

ORDINANCE NO. 2023-027

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE MAYOR, OR DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE LEASE AGREEMENT WITH BROWARD COUNTY FOR THE LEASE OF REAL PROPERTY LOCATED AT 4900 WEST COPANS ROAD FOR A 911 EMERGENCY DISPATCH CENTER; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 29, 2013, the City Commission approved a five (5) year Lease Agreement with Broward County to lease space in the City's Public Works/Emergency Operations Center located at 4900 West Copans Road for a 911 Emergency Dispatch Center, also known as a Public Safety Answering Point (PSAP); and

WHEREAS, in 2018, the City Commission approved a five (5) year extension to the Lease Agreement with Broward County at the same rent provided for in the original Lease Agreement; and

WHEREAS, Broward County has requested a two (2) year extension of the Lease Agreement; and

WHEREAS, the City Commission finds and determines it to be in the best interests of the residents of Coconut Creek to extend the lease.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

Section 2: That the City Commission hereby authorizes a two (2) year extension of the Lease Agreement between the City of Coconut Creek and Broward County for the lease of space in the City's Public Works/Emergency Operations Center located at 4900 West Copans Road for a 911 Emergency Dispatch Center.

Section 3: That the Mayor, or designee, is hereby authorized to execute the Second Amendment to the Lease Agreement to provide for a two (2) year lease extension for the 911 Emergency Dispatch Center located in the City's Public Works/Emergency Operations Center at 4900 West Copans Road, Coconut Creek, Florida.

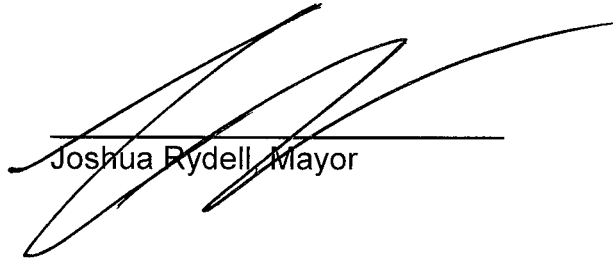
Section 4: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 5: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

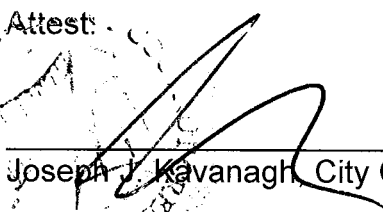
Section 6: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

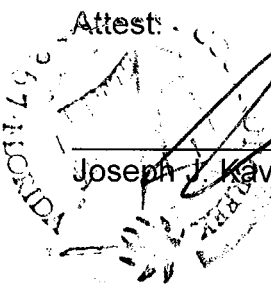
PASSED FIRST READING THIS 14TH DAY OF SEPTEMBER, 2023.

PASSED SECOND READING THIS 28TH DAY OF SEPTEMBER, 2023.



Joshua Rydell, Mayor

Attest:


Joseph J. Kavanagh, City Clerk


	<u>1st</u>	<u>2nd</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>
Railey	<u>Aye</u>	<u>Aye</u>
Brodie	<u>Aye</u>	<u>Aye</u>
Wasserman	<u>Aye</u>	<u>Aye</u>

**SECOND AMENDMENT TO THE LEASE AGREEMENT
BETWEEN
CITY OF COCONUT CREEK
AND
BROWARD COUNTY
FOR
LEASE OF REAL PROPERTY FOR A 911 EMERGENCY DISPATCH CENTER
(ALSO KNOWN AS PUBLIC SAFETY ANSWERING POINT "PSAP")**

This Second Amendment to the Lease Agreement for Lease of Real Property for a 911 Emergency Dispatch Center ("Amendment") between City of Coconut Creek, a Florida municipal corporation ("Landlord"), whose address is 4800 West Copans Road, Coconut Creek, Florida 33063, and Broward County, a political subdivision of the state of Florida ("Tenant"), whose address is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301. Landlord and Tenant are hereinafter referred to collectively as the "Parties," and individually referred to as a "Party."

RECITALS

A. Landlord and Tenant entered into the Lease Agreement for Lease of Real Property, dated September 25, 2013, whereby Landlord agreed to lease to Tenant, and Tenant agreed to lease from Landlord, space located at 4900 West Copans Road, Coconut Creek, Florida 33063, for the operation of a 911 emergency dispatch center ("Original Lease").

