time. The County has instituted and shall maintain a fiscally sound and prudent risk management program with regard to its obligations under this License in accordance with the provisions of Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of the County's sovereign immunity.

4. Assignment; Sublicensing.

County may not assign, sublicense, or otherwise transfer all or any of its interests under this License without the prior written approval of Licensor, which approval shall not be unreasonably delayed, withheld, or conditioned.

5. Default.

If either Party defaults in the performance of a material provision of this License and fails to cure such default within fifteen (15) calendar days after receipt of written notice specifying the nature of such default, or if such default cannot be cured within fifteen (15) calendar days and the defaulting Party fails to commence such cure within such time and diligently pursue such cure to completion, then the non-defaulting Party may terminate this License and pursue all other remedies available to it at law or in equity.

6. Termination; Surrender.

- 6.1 Termination. This License may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause is provided.

6.2 Surrender Upon Termination. Upon expiration or termination of this License, County will peaceably surrender and deliver the Premises to Licensors.

7. **No Waiver of Breach.**

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

8. **Parties' Relationship.**

8.1 No Landlord-Tenant Relationship. This License shall not be construed to create a landlord-tenant relationship, and County shall not at any time claim any interest or estate of any kind in the Property other than as a licensee.

8.2 Independent Contractors. The relationship created between Licensors and County by this License is solely that of independent contractors. This License shall not create a joint venture, partnership, or relationship of principal and agent or of employer and employee between Licensors and Licensee, and no officer, employee, agent, servant or independent contractor of Licensee shall be deemed at any time to be an employee, servant or agent of Licensors for any purpose whatsoever.

9. **Notices.**

For a notice to a Party to be effective under this License, notice must be sent by U.S. first-class mail or commercial express carrier with acknowledgment of delivery, each with a contemporaneous copy via electronic mail (email), to the addresses listed below and shall be effective upon mailing (provided that the contemporaneous e-mail is also sent). The addresses for giving notice shall remain the same as set forth in this Section 9 unless and until changed by providing written notice of such change in the manner provided in this Section 9.

To County:

County Administrator
Broward County Governmental Center, Room 409
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email: bhenry@broward.org

With copies to:

Real Property Section
Broward County Governmental Center, Room 501
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email: lmahoney@broward.org

To Licensor:

3291 West Sunrise Blvd, Inc.
650 Gulfstream Charter LLC
Attn: Betty Henn
3291 West Sunrise Blvd
Lauderhill, Florida 33311
Email: Jerry@floridaswapshop.com

10. Third Party Beneficiaries.

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

11. Compliance with Laws.

Licensor and County shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing their respective duties, responsibilities, and obligations under this License.

12. Severability.

In the event a portion of this License is found by a tribunal of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless Licensor or County elects to terminate this License. An election to terminate this License based upon this provision shall be made within ten (10) business days after the finding by the tribunal becomes final.

13. Joint Preparation.

Each Party and its counsel have participated fully in the review and preparation of this License and acknowledge that the preparation of this License has been their joint effort. The language agreed to expresses 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. The language in this License shall be interpreted as to its fair meaning and not strictly for or against any Party.

14. **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 License by reference and a term, statement, requirement, or provision of Sections 1 through 18 of this License, the term, statement, requirement, or provision contained in Sections 1 through 18 shall prevail and be given effect.

15. **Law, Jurisdiction, Venue, Waiver of Jury Trial.**

This License shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this License shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this License must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS LICENSE, LICENSOR AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS LICENSE. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS LICENSE AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

16. **Amendments.**

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this License and executed by County and Licensor or others delegated authority to or otherwise authorized to execute same on their behalf.

17. **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.

18. Representation of Authority.

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

19. Multiple Originals.

Multiple copies of this License may be executed by all Parties, each of which, bearing original signatures, shall have the force and effect of an original document.

[SIGNATURE PAGES AND EXHIBIT FOLLOW]

IN WITNESS WHEREOF, the Parties have entered into this License, with 650 GULFSTREAM CHARTER, LLC, signing by and through its duly authorized representative, 3290 SUNRISE INVESTMENTS, INC, signing by and through its duly authorized representative, and BROWARD COUNTY, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same by Board action on the _____ day of _____, 20____.

LICENSOR

3290 SUNRISE INVESTMENTS, INC, a
Florida Corporation

ATTEST:

Secretary

By: _____
Printed Name: _____
Title: _____

_____ day of _____, 20____.

(SEAL)

OR

WITNESSES:

Witness 1 Signature

Witness 1 Print/Type Name

Witness 2 Signature

Witness 2 Print/Type Name

LICENSE AGREEMENT AMONG 650 GULFSTREAM CHARTER, LLC, 3290 SUNRISE INVESTMENTS, INC AND BROWARD COUNTY.

SUNRISE

650 GULFSTREAM CHARTER, LLC, a Florida Limited Liability Company,

ATTEST:

Secretary

By: _____
Printed Name: _____
Title: _____

(SEAL)

_____ day of _____, 20____.

OR

WITNESSES:

Witness 1 Signature

Witness 1 Print/Type Name

Witness 2 Signature

Witness 2 Print/Type Name

LICENSE AGREEMENT AMONG 650 GULFSTREAM CHARTER, LLC, 3290 SUNRISE INVESTMENTS, INC, AND BROWARD COUNTY.

COUNTY

<p>WITNESS:</p> <p>_____</p> <p>(Signature)</p> <p>_____</p> <p>(Print Name of Witness)</p>	<p>BROWARD COUNTY, by and through its County Administrator</p> <p>By _____</p> <p>County Administrator</p> <p>_____ day of September, 2020</p>
<p>_____</p> <p>(Signature)</p> <p>_____</p> <p>(Print Name of Witness)</p>	<p>Approved as to form by Andrew J. Meyers Broward County Attorney Governmental Center, Suite 423 115 South Andrews Avenue Fort Lauderdale, Florida 33301 Telephone: (954) 357-7600</p> <p>By _____</p> <p>Annika E. Ashton Deputy County Attorney (Date)</p>

AEA/wp
 Swap Shop Parking License
 #529991v5
 09/15/2020

Exhibit "A"
PREMISES

Aerial Location Map
Approximately 150 Parking Spaces



Real Property Section

Disclaimer:

This map is for informational purposes only and is provided "as is". It is not intended to be used for description, conveyance, authoritative definition of legal boundary. This is not a survey product. The Real Property Section does not accept responsibility for damages experienced as a result of using, modifying, contributing or distributing the enclosed material.

Prepared by: Natasha Herne, Real Property Section September 9, 2020