B. Landlord and Tenant entered into the First Amendment to Lease Agreement for Lease of Real Property, effective June 24, 2014 ("First Amendment"), which, *inter alia*, amended the Original Lease to revise the Premises (as defined in the Lease). The Original Lease as amended by the First Amendment is hereinafter referred to as the "Lease."

C. The Parties desire to further amend the Lease to revise the Premises, extend the term of the Lease, update the rent schedule, and revise certain rights and obligations of the Parties.

AMENDMENT

NOW, THEREFORE, 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. Unless otherwise defined in this Amendment, the capitalized terms in this Amendment have the respective meanings ascribed to them in the Lease, and the definitions of those terms in the Lease are incorporated by reference into this Amendment. If there is a conflict or inconsistency between any term, statement, requirement, or provision of the Lease, and any provision of this Amendment, the provisions of this Amendment shall prevail and be given effect.

2. The recitals set forth above are true, accurate, and fully incorporated herein by this reference.

3. This Amendment shall be effective on October 1, 2023.

4. Paragraph 1 of the Lease is hereby amended as follows:

DESCRIPTION, TERM, RENEWALS, AND RENT:

LANDLORD hereby leases unto TENANT approximately six thousand ~~four~~ one hundred ~~seventy five~~ (6,400~~175)~~ square feet at the address of 4900 West Copans Road, situated in the City of Coconut Creek, County of Broward, State of Florida, as more particularly described in Exhibit "A-~~12,~~" attached hereto and made a part hereof ("Premises"), for the initial term of five (5) years commencing on the 1st day of October, 2013 ("Commencement Date"), and terminating on the last day of September, 2018.

The term of this Lease may be extended, at the option of TENANT, acting through its County Administrator, and upon the written consent of LANDLORD, acting through its City Manager or duly authorized designee, for ~~up to five (5) successive one additional~~ one additional renewal term(s) of five (5) years each ~~for up to a total of twenty-five (25) additional years~~ ("Renewal Term"). Such option to extend shall be exercised by TENANT giving written notice by certified U.S. mail to LANDLORD not less than six (6) months prior to the expiration of the then existing term. LANDLORD shall have a period not to exceed thirty (30) days ("Notice Period") from receipt of TENANT's notice to send written notice as to whether or not LANDLORD consents to the extension. Failure of the LANDLORD to timely respond shall be deemed a consent to the extension of the Lease. LANDLORD's notice shall be deemed timely if postmarked within the Notice Period.

Upon the expiration of the Renewal Term, the term of the Lease shall be further extended for two (2) years beginning on October 1, 2023 and terminating on September 30, 2025 ("Extension Term"). There shall be no further extensions of this Lease. Any occupancy of the facility beyond September 30, 2025 shall be on a month-to-month basis. Each month during this month-to-month period shall require the rental amount set forth in Exhibit B-2, which rent shall include an escalator to reflect a 3.5% CPI. In addition, TENANT shall pay the actual cost of the City's rent and monthly operating expense payments for the Coconut Creek Fire Administration Office as described in the City's Lease Agreement with Johnson Road, LLC dated July 14, 2022. Further, if TENANT fails to vacate the premises timely, TENANT agrees to reimburse LANDLORD for the negotiated discount amount of Sixty Thousand Dollars (\$60,000.00) within (15) days of termination and TENANT shall be responsible for any and all of LANDLORD'S fees and costs to pursue eviction of TENANT, including, but not limited to any and all fees for conflict resolution under Chapter 164, Fla. Stat.

Upon mutual consent of TENANT, acting through its County Administrator, and LANDLORD, acting through its City Manager, the Lease may be extended for successive additional terms of three months each (each an "Additional Extension"). Such option to extend shall be exercised by TENANT giving written notice by certified U.S. mail, with a contemporaneous copy via email, to LANDLORD not less than thirty (30) days prior to the expiration of the then existing term. LANDLORD shall have a period not to exceed ten (10) days from the date of TENANT's notice to send written notice as to whether or not LANDLORD consents to the extension. Failure of LANDLORD to timely respond shall be deemed a consent to the extension of the Lease.

Each renewal term shall be for five (5) years, and The Renewal Term, Extension Term, and this Additional Extension shall be upon the same terms and conditions as provided in this Lease for the initial term except that the rent shall be as described in the attached Exhibit "B-42," attached hereto and made a part hereof.

TENANT agrees to pay during the Lease term to LANDLORD the rent set forth on Exhibit "B-42," which is attached hereto and made a part hereof. The rent payable during each calendar year or portion thereof during the Lease term shall be due and payable in equal monthly installments on the first day of each calendar month during the Lease term of this Lease and any properly executed extension thereof, and TENANT hereby agrees to pay such rent to LANDLORD at LANDLORD's office located at 4800 West Copans Road, Coconut Creek, FL 33063, or at such other place as may be designated in writing by LANDLORD to TENANT pursuant to the NOTICES provision. TENANT agrees to pay all such sums in advance, and without notice or demand. If the Lease term commences on a day other than the first day of a month or terminates on a day other than the last day of a month, then the installments of rent for such month or months shall be prorated based on a thirty (30) day month. On October 1, 2023, TENANT shall pay to LANDLORD, as Additional Rent, an amount equal to Two Hundred Ninety-Five Thousand (\$295,000) dollars as TENANT's contribution to improvements that will be or have been completed by LANDLORD related to HVAC systems.

If LANDLORD provides to TENANT documentation at the conclusion of any term of this Lease which reasonably demonstrates to TENANT that the future rental amounts to be paid by TENANT pursuant to Exhibit "B-42" are insufficient to pay for LANDLORD's actual costs for maintaining and leasing the Premises to TENANT pursuant to the Lease terms, LANDLORD and TENANT agree to enter into good faith negotiations for a Lease amendment to establish a new rent schedule.

5. Paragraph 3 of the Lease is amended as follows:

USE OF PREMISES:

LANDLORD and TENANT acknowledge that the TENANT provides a necessary public service that is no longer used by the CITY and that LANDLORD has a

competing public purpose use for the space. Further, TENANT is committed to vacating the premises on or before the conclusion of this Lease term. To facilitate LANDLORD's planning for space needs, TENANT agrees to provide biannual status reports related to the timely vacation of the space and relocation of personnel and equipment as referenced in this Agreement.

TENANT and TENANT's Operator may use and occupy the Premises for operation of the 911 Emergency call dispatch operations, also known as Public Safety Answering Point ("PSAPs"), or for ancillary purposes related thereto. LANDLORD acknowledges that TENANT's and TENANT's Operator's use of the Premises will be around the clock, twenty-four (24) hours per day, three hundred sixty-five (365) days per year and LANDLORD acknowledges that TENANT and TENANT's Operator shall have full access and use of the Premises at all times. As a result of such special use, LANDLORD agrees that the Premises shall include an Uninterruptible Power System (UPS) and a backup building generator, which LANDLORD agrees to maintain in accordance with manufacturer specifications to ensure equipment is in good working order at all times. In the event a defect to the UPS and backup building generators are detected, LANDLORD agrees to repair the defect(s) of the equipment, at its expense, within 24 hours. If LANDLORD is unable to repair the UPS or backup building generator within the time frame specified, TENANT, with written approval from LANDLORD, shall have the option of making the repairs and shall be reimbursed by LANDLORD for actual costs incurred. TENANT acknowledges that during periods of declared emergencies as authorized by Florida law which exceed 24 hours, TENANT shall be responsible for the delivery and furnishing of fuel for its use to power the UPS and backup building generator. In the event any portion of TENANT fuel is also utilized by LANDLORD, LANDLORD shall promptly reimburse TENANT for its share of TENANT fuel based on its pro rata use of the building in which the Premises are located.

TENANT acknowledges that the server room optimally requires both HVAC units to run simultaneously. To mitigate the risk of one unit failing and the remaining operable unit failing to maintain necessary temperature in the server room TENANT agrees to acquire and station two (2) adequately sized spot coolers on site. The units will only be used when necessary to support temperature regulation of the server room or PSAP, likely in the event of HVAC failure. TENANT may transport these units to either of the other two Broward County PSAP locations for the same purpose, when necessary. TENANT will immediately return the units to Coconut Creek once no longer needed at the other PSAPs. In the case of competing needs, TENANT will use these two units at Coconut Creek and make alternate arrangements for the other PSAPs. While Tenant works on the acquisition, TENANT agrees to obtain a rental agreement for such coolers to ensure availability.

TENANT agrees that its contract with the Operator and any sublessee shall require that no nuisance or hazardous trade or occupation shall be permitted or carried

on, in, or upon the Premises; no act or thing shall be permitted, and nothing shall be kept in or about the Premises, which will increase the risk of hazard of fire; no waste shall be permitted or, committed upon, or any damage done, to the Premises; and TENANT and TENANT's Operator shall not use or occupy, or permit the Premises to be used or occupied, in any manner that violates any laws or regulations of any governmental authority. TENANT shall require its Operator to conform to and comply with the terms of this Lease.

TENANT will request that Operator (i) eliminate, to the extent feasible, the eating of meals by call takers and dispatchers at their stations rather than the break room; and (ii) eliminate, to the extent feasible, the use of bathroom sinks for washing of food containers. TENANT shall coordinate with Operator to set a schedule for routine quarterly maintenance and pest control.

TENANT's staff accessing the Premises shall follow LANDLORD's server room visitor log procedures, escort visitors/contractors on the Premises at all times, and provide written notice to LANDLORD's IT Department of any equipment added, removed, or replaced in the server room, along with equipment specifications, no later than ten (10) business days after such addition, removal, or replacement. TENANT shall ensure that large deliveries and disposal of boxes are coordinated with LANDLORD's IT Department.

6. Paragraph 5 of the Lease is amended to read as follows:

ALTERATIONS AND IMPROVEMENTS:

5.1 Structural Changes: TENANT may make structural alterations or improvements to the Premises which are necessary to facilitate the TENANT's use of the Premises as a 9-1-1 Emergency call dispatch operations center with LANDLORD's written consent which shall not be unreasonably withheld or delayed. If consent is granted by LANDLORD, TENANT shall first request that LANDLORD make those structural alterations or improvements by mutual agreement and at TENANT's expense. If the parties are unable to come to a mutual agreement with respect to LANDLORD making the structural alterations or improvements, then TENANT shall have the option of making those structural alterations or improvements approved by LANDLORD at TENANT's own expense and shall be permitted by the City's Building Division. All structural alterations or improvements to the Premises shall be the exclusive property of LANDLORD and shall remain on the Premises upon the termination or expiration of this Lease. TENANT and LANDLORD agree to establish a value of any alteration or improvement for LANDLORD's insurance purposes.

5.2 Non-Structural Changes: Notwithstanding the above, TENANT may make nonstructural alterations or improvements which are necessary to

facilitate the TENANT's use of the Premises as a 911 Emergency call dispatch center to the Premises without seeking consent from LANDLORD. All nonstructural alterations or improvements to the Premises shall be considered personalty and remain the exclusive property of TENANT unless TENANT and LANDLORD agree otherwise in writing, and TENANT, at TENANT's expense, shall remove all such property from the Premises upon the termination or expiration of this Lease; provided, however, that the Premises be restored to its original condition, normal wear and tear excepted.

7. Paragraph 6 of the Lease is amended to read as follows:

~~6. HOLD-OVER BY TENANT:~~

~~TENANT, with the approval of LANDLORD, may hold-over and remain in possession of the Premises after the expiration of this Lease, and in no event shall such hold-over be deemed or construed to be a renewal or extension of this Lease, but shall only operate to create a month-to-month tenancy upon the same terms and conditions as are set forth in this Lease. This month-to-month tenancy may be terminated by either party at the end of any month upon ninety (90) days' prior written notice by certified U.S. mail to the other. Double rent shall not be charged under this Section.~~

8. Exhibit "A-1" of the Lease is hereby deleted and replaced with Exhibit "A-2," attached hereto and made a part hereof. All references to Exhibit "A-1" shall be deemed to reference Exhibit "A-2."

9. Exhibit "B-1" of the Lease is hereby deleted and replaced with Exhibit "B-2," attached hereto and made a part hereof. All references to Exhibit "B-1" shall be deemed to reference Exhibit "B-2."

10. Except as expressly modified herein, all terms and conditions contained in the Lease shall remain unchanged and in full force and effect.

11. The Lease, as modified by this Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Lease as modified hereby. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

12. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

13. This Amendment has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either Party.

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

(REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Amendment: CITY OF COCONUT CREEK, signing by and through its Mayor, duly authorized to execute same, and BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Administrator, authorized to execute same by Board action on the ____ day of _____, 2023.

LANDLORD

City of Coconut Creek, a Florida municipal corporation

By: _____

Joshua Rydell, MAYOR



ATTEST

Joseph J. Kavanagh, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

Terrill C. Pyburn

Terrill C. Pyburn, CITY ATTORNEY

SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN CITY OF COCONUT CREEK AND BROWARD COUNTY FOR LEASE OF REAL PROPERTY FOR A 911 EMERGENCY DISPATCH CENTER (ALSO KNOWN AS PUBLIC SAFETY ANSWERING POINT "PSAP").

TENANT

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____

_____ day of _____, 20__

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
Telecopier: (954) 357-7641

By: _____ (Date)
Annika E. Ashton
Deputy County Attorney

EXHIBIT "A-2"

Second Amendment

COCONUT CREEK PSAP – 1st FLOOR

County Leased Area

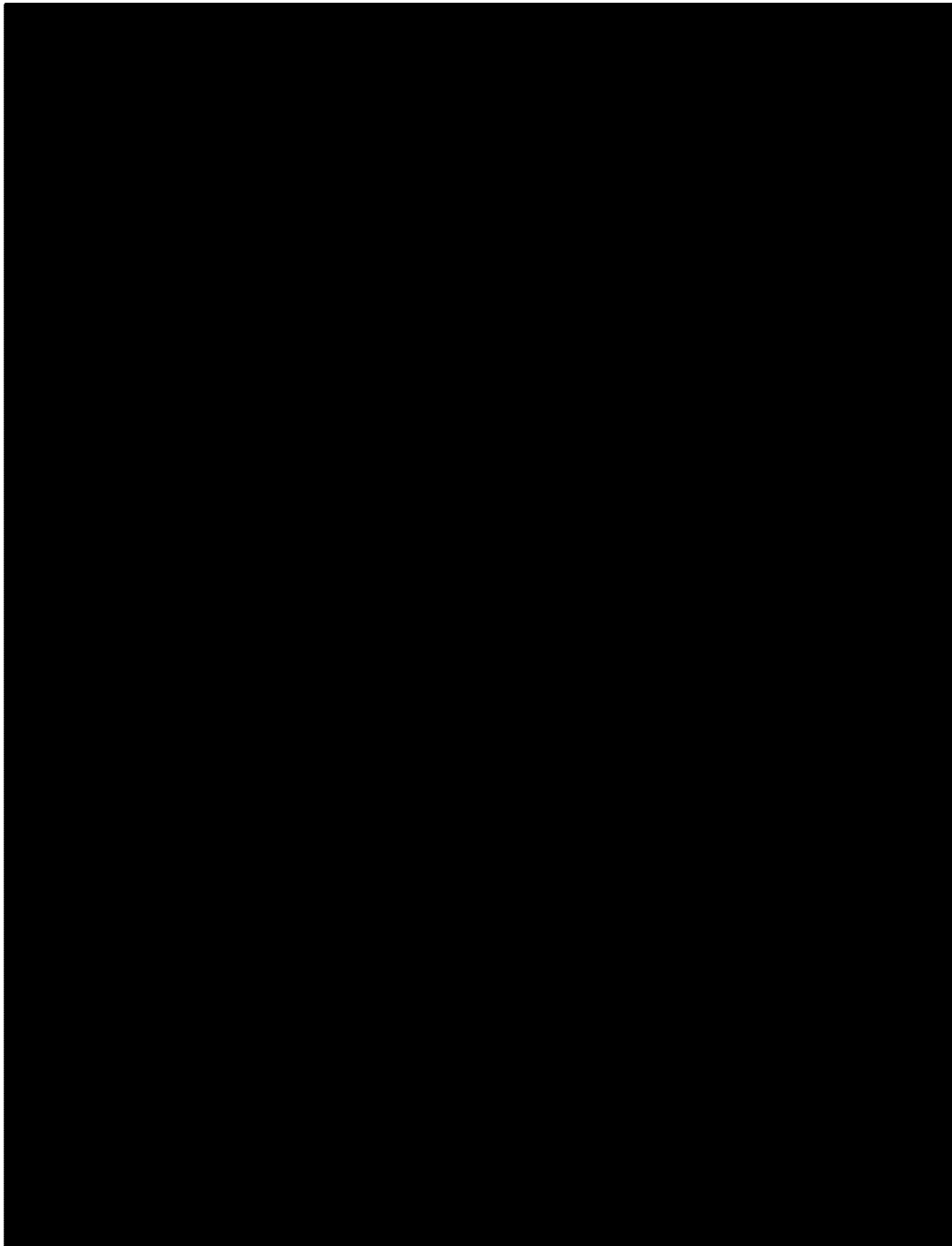


EXHIBIT "A-2"

Second Amendment

COCONUT CREEK PSAP - 2nd FLOOR

County Leased Area

City/County Shared Area

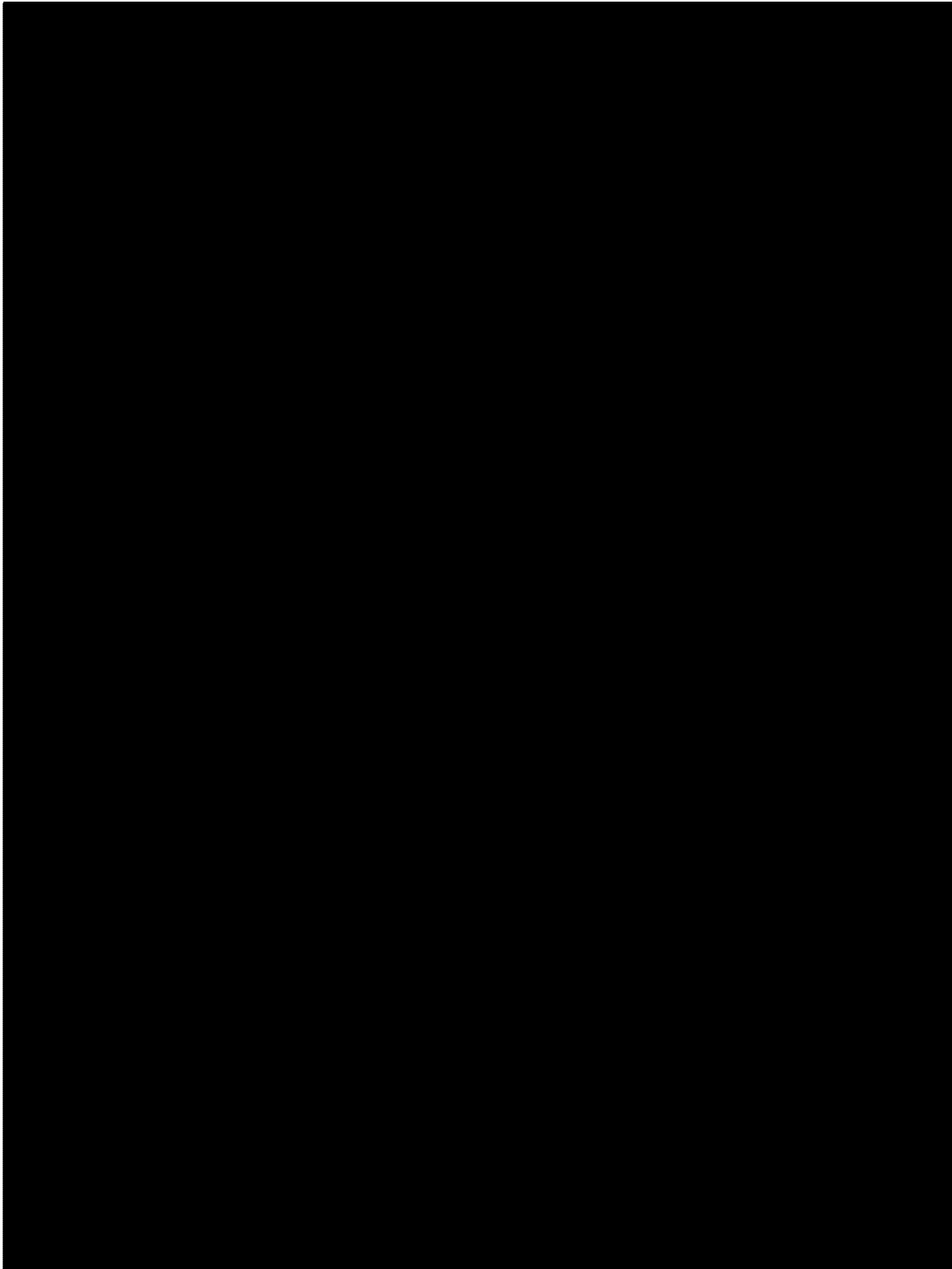


EXHIBIT "B-2"

Rent Schedule: COCONUT CREEK PSAP

The revised rent (below) becomes effective October 1st, 2023 and increases on October 1st, 2024.

Initial Term Revised due to 2nd Amendment	Year 1	Year 2
Dates:	10-1-2023 to 9-30-2024	10-1-2024 to 9-30-2025
Rent (per month):	\$12,683.33	\$12,433.33
Rent (per year):	\$152,200.00	\$149,200.00